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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

SECURITIES EXEMPTED FROM REGISTRATION

On December 3, 1953, the Securities and Exchange Commission invited all interested persons to submit data, views and comments on the amendment of Rule X-12A-5, the rescission of §§ 240.12a-6, 240.12a-7, 240.12a-8, and 240.12a-9 (Rules X-12A-6, X-12A-7, X-12A-8, and X-12A-9), §§240.12d3-1 through 240.12d3-10 (Regulation X-12D3), and §§ 249.231 and 249.232 (Forms 1-J and 2-J) (see Securities Exchange Act Release No. 4969-X). The Commission has considered all the data, views and comments submitted and has adopted the proposals with certain modifications set forth below.

The Commission is engaged in a comprehensive review of the rules, regulations, forms and procedures adopted under the various statutes administered by it. It is attempting to eliminate duplication and to simplify its requirements wherever practicable without prejudice to the public interest or the protection of investors. The present action is part of this program.

Regulation X-12D3, which consists of §§ 240.12d3-1 through 240.12d3-10 (Rules X-12D3-1—X-12D3-10), provides for the registration for when issued trading on national securities exchanges of unissued short-term warrants, commonly called subscription rights, and for such registration of unissued securities other than short-term warrants. Form 1-J (17 CFR 249.231) is the appropriate form required to be filed for registration of such warrants, and Form 2-J (17 CFR 249.232) is required to be filed for registration of other unissued securities.

For all practical purposes, Regulation X-12D3 and Form 1-J have been obsolete as to warrants since June 22, 1950, when the Commission amended § 240.12a-4 (Rule X-12A-4) to provide that an unissued short-term warrant as well as an issued short-term warrant could be traded on an exchange as an exempted security pursuant to the filing of an exemption statement on Form AN-4 (17 CFR 249.235) by either the issuer or the exchange for both when issued and regular way trading. On December 29, 1952, the Commission further amended Rule X-12A-4 to substitute the filing by the exchange of a notice of intent to trade in lieu of the formal filing of an exemption statement on Form AN-4, and Form AN-4 was then rescinded.

On March 20, 1953, the Commission amended § 240.12a-5 (Rule X-12A-5) so that the conditional temporary exemption from registration provided by that rule for trading issued securities on exchanges would also provide such exemption for trading such securities on a when issued basis before they are issued. Since trading under § 240.12a-5 (Rule X-12A-5) is on the basis of a notice from the exchange, the amendment of March 20, 1953, made unnecessary the filing of formal applications for registration on Form 2-J for when issued trading in unissued securities proposed to be issued in stock splits, stock dividends, mergers, consolidations, reorganization plans, etc., to the holders of securities already traded on exchanges.

The only cases in which Regulation X-12D3 still served a substantial practical purpose is where the securities to be traded are the subject of a voluntary subscription or exchange right granted to the holders of a security traded on an exchange. Section 240.12a-5 (Rule X-12A-5) has been further amended to cover these cases and generally to simplify its requirements. The general time limit of the exemption has been extended from 60 to 120 days. The provisions of Rule X-12A-5, which are applicable whether the new security is issued or unissued, should be far less burdensome to issuers and exchanges than the provisions of Regulation X-12D3, while affording equivalent protection to investors.

It is believed that none of the ten rules or Regulation X-12D3 now serve a useful purpose and the Commission has, therefore, rescinded the entire regulation and Forms 1-J and 2-J (17 CFR 249.231 and 249.232) promulgated thereunder.

The Commission has also rescinded §§ 240.12a-6, 240.12a-7, 240.12a-8, and 240.12a-9 (Rules X-12A-6, X-12A-7, X-12A-8 and X-12A-9). The situation

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FEDERAL REGISTER

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to which §§ 240.12a–6 and 240.12–8 (Rules X-12A–6 and X-12A–8) relate are believed to be covered by § 240.12a–5 (Rule X-12A–5). Sections 240.12a–7 and 240.12a–9 (Rules X-12A–7 and X-12A–9) were promulgated in the light of particular circumstances and it is believed are no longer of general usefulness.

Statutory basis. The action described in this release has been taken pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 3 (a) (12), 12 and 23 (a) thereof, the Commission deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act.

Text of amendment. The text of the amendments to § 240.12a–5 is as follows:

§ 240.12a–5 *Temporary exemption of substituted or additional securities.* (a) (1) Whenever by operation of law or otherwise (i) the holders of a security admitted to trading on a national securities exchange (hereinafter called the "original" security) have the right to subscribe to or otherwise acquire all or any part of a class of another security (whether of the same or another issuer) in substitution for or in addition to the original security, or (ii) the instrument evidencing the original security has come to evidence another security (whether of the same or another issuer) in substitution for or in addition to the original security, then the entire class outstanding of such other security shall be exempted from the operation of section 12 (a) to the extent necessary to render lawful the effecting of transactions therein on any national securities exchange on which the original security is admitted to trading; provided that a registration statement is in effect under the Securities Act of 1933 as to such other security, to the extent required, or the terms of any applicable exemption from registration under such act have been complied with, if required.

(2) An unissued security shall be exempt from the operation of section 12 (a) of the act to the extent necessary to render lawful when issued trading in such security on a national securities exchange, provided (i) transactions in the security on such exchange would upon the issuance of the security be exempt under this rule from the operation of said section, (ii) a registration statement is in effect under the Securities Act of 1933 as to such unissued security, to the extent required, or the terms of any applicable exemption from registration under such act have been complied with, if required, (iii) the approval of stockholders of the issuance of such security has been obtained, if required, and (iv) all other necessary official action, other than the filing or recording of charter amendments or other documents with the appropriate State authorities, has been taken to authorize and assure the issuance of such security.

* * * * *

(b) The exemption provided by this section shall terminate on the earliest of the following dates.

* * * * *

(4) The close of business on the one hundred and twentieth day after the date on which the exempt security was admitted by action of the exchange to trading thereon as a security exempted from the operation of section 12 (a) by this section, unless prior thereto an application for registration of the exempt security or for admission of the exempt security to unlisted trading privileges on the exchange has been filed.

* * * * *

(d) The exchange shall notify the Commission in writing of any event within the purview of paragraph (a) of this section promptly after acquiring knowledge thereof. The notification shall briefly describe the event, shall state the date on which the substituted or additional security was or is proposed to be admitted to trading on the exchange as a security exempted from the operation of section 12 (a) by this section, and shall, unless a registration statement has been filed under the Securities Act of 1933 or an application has been filed under the Securities Exchange Act of 1934 with respect to such security, briefly describe the plan of issuance of such security. The exchange shall promptly notify the Commission of any material change in the foregoing.

Since the amendment of § 240.12a–5 expands the scope of an exemption, it has been made effective immediately, January 28, 1954. The rescission of §§ 240.12a–6, 240.12a–7, 240.12a–8, 240.12a–9, Regulation X–12D3, and Forms 1–J and 2–J (17 CFR 249.231 and 249.232) has been made effective March 1, 1954.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w. Interprets or applies secs. 3, 12, 48 Stat. 882, 892; 15 U. S. C. 78c, 78l)

By the Commission.

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

JANUARY 28, 1954.

[F. R. Doc. 54–810; Filed, Feb. 4, 1954; 8:49 a. m.]

PART 240—GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

EFFECTIVENESS OF REGISTRATION; EXCHANGE CERTIFICATION

On December 3, 1953, the Securities and Exchange Commission invited all interested persons to submit data, views and comments on the amendment of Regulation X-12D1 and Form 8–A and the rescission of Rule X-12D2–2 (b) (see Securities Exchange Act Release No. 4969–Y). The Commission has considered all of the data, views and comments submitted and has adopted the proposals with certain modifications set forth below.

The Commission is engaged in a comprehensive review of the rules, regulations, forms and procedures adopted under the various statutes administered by it. It is attempting to eliminate duplication and to simplify its requirements wherever practicable without prejudice to the public interest or the protection of investors.

As part of this program, the Commission has revised its registration rules under section 12 of the act, as set forth in this release. Under the prior practice, registration was effective only as to a specified amount of a class of security so that if additional shares or amounts of the same class were to be subsequently issued, a new application on Form 8–A had to be filed for registration of the additional amounts. Under the new practice the original application for registration will be deemed to apply for registration of the entire class, and the registration of unissued shares or amounts will become automatically effective when they are issued, without further application, certification or order. This should make unnecessary a large majority of the applications previously filed on Form 8–A since most such applications are for registration of

additional blocks of a class of security already registered in part. In view of the reporting requirements of Forms 8–K and 10–K, it is not believed that the filing of such applications is necessary in the interest of investors. Under the new procedure, applications on Form 8–A will have to be filed only in the event that a new class or series is to be registered. The time and expense saved by registrants, exchanges and the Commission itself should be considerable.

The new procedure will, of course, not affect the continuing right of exchanges to require certain filings with them prior to actual listing or issuance of specified blocks of the registered class or prior to modification thereof.

The provisions of Regulations X-12D1 which govern exchange certifications have been amended so as to eliminate requirements which will be unnecessary under the new procedure and paragraph (b) of Rule X-12D2 has been rescinded for the same reason.

A copy of the amended Form 8–A (17 CFR 249.208a), as adopted by the Commission, is attached.[1] It will be noted that the revision considerably simplifies the old form. This has been made possible principally by the deletion of certain requirements which are considered to be unnecessary in view of the current and annual reporting requirements of the registrant and in view of the class registration technique.

Statutory basis. The action described in this release has been taken pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 12 and 23 (a) thereof, the Commission deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the act.

Text of amendment. The text of the amended Regulation X-12D1, as adopted by the Commission, is as follows:

Sec.
240.12d1–1 Registration effective as to class or series.
240.12d1–2 Acceleration of effectiveness of registration.
240.12d1–3 Requirements as to certification.
240.12d1–4 Date of receipt of certification by Commission.
240.12d1–5 Operation of certification on subsequent amendments.
240.12d1–6 Withdrawal of certification.

AUTHORITY: §§ 240.12d1–1 to 240.12d1–6 issued under sec. 23, 48 Stat. 901, as amended, 15 U. S. C. 78w. Interpret or apply sec. 12, 48 Stat. 892; 15 U. S. C. 781.

§ 240.12d1–1 *Registration effective as to class or series.* (a) An application filed pursuant to section 12 (b) and (c) of the act for registration of a security on a national securities exchange shall be deemed to apply for registration of the entire class of such security. Registration shall become effective, as provided in section 12 (d) of the act, (1) as to the shares or amounts of such class then issued, and (2), without further application for registration, upon issuance as to additional shares or amounts of such class then or thereafter authorized.

(b) This section shall apply to classes of securities of which a specified number of shares or amounts was registered or registered upon notice of issuance, and to applications for registration filed, prior to the close of business on January 28, 1954, as well as to classes registered, or applications filed, thereafter.

(c) This section shall not affect the right of a national securities exchange to require the issuer of a registered security to file documents with or pay fees to the exchange in connection with the modification of such security or the issuance of additional shares or amounts.

(d) If a class of security is issuable in two or more series with different terms, each such series shall be deemed a separate class for the purposes of this section.

§ 240.12d1–2 *Acceleration of effectiveness of registration.* A request for acceleration of the effective date of registration pursuant to section 12 (d) of the act and § 240.12d1–1 shall be made in writing by either the registrant, the exchange, or both and shall briefly describe the reasons therefor.

§ 240.12d1–3 *Requirements as to certification.* (a) Certification that a security has been approved by an exchange for listing and registration pursuant to section 12 (d) of the act and § 240.12d1–1 shall be made by the governing committee or other corresponding authority of the exchange.

(b) The certification shall specify (1) the approval of the exchange for listing and registration; (2) the title of the security so approved; (3) the date of filing with the exchange of the application for registration and of any amendments thereto; and (4) any conditions imposed on such certification. The exchange shall promptly notify the Commission of the partial or complete satisfaction of any such conditions.

(c) The certification may be made by telegram but in such case shall be confirmed in writing. All certifications in writing and all amendments thereto shall be filed with the Commission in duplicate and at least one copy shall be manually signed by the appropriate exchange authority.

§ 240.12d1–4 *Date of receipt of certification by Commission.* The date of receipt by the Commission of the certification approving a security for listing and registration shall be the date on which the certification is actually received by the Commission or the date on which the application for registration to which the certification relates is actually received by the Commission, whichever date is later.

§ 240.12d1–5 *Operation of certification on subsequent amendments.* If an amendment to the application for registration of a security is filed with the exchange and with the Commission after the receipt by the Commission of the certification of the exchange approving the security for listing and registration, the certification, unless withdrawn, shall be deemed made with reference to the application as amended.

§ 240.12d1–6 *Withdrawal of certification.* An exchange may, by notice to the Commission, withdraw its certification prior to the time that the registration to which it relates first becomes effective pursuant to § 240.12d1–1.

Since the amendments of Regulation X-12D1 and of Form 8–A (17 CFR 249.208a) are intended to simplify registration procedure under the Securities Act of 1934, they have been declared effective immediately, January 28, 1954; except that any registrant or exchange who so desires may operate under the regulation and form, as previously in effect, prior to March 1, 1954. Since the rescission of § 240.12d2–2 (b) (Rule X-12D2–2 (b)) relieves a restriction, it has been made effective immediately, January 28, 1954.

By the Commission.

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

JANUARY 28, 1954.

[F. R. Doc. 54–808; Filed, Feb. 4, 1954; 8:49 a. m.]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

APPLICATION FOR REGISTRATION OF ADDITIONAL CLASSES OR SERIES OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

Form 8–A (§ 249.208a) is amended effective January 28, 1954.[1]

(Sec. 28, 48 Stat. 901, as amended; 15 U. S. C. 78w)

By the Commission.

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

JANUARY 28, 1954.

[F. R. Doc. 54–809; Filed, Feb. 4, 1954; 8:49 a. m.]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

REGISTRATION OF UNISSUED WARRANTS AND SECURITIES FOR "WHEN ISSUED" DEALING

The following forms are hereby rescinded: § 249.231 *Form 1–J, for registration of unissued warrants for "when issued" dealing* and § 249.232 *Form 2–J, for registration of unissued securities, other than unissued warrants, for "when issued" dealing.*

Effective: March 1, 1954.

By the Commission.

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

JANUARY 28, 1954.

[F. R. Doc. 54–811; Filed, Feb. 4, 1954; 8:49 a. m.]

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[1] Filed as part of original, F. R. Doc. 54–809, Part 249 of this chapter, *infra.*

[1] Copy filed as part of the original document.

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary by the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended by 61 Stat. 11, 63 Stat. 409, 67 Stat. 389; sec. 701, 52 Stat. 1055; 21 U. S. C. 357, 371; 67 Stat. 18), the regulations for certification of batches of antibiotic and antibiotic-containing drugs (21 CFR, 1952 Supp., Part 146; 18 F. R. 351, 352, 1205, 1207, 1415, 1588, 2099, 2337, 2786, 2940, 3325, 3533, 3832, 3930, 4376, 4950, 4951, 5347, 5447, 5448, 5591, 6318, 6319, 6320, 6353, 6773, 6850, 7294, 7295, 7311, 7383, 7673, 7844, 8132, 8133, 8477) are amended as indicated below:

1. Section 146.24 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, deleting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

2. Section 146.25 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

3. Section 146.26 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

4. Section 146.27 (c) (1) (vi) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

5. Section 146.28 (c) (1) (v) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

6. Section 146.29 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

7. Section 146.30 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

8. Section 146.31 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

9. Section 146.32 (c) (1) (iii) is amended by adding the following new sentence: "Such expiration dates may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

10. Section 146.33 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following new clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

11. Section 146.34 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

12. Section 146.35 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

13. Section 146.36 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

14. Section 146.38 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

15. Section 146.39 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

16. Section 146.40 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

17. Section 146.41 (c) (1) (iv) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

18. Section 146.42 (c) (3) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

19. Section 146.43 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

20. Section 146.44 (c) (3) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

21. Section 146.45 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

22. Section 146.46 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

23. Section 146.47 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

24. Section 146.48 (c) (3) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

25. Section 146.49 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

26. Section 146.51 (c) (1) (vi) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

27. Section 146.53 (a) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container

if such immediate container is packaged in an individual wrapper or container."

28. Section 146.58 (c) (1) (iv) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

29. Section 146.59 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

30. Section 146.63 (c) (1) (v) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

31. Section 146.64 (c) (3) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

32. Section 146.65 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

33. Section 146.66 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

34. Section 146.67 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

35. Section 146.68 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

36. Section 146.69 (c) (1) (v) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

37. Section 146.74 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

38. Section 146.75 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

39. Section 146.76 (c) (1) (v) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

40. Section 146.77 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* that such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

41. Section 146.79 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

42. Section 146.80 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

43. Section 146.82 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

44. Section 146.86 (c) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

45. Section 146.88 (a) (2) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

46. Section 146.89 (b) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

47. Section 146.101 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

48. Section 146.102 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

49. Section 146.104 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

50. Section 146.105 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

51. Section 146.106 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following new clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

52. Section 146.107 (c) (1) (v) is amended by changing the period at the end thereof to a colon and adding the following new clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

53. Section 146.108 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following new clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

54. Section 146.109 (c) (1) (vi) is amended by changing the period at the end thereof to a colon and adding the following new clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

55. Section 146.110 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

56. Section 146.111 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

57. Section 146.112 (c) (1) (iii) is amended by changing the period at the

end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

58. Section 146.114 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

59. Section 146.115 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

60. Section 146.118 (c) (1) (vi) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

61. Section 146.201 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

62. Section 146.202 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

63. Section 146.203 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

64. Section 146.204 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

65. Section 146.205 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

66. Section 146.206 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

67. Section 146.208 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such container is packaged in an individual wrapper or container;".

68. Section 146.211 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

69. Section 146.212 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

70. Section 146.213 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

71. Section 146.214 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

72. Section 146.215 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

73. Section 146.217 (c) (1) (v) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

74. Section 146.301 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

75. Section 146.302 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

76. Section 146.303 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

77. Section 146.304 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

78. Section 146.305 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

79. Section 146.306 (c) (1) (iv) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

80. Section 146.307 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

81. Section 146.308 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

82. Section 146.309 (a) (4) is amended by changing the period at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

83. Section 146.401 (c) (1) (iv) is amended by changing the semicolon at the end thereof to a colon, by omitting the word "and", and by adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

84. Section 146.402 (c) (1) (iv) is amended by changing the semicolon at the end thereof to a colon, by omitting the word "and", and by adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

85. Section 146.403 (c) (1) (iii) is amended by changing the semicolon at the end thereof to a colon and adding the following clause: "*Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

86. Section 146.404 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the

following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

87. Section 146.405 (c) (1) (iii) is amended by adding the following new sentence: "Such expiration dates may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

88. Section 146.408 (c) (1) (iv) is amended by changing the semicolon at the end thereof to a colon, omitting the word "and", and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container;".

89. Section 146.409 (a) (5) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

90. Section 146.411 (a) (2) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

91. Section 146.414 (a) (2) is amended by changihg the period at the end of the first sentence to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

92. Section 146.416 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

93. Section 146.417 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

94. Section 146.418 (c) (3) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

95. Section 146.419 (c) (1) (iii) is amended by changing the period at the end thereof to a colon and adding the following clause: *"Provided, however,* That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container."

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

Dated: February 1, 1954.

[SEAL] OVETA CULP HOBBY,
Secretary.

[F. R. Doc. 54-836; Filed, Feb. 4, 1954; 8:54 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter K—Security of Vessels

[CGFR-54-4]

PART 121—SECURITY CHECK AND CLEARANCE OF MERCHANT MARINE PERSONNEL

APPEAL AND REVIEW PROCEDURES FOR PERSONS DENIED SECURITY CLEARANCE

The purpose for amending 33 CFR 121.21 (a) (3) (i) is to announce and state that the written statement or bill of particulars furnished to persons denied security clearance in appeal and review procedures will be prepared by the Commandant, United States Coast Guard, and that such statement or bill of particulars will be furnished by him to the Chairman, Local Appeal Board, for inclusion in the written notification required by 33 CFR 121.21 (a) (3). The revised appeal and review procedures for persons denied security clearance was published in the FEDERAL REGISTER dated November 3, 1953, and the amendment in this document is to clarify the responsibility with respect to the written statement or bill of particulars furnished appellants. The Chairman, Local Appeal Board, only transmits the written statement or bill of particulars to the appellant.

It is hereby found that compliance with the notice of proposed rule making, public rule making procedures thereon, and effective date requirements of the Administrative Procedure Act is impracticable since this change clarifies the appeal and review procedures followed for persons denied security clearance and in the public interest should be placed in effect as soon as possible.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Executive Order 10173, as amended, the following amendment is prescribed and shall become effective immediately upon publication of this document in the FEDERAL REGISTER:

Section 121.21 (a) (3) (i) is amended by adding the following sentence at the end thereof:

§ 121.21 *Chairman of the Board; duties and responsibilities.* (a) * * *

(3) * * *

(i) * * * This written statement or bill of particulars will be prepared by the Commandant and will be furnished by him to the Chairman of the Board for inclusion in the written notification required by this paragraph.

(40 Stat. 220, as amended; 50 U. S. C. 191. E. O. 10173, Oct. 18, 1950, 15 F. R. 7005; 3 CFR, 1950 Supp., as amended by E. O. 10277, Aug. 1, 1951, 16 F. R. 7537; 3 CFR, 1951 Supp., E. O. 10352, May 19, 1952, 17 F. R. 4607; 3 CFR, 1952 Supp.)

Dated: January 29, 1954.

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

[F. R. Doc. 54-834; Filed, Feb. 4, 1954; 8:54 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 2]

PART 53—MECHANIC SCHOOL CERTIFICATES

ENTRANCE EXAMINATIONS

The purpose of this supplement is to set forth the CAA policies regarding methods for determining the credit to be allowed an applicant for work completed in another school. A new § 53.53-2 is adopted to read:

§ 53.53-2 *Entrance examinations (CAA policies which apply to § 53.53).* A certificated mechanic school may apply credit toward the completion of its approved course for work an applicant has satisfactorily completed while a student at another mechanic school, accredited college, state-owned vocational or trade school, or military technical specialty school. The amount of credit to be allowed may be determined by requiring that the applicant pass an entrance examination equivalent to one given their own students at the completion of each course; phase; or by requiring that the applicant furnish a properly authenticated transcript of grades from the former school showing the curriculum in which he was enrolled, and the hours of attendance, as well as the grades for each subject. In lieu of a transcript of grades, the amount of credit to be allowed an applicant with military technical specialty training will be determined by the entrance examination. In any case, the credit given any applicant is to be shown in hours on the student record.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 607, 52 Stat. 1007, 1011; 49 U. S. C. 551, 557)

This suplement shall become effective February 5, 1954.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-838; Filed, Feb. 4, 1954; 8:55 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 64]

Part 609—Standard Instrument Approach Procedures

Procedure Alterations

The standard instrument approach procedure alterations appearing hereinafter are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

1. The low frequency range procedures prescribed in § 609.6 are amended to read in part:

LFR Standard Instrument Approach Procedure

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If an LFR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft		
								75 m. p. h. or less	More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
ALMA, GA. Alma Airport, 209' SBRAZ-DTV AMG Procedure No. 1 January 14, 1954	----------	----------	----------	W side NW course: 319 outbound. 139 inbound. 1,400' within 25 miles.	900	144—2.2	T-dn C-d C-n A-dn	300-1 500-1 500-2 800-2	300-1 500-1½ 500-2 800-2	Within 2.2 miles, climb to 1,500' on SE course. *Sod runways: Aircraft larger than DC-3 use caution.
BEAUMONT, TEX. Jefferson County, 15' SBMRLZ-DTV BUJ Procedure No. 1 January 15, 1954	Beaumont VOR	026—7.0	1,200	W side N course: 340 outbound. 160 inbound. 1,400' within 25 miles.	900	160—3.6	T-dn C-dn S-dn R-16 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 3.6 miles climb to 1,600' on S course within 25 miles.
BIG DELTA, ALASKA Big Delta Airport, 1,268' SBRAZ-VPDT-BIG Procedure No. 1 February 20, 1954	Shuttle: 4,400' on E side SE course 088° outbound, 268° inbound, within 25 miles.	----------	----------	W side NW course: 291° outbound. 111° inbound. 3,000' within 10 miles; 4,400' within 15, 20, or 25 miles.	1,900	177—1.5	T-dn C-dn A-dn	300-1 500-1 800-2	300-1 500-1½ 800-2	Within 1.5 miles, climb to 4,400' on SE course (088°) within 25 miles. NOTE: Item 11—Deviation: Missed approach altitude less than minimum en-route altitude, but consistent with shuttle altitude. Level of safety equivalent to standard criteria based on terrain clearance greater than 2,000' within 25 miles. Deviation authorized.
CHEYENNE, WYO. Cheyenne Municipal, 6,156' SBRAZ-VDT CYS and LOM-CY Procedure No. 2 February 15, 1954	Hillsdale FM (final abeam LOM).	256—8.0 to abeam LOM	7,000	N side E course: 076° outbound. 256° inbound. 7,300' within 25 miles.	7,000 (Abeam ILS LOM*)	256—6.1 (From ILS LOM)	T-dn C-Dn S-dn 26 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 6.1 miles after passing ILS LOM, climb to 7,300' on S course. NOTES: *ILS LOM must be received on ADF, frequency, 219 kc.; identification, CY.
	Silver Crown FM	102—13.0 to LF	8,000							
DAYTONA BEACH, FLA. Daytona Beach, 34' SBMLZ-DTV DAB Procedure No. 1 January 14, 1954	Daytona Beach VOR	02—4.5	1,1004	S side W course: 281 outbound. 101 inbound. 1,100' within 25 miles.	600	101—2.1	T-dn C-dn S-dn 19 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 2.1 miles, climb to 1,400' on E. course within 15 miles.
FORT MYERS, FLA. Page Field, 17' SBRAZ-DTV FMY Procedure No. 1 January 14, 1954	----------	----------	----------	S side SW course: 218 outbound. 038 inbound. 1,200' within 25 miles.	700	038—3.7	T-dn C-dn S-dn 4 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 3.7 miles, climb to 1,200' on NE course within 25 miles.

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft		
								75 m. p. h. or less	More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
LARAMIE, WYO. Brees Field, 7,273' SBMRAZ-VDT LAR Procedure No. 1 February 15, 1954	Laramie VOR	048—1.5	8,500	E side NW course:* 317 outbound. 137 inbound. 8,500' within 25 miles.	8,000	148—2.1	T-dn C-d C-n A-dn	300-1 500-1 500-2 800-2	300-1 500-1½ 500-2 800-2	Within 2.1 miles, climb to 11,500' on SE course within 25 miles. NOTES: *Procedure turn E side account high terrain W side.
McGRATH, ALASKA McGrath, 347' SBRAZ-P-DV MCG Procedure No. 1 February 20, 1954				Nonstandard procedure, turn S side SE course: 093° outbound. 273° inbound. 2,000' within 25 miles.	##2,100	258—1.6	*T-dn C-dn A-dn	300-1 500-2 800-2	300-1 500-2 800-2	Within 1.6 miles, turn left climb to 4,000 on SE course (096°) within 25 miles. ##ITEM 6—This approach procedure does not meet ANC criteria for obstruction clearance on final approach. 1. 1,200' terrain located 3.5 miles N side of approach course (within 10 miles of LFR). 2. 1,400' terrain located 3.5 miles S of LFR. Deviation authorized on basis of: 1. Nonstandard procedure turn required. 2. Hold close A twilight signal on final approach to low zone. *ITEM 8—Departure procedure: Left turn immediately after take-off, all runways. Cross range station at 1,100'. Climb on SE course. NE, NW, SW bound traffic cross range station at 4,000' before proceeding on course. CAUTION: High terrain within 3 to 4 miles, all quadrants.
MONTGOMERY, ALA. Dannelly Field, 219' SBRAZ-MXF Procedure No. 1 January 13, 1954	Montgomery VOR	332—12.0	1,700	W side N course: 360 outbound. 180 inbound. 1,700' within 25 miles.	1,200	171—5.6	T-dn C-dn S-d 15 S-n* A-dn	300-1 500-1 500-1 NA 800-2	300-1 500-1½ 500-1 NA 800-2	Within 5.6 miles, climb to 1,500' on SW course within 25 miles. *Night operation Runway 15-33 not authorized due lack of obstruction and runway lights.
NORTHWAY, ALASKA Northway, 1,716' SBRAZ-VPDT ORT Procedure No. 1 February 20, 1954	Shuttle to: 4,200' on S side NW course; 276° outbound, 096° inbound, within 25 miles.			S side NW. course: 276° outbound. 096° inbound. 2,300' within 10 miles; 2,700' within 15 miles; 4,200' within 25 miles.	2,300	096—0.9	T-dn C-dn A-dn	300-1 600-1 800-2	300-1 600-1 800-2	Within 0.0 miles, climb to 6,400' on southeast course (096°) within 25 miles. NOTE: Radio towers between range station and airport 2,010' MSL.
PALACIOS, TEX. Municipal, 13' BMRLZ DTV PSX Procedure No. 1 January 15, 1954	Palacios VOR	115—2.0	1,300	W side NW course: 298 outbound. 118 inbound. 1,300' within 10 miles. Beyond 10 miles not authorized.	700	109—2.0	T-d T-n C-d C-n S-d R-13 S-n A-d A-n	300-1 NA 500-1 NA 500-1 NA 800-2 NA	300-1 NA 500-1½ NA 500-1½ NA 800-2 NA	Within 2.0 miles climb to 1,200' on SE course within 15 miles. This procedure not approved for ADF approach.
RENO, NEV. United Air Lines, 4,404' SBRAZ-DTV RNO Procedure No. 1 February 15, 1954	Wadsworth FM	226—27.0	9,000	E side N course: 341 outbound. 161 inbound. 8,500' within 20 miles. 9,000' within 25 miles.	7,000	161—3.0	T-dn C-dn A-dn	1,000-3 2,500-3 2,500-3	1,000-3 2,500-3 2,500-3	Within 3.0 miles, make immediate left turn and climb to 9,000' on N course within 20 miles, or as directed by ATC. SHUTTLE: N course to 10,000' within 25 miles.
	Reno VOR	263—6.0	9,000							
SAN FRANCISCO, CALIF. San Francisco, International, 11' SBMRLZ-DTV SFO Procedure No. 1 February 15, 1954	Bay Point FM	209—35.0	*3,000	E side SE course: 108 outbound. 288 inbound. 1,500' within 15 miles. Procedure turn beyond 15 miles not authorized.	#1,100	292—3.0	T-dn C-dn S-dn Runway 28 A-dn	300-1 500-1 500-1 800-2	300-1 600-1½ 500-1 800-2	Within 2.0 miles, climb to 3,000' on NW course within 25 miles, or as directed by ATC. *When an altitude below 5,000' is used from the NE, flight as far as Oakland must be conducted via the NE course of Oakland LFR to provide adequate lateral clearance from Mount Diablo (3,925' MSL). #If Belmont FM is received, descent to 800' over LFR on final approach is authorized.
	Int. NE course Moffett LFR and SE course SFO LFR	288—21.0	1,700							
	Belmont FM (final)	288—6.0	800							
	Half Moon Bay FM	020—11.0	3,000							

LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft		
								75 m. p. h. or less	More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
SAVANNAH, GA. Travis Field, 50' SBMRLZ-DTV SAV Procedure No. 1 January 14, 1954				W side SE course: 141 outbound, 321 inbound, 1,100' within 25 miles.	600	349—8.5	T-dn C-dn A-dn	300-1 500-2 800-2	300-1 500-2 800-2	Within 8.5 miles, climb to 1,200' on NW course.
TUCUMCARI, N. MEX. Tucumcari, Municipal, 4,062' SBMRAZ-DTV TCC Procedure No. 1 February 15, 1954				S side W course: 256° outbound, 076° inbound. 6,000' within 10 miles, 6,500' within 25 miles.	5,500	076—2.2	T-dn C-dn A-dn	300-1 500-1 800-2	300-1 500-1 800-2	Within 2.2 miles, climb to 5,200' on E course TCC LFR. CAUTION: 5,020' terrain 4.5 miles SW of LFR.

2. The automatic direction finding procedures prescribed in § 609.9 are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and latitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If an ADF instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft		
								75 m. p. h. or less	More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
COLORADO SPRINGS, COLO. Peterson Field, 6,172' LOM-CO Procedure No. 1 Apr. 20, 1952	PROCEDURE CANCELED EFFECTIVE FEB. 15, 1954.									
SEATTLE, WASH. Seattle-Tacoma International 419' LOM-SE Procedure No. 1 June 12, 1953	PROCEDURE CANCELED EFFECTIVE FEB. 11, 1954.									

3. The instrument landing system procedures prescribed in § 609.11 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If an ILS instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below:

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Transition to ILS				Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude at glide slope interception inbound (ft.)	Altitude of glide slope and distance to approach end of runway at—		Ceiling and visibility minimums			If visual contact not established upon descent to authorized landing minimums or if landing not accomplished
	From—	To—	Course and distance	Minimum altitudes (ft.)			Outer marker	Middle marker	Condition	Type aircraft: 75 m.p.h. or less	Type aircraft: More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11	12	13
COLORADO SPRINGS, COLO. Peterson Field 6,172' ILS-COS LOM-CO Procedure No. 1 Combination ILS and BDC February 15, 1954	Colorado Springs LFR	LOM	166—10.0	7,500	E side S course: 166° outbound. 346° inbound. 7,200' within 25 miles of LOM	ILS 7,200' ADF 7,200' over LOM.	7,120—4.3	6,270—0.7	T-dn C-d C-n S-dn 35 ILS ADF A-dn	300-1 600-1 600-2 400-1 500-1 800-2	300-1 600-1½ 600-2 400-1 500-1 800-2	Within 4.3 miles after passing LOM (ADF) climb to 8,000' on E course COS LFR within 25 miles. CAUTION: (1) 7,190' MSL radio tower, 5.5 miles N of COS LFR. (2) 7,710' MSL terrain 13.5 miles N of COS LFR. (3) Danger area 2.5 miles W of localizer center line. NOTE: No approach lights available. Deviation from std. Criteria authorized in column 6 for danger area airspace clearance.
	Fountain FM	LOM	346—3.5	7,200								

4. The very high frequency omnirange procedures prescribed in § 609.15 (a) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in statute miles unless otherwise indicated. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.
If a VOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure authorized by the Administrator for Civil Aeronautics for such airport. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums: Condition	Ceiling and visibility minimums: Type aircraft: 75 m. p. h. or less	Ceiling and visibility minimums: Type aircraft: More than 75 m. p. h.	If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
1	2	3	4	5	6	7	8	9	10	11
BRUNSWICK, GA. Malcolm-McKinnon, 20' BVOR-SSI Procedure No. 1 Jan. 14, 1954	SSI-MH	288—3.5	1,200	S side course: 292 outbound. 112 inbound. 1,200' within 25 miles.	700	112—3.0	T-dn C-dn A-dn	300-1 500-1 800-2	300-1 500-1½ 800-2	Within 3.0 miles, climb to 1,200' on course of 112° from VOR within 20 miles.
CHEYENNE, WYO. Cheyenne municipal, 6,156' BVOR-CYS Procedure No. 1 Feb. 15, 1954	Cheyenne LFR	62S—5.0	7,300	W side of course: 015 outbound. 195 inbound. 7,300' within 25 miles.	6,800	195—4.3	T-dn C-dn A-dn	300-1 500-1 800-2	300-1 500-1½ 800-2	Within 4.3 miles, climb to 7,500' on course of 156° within 25 miles of VOR.
FORT MYERS, FLA. Page Field, 17' BVOR-FMY Procedure No. 1 Jan. 13, 1954				S side course: 222 outbound. 043 inbound. 1,200' within 25 miles.	700	042—3.7	T-dn C-dn S-dn 4 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1½ 800-2	Within 3.0 miles, climb to 1,200' on course of 042° within 25 miles.

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	Type aircraft		
								75 m. p. h. or less	More than 75 m. p. h.	
1	2	3	4	5	6	7	8	9	10	11
FORT WORTH, TEX. Meacham Field, 622' BVOR-FTW Procedure No. 1 January 14, 1954	Fort Worth LFR	248—9	2,000	S side of course: 265 outbound. 085 inbound. 2,100' within 15 miles. NA beyond 15 miles.	1,600	085—8.3	T-dn C-dn A-dn	300-1 600-2 800-2	300-1 600-2 800-2	Within 8.3 miles, turn left and climb to 2,100' on course of 265° to and then from FTW VOR within 15 miles.
	Haslet MHW	218—15	2,000							
LARAMIE, WYO. Brees Field, 7,273' BVOR-LAR Procedure No. 1 Feb. 15, 1954	Laramie LFR	228—1.5	8,500	E side course:* 317 outbound. 137 inbound. 8,500' within 25 miles.	8,000	108—2.6	T-dn C-d C-n A-dn	300-1 500-1 500-2 800-2	300-1 500-1½ 500-2 800-2	Within 2.6 miles, climb to 11,500' on course of 137° within 25 miles of VOR. NOTES: *Procedure turn east side of course account high terrain west side of course.
MINERAL WELLS, TEX. Municipal BVOR-DTV MWL Procedure No. 1 Jan. 13, 1954	Mineral Wells RBN	132—5	2,000	S side of course: 129° outbound. 309° inbound. 2,500' within 10 miles, 2,100' within 20 miles, 2,300' within 25 miles.	1,500	309—4.9	T-dn C-dn S-dn 31 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 4.9 miles climb to 2,500' on course of 309° within 25 miles. *Procedure turn nonstandard due ATC.
MONTGOMERY, ALA. Dannelly Field, 219' BVOR-DTVBJ MGM Procedure No. 1 Jan. 13, 1954	Maxwell LFR	152—12.0	1,700	E side course: 136 outbound. 316 inbound. 1700' within 25 miles	1,200	316—6.1	T-dn C-dn S-d 33 S-n* A-dn	300-1 500-1 500-1 NA 800-2	300-1 500-1½ 500-1 NA 800-2	Within 6.1 miles, climb to 1,700' on course of 316° within 25 miles of VOR. *Night operation Runway 15-33 NA due lack of obstruction and runway lights. CAUTION: 695' MSL tower, 2 miles SE of VOR station.
VALDOSTA, GA. Valdosta Airport, 203' BVOR-TV VLD Procedure No. 1 Jan. 14, 1954	Valdosta MH	183—7.0	1,400	E side course: 183 outbound. 003 inbound. 1,400' within 25 miles.	900	003—6.7	T-dn C-dn S-dn 35 A-dn	300-1 500-1 500-1 800-2	300-1 500-1½ 500-1 800-2	Within 6.7 miles, make immediate right turn and climb to 1,400' on course of 183° within 25 miles of VLD-VOR.

These procedures shall become effective on the dates indicated in Column 1 of the procedures.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL]

F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-837; Filed, Feb. 4, 1954; 8:56 a. m.]

[Amdt. 57]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

MISCELLANEOUS AMENDMENTS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. Section 610.102 *Amber civil airway No. 2* is amended to read in part:

From—	To—	Minimum altitude
Craig (INT), Mont.	Great Falls, Mont. (LFR).[1]	8,500

[1] 6,600'—Minimum crossing altitude at Great Falls (LFR), southwest-bound.

2. Section 610.103 *Amber civil airway No. 3* is amended to read in part:

From—	To	Minimum altitude
Lewistown, Mont. (LFR).	Great Falls, Mont. (LFR).[1]	9,000

[1] 6,800'—Minimum crossing altitude at Great Falls (LFR), eastbound.

3. Section 610.104 *Amber civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Fort Worth, Tex. (LFR).	Decatur (INT), Tex.	2,000
Decatur (INT), Tex.	Ringling (INT), Okla.	2,400
Ringling (INT), Okla.	Oklahoma City, Okla. (LFR).	2,300
Oklahoma City, Okla. (LFR).	Shawnee (INT), Okla.	2,700
Shawnee (INT), Okla.	Tulsa, Okla. (LFR)	2,400

4. Section 610.235 *Red civil airway No. 35* is amended to read in part:

From—	To—	Minimum altitude
Cassoday (INT), Kans.	Forbes AFB, Kans. (LFR).	2,600

5. Section 610.277 *Red civil airway No. 77* is amended to read in part:

From—	To—	Minimum altitude
Tappahannock, Va. (LFR).	Dover, Del. (LFR)	1,500
Dover, Del. (LFR)	Atlantic City, N. J. (LFR).	1,500

6. Section 610.300 *Red civil airway No. 100* is added to read:

From—	To—	Minimum altitude
South Bend, Ind. (LFR).	Battle Creek, Mich. (LFR).	2,300

7. Section 610.603 *Blue civil airway No. 3* is amended to read in part:

From—	To—	Minimum altitude
Goshen, Ind. (LFR)	Union (INT), Mich.	2,200
Union (INT), Mich.	Kalamazoo (INT), Mich.	2,300
Kalamazoo (INT), Mich.	Grand Rapids, Mich. (LFR).	2,200

8. Section 610.605 *Blue civil airway No. 5* is amended to read in part:

From—	To—	Minimum altitude
Pilot Point (INT), Tex.	Ardmore, Okla. (LF/RBN).	2,200
Ardmore, Okla. (LF/RBN).	Tinker AFB, Okla. (LFR).	2,700

9. Section 610.606 *Blue civil airway No. 6* is amended to read in part:

From—	To—	Minimum altitude
South Bend, Ind. (LFR).	Benton Harbor (INT), Mich.	2,200

10. Section 610.628 *Blue civil airway No. 28* is amended to read in part:

From—	To—	Minimum altitude
Spartanburg, S. C. (LFR).	Fairview (INT), N. C.	6,300
Fairview (INT), N. C.	Bulls Gap (INT), Tenn.	8,000

11. Section 610.635 *Blue civil airway No. 35* is amended to read in part:

From—	To—	Minimum altitude
Camarillo, Calif. (LFR).[1]	Wheeler Ridge (INT), Calif.	10,000

[1] 7,000'—Minimum crossing altitude at Camarillo (LFR), northbound.

12. Section 610.1001 *Direct route, United States* is amended by adding:

From—	To—	Minimum altitude
Crescent (INT), Okla.	Tulsa, Okla. (LFR)	2,400

13. Section 610.6003 *VOR civil airway No. 3* is amended to read in part:

From—	To—	Minimum altitude
Miami, Fla. (VOR)	Golden Beach (INT), Fla.[2]	1,500
Golden Beach (INT), Fla.	West Palm Beach, Fla. (VOR).	[1] 2,100

[1] 2,100'—Minimum reception altitude.
[2] 1,500'—Minimum terrain clearance altitude.

14. Section 610.6019 *VOR civil airway No. 19* is amended to read in part:

From—	To—	Minimum altitude
Lewistown, Mont. (VOR).	Great Falls, Mont. (VOR).[1]	9,000

[1] 6,800'—Minimum crossing altitude at Great Falls (VOR), eastbound.

15. Section 610.6020 *VOR civil airway No. 20* is amended to read in part:

From—	To—	Minimum altitude
Palacios, Tex. (VOR)	Houston, Tex. (VOR).	1,600

16. Section 610.6021 *VOR civil airway No. 21* is amended to read in part:

From—	To—	Minimum altitude
Helena, Mont. (VOR).	Great Falls, Mont. (VOR)[1]	9,300

[1] 6,600'—Minimum crossing altitude at Great Falls (VOR), southwest-bound.

17. Section 610.6022 *VOR civil airway No. 22* is amended by adding:

From—	To—	Minimum altitude
New Orleans, La. (VOR).	Horn (INT), Miss.	[1] 5,000
Horn (INT), Miss.[2]	Mobile, Ala. (VOR).	2,000

[1] 1,600'—Minimum terrain clearance altitude.
[2] 5,000'—Minimum reception altitude.

18. Section 610.6038 *VOR civil airway No. 38* is amended to read in part:

From—	To—	Minimum altitude
Mentone (INT), Ind.	Fort Wayne, Ind. (VOR).	2,200

19. Section 610.6115 *VOR civil airway No. 115* is amended to read in part:

From—	To—	Minimum altitude
Crestview, Fla. (VOR).	Andalusia (INT), Ala.	1,500
Andalusia (INT), Ala.	Montgomery, Ala. (VOR).	1,700

20. Section 610.6120 *VOR civil airway No. 120* is amended to read in part:

From—	To—	Minimum altitude
Great Falls, Mont. (VOR).[1]	Lewistown, Mont. (VOR).	9,000

[1] 6,800'—Minimum crossing altitude at Great Falls (VOR), eastbound.

21. Section 610.6131 *VOR civil airway No. 131* is amended by adding:

From—	To—	Minimum altitude
Paso Robles, Calif. (VOR).	Modesto, Calif. (VOR).	7,000

22. Section 610.6145 *VOR civil airway No. 145* is added to read:

From—	To—	Minimum altitude
Utica, N. Y. (LFR).....	Watertown, N. Y. (VOR).	3,000

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective February 9, 1954.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 54-773; Filed, Feb. 4, 1954; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

Subchapter B—Export Regulations

[6th General Rev. of Export Regs., Amdt. 79 [1]]

PART 368—MUTUAL ASSISTANCE ON U. S. IMPORTS AND EXPORTS (AS APPLIED TO SELECTED U. S. IMPORTS)

PART 371—GENERAL LICENSES

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 383—APPEALS

MISCELLANEOUS AMENDMENTS

1. Section 368.1 *Import certificate and delivery verification on selected imports into the United States*, paragraph (b) *Import certificate covering imports into United States*, subparagraph (2) *Where to file* is amended by adding the following paragraphs at the end thereof:

(iii) The import certificate will be stamped with a validity period of 90 days from the date of the certification by the Department of Commerce official.[2]

This document will not be acceptable to the authorities of the exporting country unless presented within 90 days from the date of certification. Importers are cautioned that this time limitation for the presentation of the import certificate to the exporting country in no way relieves them of their responsibility to adhere to the commitments made therein.

(iv) Where the validity period of an import certificate has expired before its presentation to the foreign government and an extension is desired, the United States importer should apply for a new import certificate.

2. Section 368.1 *Import certificate and delivery verification on selected imports into the United States, paragraph* (d) *Delivery verification on imports into the United States* is amended by designating the present text as paragraph (c) and by adding the following paragraphs at the beginning thereof:

(a) U. S. importers may be requested by their foreign exporters to supply them with certified delivery verifications (Form IT-908) covering materials imported into the United States. These requests are made by the various foreign governments for the purpose of assuring that strategic goods shipped to the United States are not diverted from their intended destination. The issuance of export licenses in these instances was conditioned upon the subsequent receipt of certified delivery verifications from U. S. importers.

(b) Failure on the part of the U. S. importer to comply with his foreign exporter's request will result in the exporter's inability to fulfill this obligation to his government and may result in his being denied further export licenses. This action obviously would prevent the U. S. importer's participation in further import transactions with such foreign exporter. It also may result in the U. S. importer being cut off from any trade with the exporting country requesting the delivery verification. In addition, the foreign exporter may be subjected to other penalties for his failure to furnish his government a certified delivery verification.

3. Section 371.4 *Reexportation from country of destination*, paragraph (b) *Permissive reexportations* is amended to read as follows:

(b) *Permissive reexportations.* Any commodity which has been exported from the United States may be reexported from any destination to any other destination: *Provided*, That at the time of reexportation, the commodities to be reexported may be exported directly from the United States to the new country of destination either under General License GO, GRO, GHS, or GHK, or where the value of the reexportation does not exceed the GLV dollar value limit shown on the Positive List with reference to the country of destination.

[The note following paragraph (b) remains unchanged.]

4. Section 371.9 *General in-transit license GIT*, paragraph (a) *General provisions*, subparagraph (1) *Scope* is amended to read as follows:

(1) *Scope.* (i) There is hereby established a general license, designated GIT, authorizing, subject to the other provisions of this section, the exportation from the United States of commodities which originate in and are destined to any foreign country except Subgroup A destinations: *Provided*, That such commodities are moving in transit through the United States under a Transportation and Exportation (T. & E.) customs entry or an Immediate Exportation (I. E.) customs entry made at a United States customhouse.

(ii) Commodities which originate in a foreign country include commodities which were originally grown, produced, or manufactured in the United States but which have been so altered by further processing, manufacture, or assembly in the foreign country that such commodities have either thereby been substantially enhanced in value, or have lost their original identity with respect to form.

(iii) Only those exportations of foreign origin which, if of United States origin, could be made respectively to Hong Kong or Macao under the provisions of a general license may be exported to Hong Kong or Macao, respectively, under this general license.

Section 372.2 *Applications for licenses*, paragraph (b) *Separate applications for each Positive List entry* is amended to read as follows:

(b) *Separate applications for each Positive List entry.* A separate and complete application must be submitted for each Positive List entry to each consignee in each country of destination except as otherwise specifically provided in the export regulations.

[The note following paragraph (b) is deleted.]

6. Section 372.7 *Unit-process applications* is deleted.

7. Section 372.11 *Issuance and use of export licenses* is amended in the following particulars: The note following paragraph (a) *Issuance of license document* is deleted. The note following paragraph (b) *Unit-process licenses* is substituted therefor. Paragraph (b) *Unit-process licenses* is deleted.

8. Section 372.14 *Reexportation from country of destination*, paragraph (c) *Reexportations* is amended to read as follows:

(c) *Reexportations.* Any commodity which has been exported from the United States may be reexported from any destination to any other destination: *Provided*, That at the time of reexportation, the commodities to be reexported may be exported directly from the United States to the new country of destination either under General License GO, GRO, GHS, or GHK, or where the value of the reexportation does not exceed the GLV dollar value limit shown on the Positive

[1] This amendment was published in Current Export Bulletin No. 723, dated January 28, 1954, and in the reprint pages, dated January 28, 1954.

[2] Import certificates issued prior to January 28, 1954, do not bear a validity period stamp and are not affected by the 90-day validity period provision.

List with reference to the country of destination.

9. Section 373.2 *Confirmation of country of ultimate destination and verification of actual delivery*, note 5 following paragraph (c) *Submission of import certificates* is amended to read as follows:

5. *Return of import certificates.* U. S. exporters may be requested by their foreign importers to return unused or partially used import certificates. In such cases, the U. S. exporter shall forward the certificate to his importer as soon as he determines that the certificate will not be used with a new or resubmitted application, or an appeal.

Failure on the part of the U. S. exporter to comply with his foreign importer's request will result in the importer's inability to fulfill his obligations to his government and may result in the foreign importer being denied further import certificates. This action obviously would prevent the U. S. exporter's participation in further export transactions with such foreign importer. In addition, the foreign importer may be subjected to other penalties for his failure to return the certificate.

The Bureau of Foreign Commerce will not return import certificates to the U. S. exporter where the total quantity shown on the import certificate has been shipped or is covered by an outstanding export license(s). In order to comply with a foreign importer's request for the return of an unused or partially used import cetificate, import certificates on file in the Bureau of Foreign Commerce will be returned to exporters in accordance with the procedures described below:

(a) Where an import certificate covers a quantity in excess of the export license applications submitted against it, or does not specify the quantity covered the BFC will retain the import certificate until such time as the exporter requests the return thereof. When requesting the return of the import certificate, the exporter should submit his request in writing, showing the name and address of the named importer, applicable BFC case numbers to which the certificate applies, import certificate number, and a statement that such import certificate will not be used in connection with a new or resubmitted application for export. Appropriate notation will be made on the certificate by the Bureau of Foreign Commerce.

(b) The BFC will automatically return the applicable import certificate to the U. S. exporter (applicant) whenever an application for export covers the same type and amount of the commodity as that shown on the import certificate, but such application is rejected or approved in a reduced quantity. Appropriate notation will be made on the certificate by the BFC.

(c) In instances where the U. S. exporter does not intend to ship the total quantity of commodities for which a license has been issued and desires the return of the import certificate, he should submit his request in writing for return of the certificate together with request for cancellation or amendment of the unexpired license to show the quantity which he intends to ship. (See § 380.2.) In such cases exporters shall submit the amendment form, Form IT-763 (in addition to the letter request), as provided by the regular amendment procedure. Appropriate notation will be made on the import certificate by the BFC.

10. Section 373.33 *Diamonds* is amended to read as follows:

§ 373.33 *Diamonds*—(a) *Definitions.* The commodities covered by this section are loose diamonds (except cut gem diamonds).

(1) "Industrial diamonds", Schedule B Nos. 599005 and 540910, unmounted industrial-purpose diamonds, in any form, including ballas, carbonados, crushing bort, and diamond fragments, as well as diamond powder, dust, and compounds, or

(2) "Cuttable diamonds", Schedule B No. 599010, diamonds suitable for cutting into gems and not reserved for industrial use.

(b) *Application requirements.* Separate license applications (Form IT-419) must be submitted for each Schedule B classification of loose diamonds. Each application must include a detailed statement regarding the end use of the commodity and must contain a complete description of each named commodity or commodities, including any customary trade sub-classifications. Diamonds must be listed on the application by one of the following methods:

(1) *Industrial stones.* List by classes, quality, and size as specified in Munitions Board Spec. P-19 dated April 1, 1949, and show price per carat of each diamond or of similar groups.

NOTE: The classes specified in National Stockpile Materials Purchase Specifications P-19 [1] are:

Class I—Core drilling stones.
Class II—Thread and gear grinder stones.
Class III—Tool stones.
Class IV—Grinding wheel dressers stones.
Class V—Shaping, boring, turning tool stones.
Class VI—Points and elongated stones.
Class VII—Flats.
Class VIII—Wire die stones.
Class IX—Indenter stones.
Class X—Ballas.
Class XI—Carbons.

(2) *Powder, dust, compounds.* Give total carat weight, total price, and average price per carat. In the case of dust and powder, give mesh sizes. For compounds give total carat content and mesh sizes.

(3) *Cuttable diamonds.* List in groups by packets, giving the number of diamonds, the total carat weight, total price, average price per carat for each group, and also the trade description (i. e., mells, flats, rounds, bloc, etc.)

(c) *Export clearance of loose diamonds.* (1) Every shipment of loose diamonds in any form must be inspected by the U. S. Appraiser of Merchandise at New York, regardless of the means of exportation or the port of exit.

(2) The Appraiser will compare the contents of the shipment with the description on the shipper's export declaration authenticated by the collector of customs. If the contents and description on the authenticated shipper's export declaration agree, the Appraiser shall place his seal on the package or parcel.

(3) If the contents of the shipment do not agree with the description set forth on the authenticated export declaration, the Appraiser will submit the authenticated shipper's export declaration, together with a statement of his findings, to the Department of Commerce via the collector of customs.

(4) Post offices will not accept packages or parcels containing such commodities for mailing to a foreign destination unless they have been inspected by the U. S. Appraiser of Merchandise at New York, and the unbroken seal of that official appears on each package or parcel.

(d) *Return of loose industrial diamonds and diamond dust, or powder without license.* Notwithstanding the foregoing provisions of this section (which relate only to diamond exports which require a license), the provisions of § 371.9 (c) of this subchapter (which relate to exceptions from the general license GIT for intransit shipments), and the provisions of § 370.10 of this subchapter (which permit certain exports from foreign trade zones without license), any person in the United States to whom loose industrial diamonds, Schedule B No. 599005, or diamond dust or powder, Schedule B No. 540910, are consigned by a foreign supplier, with the privilege of selection and purchase or return, may return to such foreign supplier such of those diamonds or such dust or powder as are not selected for purchase, without securing an export license therefor, provided the following procedure and conditions are observed:

(1) *Deposit in New York Foreign Trade Zone.* The entire consignment to such person from his foreign supplier, upon arrival in the United States and prior to opening or inspection, must be taken directly from Customs custody into the New York Foreign Trade Zone and must be continuously kept there while inspection and selection are made and, with respect to those diamonds or such dust or powder not selected for purchase and to be returned to the foreign supplier, until released for immediate exportation to the foreign supplier.

(2) *Examination by Federal Supply Service.* The Federal Supply Service, General Services Administration, must be given an opportunity to examine and purchase the diamonds or dust or powder proposed to be returned and, after having purchased any which it desires to purchase, must furnish to the New York Foreign Trade Zone Operators, Inc., its certificate, in duplicate, to the effect that it has been afforded such opportunity and that, with respect to those diamonds or such dust or powder remaining for return to the foreign supplier (which must be sufficiently identified by lot number, quantity, weight, description, etc.), it has elected not to purchase them.

(3) *Certificates required for release from Zone.* The New York Foreign Trade Zone Operators, Inc., shall not release the diamonds or dust or powder from the Zone unless and until the

[1] This list is identical with that previously printed in Munitions Board Specifications P-19. Copies of National Stockpile Materials Purchase Specifications P-19 are obtainable from Emergency Procurement Service, General Services Administration, Seventh and D Streets SW., Washington 25, D. C.

above-mentioned certificate has been furnished, and, at the time of such release, there shall be attached to the original thereof a duly executed Certificate of Constructive Transfer, Zone Form C, revised (i. e., the official document by which commodities are released from the Zone). Both certificates will be delivered to the proposed exporter.

(4) *Export clearance.* No collector of customs shall authenticate any declaration for the export of loose industrial diamonds or diamond dust or powder pursuant to this procedure unless the certificate of the Federal Supply Service and the attached Certificate of Constructive Transfer, Zone Form C, revised, provided for above, shall accompany the declaration filed with the collector.

NOTE: The use of the procedure set forth in paragraph (e) of this section will be expedited if diamond dealers desiring to use the facilities of the New York Foreign Trade Zone will make such arrangements as soon as they know when a consignment of diamonds or diamond dust or powder is due to arrive. Persons using the procedure are also responsible for notifying the Federal Supply Service when a proposed shipment is ready for inspection.

(e) *Tools incorporating industrial diamonds.* Applications for licenses to export tools, tool parts, or devices containing diamonds must be submitted in accordance with the provisions of § 373.49 (f).

11. Section 373.34 *Asbestos, crude and spinning fibers* is deleted.

12. Section 373.40 *Iron and steel*, paragraph (e) *Iron and steel scrap* is amended to read as follows:

(e) *Iron and steel scrap*—(1) *General.* An open-end export quota has been established for the first quarter of 1954 for iron and steel scrap, Schedule B Nos. 601010, 601040, 601050, 601070 and 601090.

(2) *"Domestic" scrap.* Except as provided in subparagraph (5) of this paragraph, license applications to export "domestic" scrap (scrap located within the continental United States) shall be accompanied by an inspection certificate executed by an inspecting firm, recognized by the trade, certifying to a physical inspection of the grades, location (i. e., name and address of yard), and tonnage of the scrap to be exported.

(3) *"Offshore" scrap.* License applications to export "offshore" scrap (scrap located in American possessions outside the continental U. S.) must be accompanied by:

(i) The name and address of the person who has the scrap in his possession.

(ii) A statement as to whether or not the scrap was originally owned by the U. S. Government and if so, the name of the person to whom the U. S. Government sold it as well as the U. S. Government contract number.

(iii) A statement as to whether the scrap is collected and ready for export.

(iv) The name and address where the material may be inspected.

In addition, if the scrap was collected by the applicant himself, a certification must be made by the applicant as to the ownership and as to the completion of the collection. If the scrap was not collected by the applicant himself, the application must be accompanied by a copy of the contract of sale to the applicant, or a statement showing the following items appearing on the contract: Parties to the contract, date of contract, contract number or other identification number and quantity.

(4) *Validity period.* (i) Except as provided in subparagraph (5) of this paragraph, a license to export "domestic" iron and steel scrap will be issued for a validity period ending on the last day of the second month following the month during which the license is validated (for example a license issued January 25, 1954, will expire on March 31, 1954).

(ii) A license to export "offshore" iron and steel scrap will be issued for a validity period ending on the last day of the sixth month following the month during which the license is validated.

(5) *Requirements for Mexico.* (i) License applications to export iron and steel scrap to Mexico are subject to all of the provision of subparagraph (2), (3), and (4) of this paragraph, except that applications to export normal iron and steel scrap requirements to a foreign consignee in Mexico who is traditionally dependent upon the United States for his scrap requirements need not be accompanied by inspection certificate mentioned in subparagraph (2) of this paragraph.

(ii) A license to export iron and steel scrap to such foreign consignee in Mexico who is traditionally dependent upon the United States for his scrap requirements will be issued for a validity period ending on the last day of the sixth month following the month in which the license is validated.

13. Section 373.45 *Tools incorporating industrial diamonds* is amended to read as follows:

§ 373.45 *Tools incorporating industrial diamonds.* Applications for licenses to export tools, tool parts, or devices containing diamonds must be submitted in accordance with the provisions of § 373.49 (f).

14. Section 373.49 *Machinery and parts*, paragraph (f) *Tools incorporating diamonds* is amended to read as follows:

(f) *Tools incorporating diamonds*—(1) *Commodities included.* Any tool incorporating diamonds requires a validated license for export to all R and O country destinations, whether or not the tool is shipped with the machine with which it is to be used.

(2) *Definition.* As used in this section, the term "tools incorporating diamonds" means any tools, tool parts or devices, including metal slugs, which contain diamonds. Such "tools" do not include the machines which may make use of the tools incorporating diamonds.

(3) *Application requirements.* License to export a tool incorporating diamonds as a spare or replacement part shall be applied for under the Schedule B number applicable to such tool. When a diamond tool is to be shipped with a machine with which it is to be used, whether such machine is on the Positive List, the diamond tool shall be entered on the license application under the Schedule B number of the machine.

If a validated license is required for the machine, a single license application shall be submitted and the description shall specify that a tool containing diamonds is to be shipped with the machine.

In addition to information required by paragraph (a) of this section, applications for licenses to export tools incorporating diamonds must comply with the following requirements:

(i) Tools, tool parts, or devices (including metal slugs) must be listed separately on license applications, or by groups of identical tools, giving the name and type of tool and approximate carat weight of diamonds.

(ii) License applications to export rock drill bits, core drill bits, and reamers containing diamonds, Schedule B No. 730875, which have been shipped to the United States for reprocessing or resetting must show for each type or size of tool listed the approximate total carat weight of contained diamonds before and after reprocessing or resetting.

(iii) License applications to export diamond grinding wheels, sticks, hones, and laps, Schedule B No. 540905, must state the quantity, the approximate carat weight and grit size of the diamond content of each commodity.

(iv) Diamond dies must be listed on the license applications as unmounted or encased, and the quantity and carat weight, must be given.

(4) *Preparation of shipper's export declaration.* (i) A tool incorporating diamonds exported under validated license as a part of a machine exported under general license shall be reported on the same shipper's export declaration as a unit. The value stated in column (15) shall reflect the combined value of the machine and the diamond tool.

(ii) Separate data for the diamond tool shall be shown only in column (10). The description of the machine shall specify that it includes a tool containing diamonds, together with the same information required on a license application for the diamond tool, as set forth in subparagraph (3) of this paragraph.

15. Section 373.53 *Vessels to be scrapped abroad* is deleted.

16. Section 373.61 *Tools incorporating diamonds* is amended to read as follows:

§ 373.61 *Tools incorporating diamonds.* Applications for licenses to export tools, tool parts, or devices (including dental instruments, Schedule B No. 915000) containing diamonds must be submitted in accordance with the provisions of § 373.49 (f).

17. Section 373.71 *Supplement 1: Time schedules for submission of applications for licenses to export certain Positive List commodities* is amended to read as follows:

TIME SCHEDULES FOR SUBMISSION OF APPLICATIONS FOR LICENSES TO EXPORT CERTAIN POSITIVE LIST COMMODITIES [1]

[Fourth quarter, 1953, and first quarter, 1954]

Dept. of Commerce Schedule B No.	Commodity	Submission dates	
		First quarter, 1954	Second quarter, 1954
619159	Selenium powder	Nov. 30–Dec. 14, 1953	Mar. 1–Mar. 15, 1954
664998	Selenium metal		
839750	Selenium salts of organic compounds	Dec. 16–Dec. 31, 1953	
839900	Selenium salts and compounds, including selenium dioxide.		
842900	Selenium-containing pigments		

[1] Applications for licenses to export commodities for which no specified filing dates are announced may be submitted at any time. (See § 372.3 (a) of this subchapter). Export applications for commodities requiring a validated license when moving in transit through the United States may be submitted at any time and are not subject to specified filing dates (see § 372.4 of this subchapter).

18. Section 383.1 *General procedure for appeals*, paragraph (f) *Preparation of appeals*, subparagraph (5) *Additional requirements for specified appeals*, subdivision (vi) *Appeals from rejection of unit process applications* is deleted.

This amendment shall become effective as of January 28, 1954.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 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,
Bureau of Foreign Commerce.

[F. R. Doc. 54-839; Filed, Feb. 4, 1954; 8:55 a. m.]

[6th General Rev. of Export Regs., Amdt. P. L. 67 [1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

a. 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
836220	Other boric acid and borates (including borax), crude and refined.[1]	Lb.	SALT	500	RO

[1] These commodities may be exported under the Periodic Requirements licensing procedure (see Part 376 of this subchapter) or the Foreign Distribution licensing procedure (see Part 375 of this subchapter).

This part of the amendment shall become effective as of 12:01 a. m., February 4, 1954.

[1] This amendment was published in Current Export Bulletin No. 723, dated January 28, 1954.

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

Dept. of Commerce Schedule B No.	Commodity
596012	Cryolite, natural and artificial, except Raymond mill dust (specify grade).
	Merchant ships (excluding converted military watercraft):
795100	Passenger ships, of U. S. registry, for scrapping (specify gross registered tonnage).
795115	Barges, of U. S. registry, for scrapping (specify gross registered tonnage).
795117	Tankers, of U. S. registry, for scrapping (specify gross registered tonnage).
795120	Cargo ships, except barges and tankers, of U. S. registry, for scrapping (specify gross registered tonnage) (specify type).
795125	Tugs and towboats, of U. S. registry, for scrapping (specify gross registered tonnage).
795130	Dredges, of U. S. registry, for scrapping (specify gross registered tonnage).
795135	Merchant ships, n. e. c., of U. S. registry, for scrapping (specify gross registered tonnage).
795140	Fishing and small commercial watercraft (excluding converted military watercraft), of U. S. registry, for scrapping (specify gross registered tonnage).
795150	Recreational watercraft (excluding converted military watercraft), of U. S. registry, for scrapping (specify gross registered tonnage).

This part of the amendment shall become effective as of January 28, 1954.

3. The revised entries set forth below are substituted for entries presently on the Positive List:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity Group	GLV dollar-value limits	Validated license required
617901★	Tools (all metals) n. e. c.: Tools incorporating industrial diamonds, n. e. c. (including slugs containing diamonds).[1] (See special provisions for Commodity Group 7, §§ 373.48–373.53; special destination provisions, §§ 373.65–373.67.)	No. and carat.	TOOL	25	RO
----------★	Tools or devices incorporating diamonds, not included elsewhere on the Positive List.[2]	No. and carat.	TOOL	25	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 unit "carat" is added.

[2] The above entry is added to the Positive List to make it conform with § 373.49 (f) of this subchapter which provides that such commodities require validated licenses for export to R and O country destinations.

This part of the amendment shall become effective as of 12:01 a. m., January 28, 1954.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations as a result of changes set forth in item 1 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., February 4, 1954, may be exported under the previous general license provisions up to and including February 27, 1954. Any such shipment not laden aboard the exporting carrier on or before February 27, 1954, requires a validated license for export.

b. In § 399.2 *Appendix B—commodity interpretations, Interpretation 2: Export of Machines Containing a Tool or Device Incorporating Diamonds* is amended to read as follows:

INTERPRETATION 2: EXPORT OF MACHINES CONTAINING A TOOL OR DEVICE INCORPORATING DIAMONDS

See § 373.49 (f) of this subchapter.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 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,
Bureau of Foreign Commerce.

[F. R. Doc. 54-840; Filed, Feb. 4, 1954; 8:55 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

SUBPART B—DESCRIPTION OF FORMS

1. *Revocation of § 128.12.* Section 128.12 is hereby revoked.

2. *Foreign Exchange Form S-4; foreign debit and credit balances.* Section 128.16 is hereby amended to read as follows:

§ 128.16 *Foreign Exchange Form S-4: foreign debit and credit balances.* On this form brokers, dealers, etc., are required to report semi-annually to a Federal Reserve bank, the debit and credit balance in their accounts carried by or for "foreigners", as of June 30 and December 31.

3. *Revocation of § 128.17.* Section 128.17 is hereby revoked.

(Sec. 5, 40 Stat. 415, as amended; 50 U. S. C. App. 5. Interpret or apply sec. 8, 59 Stat. 515; 22 U. S. C. 286f, E. O. 6560, Jan. 15, 1934, E. O. 10033, Feb. 8, 1949, 14 F. R. 561; 3 CFR, 1949 Supp.)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This amendment shall become effective as of March 31, 1954.

[SEAL] A. N. OVERBY,
Acting Secretary of the Treasury.

[F. R. Doc. 54-855; Filed, Feb. 4, 1954; 8:56 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter A—Armed Services Procurement Regulation

PART 400—GENERAL PROVISIONS

SUBPART B—DEFINITION OF TERMS

The Armed Services Textile and Apparel Procurement Agency has been eliminated from the following sections in accordance with the current Department of Defense Appropriation Act.

§ 400.201-3 *Procuring activity.* The term "procuring activity" includes, for the Army, the technical services, the continental armies, the National Guard Bureau, the Military District of Washington, and the major oversea commands; for the Navy, each Bureau of the Navy Department, the Office of Naval Research, the Aviation Supply Office, the Military Sea Transportation Service and the United States Marine Corps; for the Air Force, the Air Materiel Command. It also includes the Armed Services Medical Procurement Agency, the Armed Services Petroleum Purchasing Agency, and any other procuring activity hereafter established. The number and designation of particular procuring activities of any Department may be changed by directive of the Secretary of that Department.

§ 400.201-4 *Head of a procuring activity.* The term "Head of a Procuring Activity" includes, for the Army, the chiefs of the technical services, the continental army commanders, the Chief of the National Guard Bureau, the Commanding General of the Military District of Washington, and the commanding generals of the major oversea commands; for the Navy, the Chief of each Bureau, the Chief of Naval Research, the Aviation Supply Officer, the Commander, Military Sea Transportation Service, and the Commandant of the United States Marine Corps; for the Air Force, the Commanding General of the Air Materiel Command. It also includes the Chief of the Armed Services Medical Procurement Agency, the Executive Officer of the Armed Services Petroleum Purchasing Agency, and the head of any other procuring activity hereafter established. The number and designation of Heads of Procuring Activities within any Department may be changed by directive of the Secretary of that Department.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 22, 1954.

[F. R. Doc. 54-801; Filed, Feb. 4, 1954; 8:48 a. m.]

PART 400—GENERAL PROVISIONS

SUBPART B—DEFINITION OF TERMS

SUBPART C—BASIC POLICIES

1. The definition of the term "source of supplies" is clarified to include "construction contractors" in § 400.201-9 (a) as follows:

§ 400.201-9 *Source of supplies.* (a) The term "source of supplies" shall include only (1) manufacturers, (2) construction contractors, and (3) regular dealers in the supplies to be procured. A "regular dealer" shall be deemed to be any one of the following:

* * * * *

2. An additional reference to ASPR procedures is pointed up in paragraph (b) of § 400.201-9, which reads as follows:

(b) A manufacturer, construction contractor, or regular dealer may bid, negotiate and contract through an authorized agent: *Provided,* That the agency is disclosed, and the agent acts and contracts in the name of his principal. In this connection, see the clause entitled "Covenant Against Contingent Fees" set forth in § 406.103-20 of this subchapter and the procedures prescribed for obtaining information concerning contingent or other fees, as set forth in Subpart E of this part.

3. This amended section eliminates "ineligible contractors and disqualified bidders" from the scope, and reads as follows:

§ 400.300 *Scope of subpart.* This subpart sets forth the general procurement policies of the Departments with respect to (a) methods of procurement, (b) sources of supply (including governmental and foreign purchases), (c) types of contracts, and (d) specifications.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 26, 1954.

[F. R. Doc. 54-791; Filed, Feb. 4, 1954; 8:45 a. m.]

PART 400—GENERAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Change § 400.302-4 *Foreign Purchases* to § 400.302-5, and add a new § 400.302-4, incorporating the general policies in connection with Defense Manpower Policy No. 4, revised November 5, 1953 (18 F. R. 6995), which directs the placement of supply contracts, at prices no higher than might otherwise be obtainable elsewhere, with such suppliers as will perform contracts substantially in current labor surplus areas. This section and such sections referred to herein are effective on and after January 15, 1954.

§ 400.302 *Sources of supplies.*

[400.302-1 through 3 remain unchanged.]

§ 400.302-4 *Firms performing contracts in labor surplus areas*—(a) *Definitions.* (1) "Labor surplus areas" are those designated as Group IV Areas in the Department of Labor publication "Bi-Monthly Summary of Labor Market Developments in Major Areas" under the heading "Classification of Labor Market Areas According to Relative Adequacy of Labor Supply."

(2) "Set-asides," as used in this subchapter, designates a method of procurement whereby a portion of the requirement, as determined by the procurement activity, is withheld from general solicitation (either formally advertised or negotiated), is reserved for negotiation exclusively with firms located in labor surplus areas, and is to be performed substantially within such labor surplus areas.

(b) *Policy.* Defense Manpower Policy No. 4 (revised 5 November 1953), issued by the Director of Defense Mobilization, directs the placement of supply contracts, at prices no higher than might otherwise be obtainable elsewhere, with such suppliers as will perform contracts substantially in current labor surplus areas. Accordingly, the Departments shall comply with the following:

(1) Use their best efforts to award negotiated procurements to contractors located within labor surplus areas for performance substantially within such labor surplus areas to the extent that procurement objectives will permit; provided, that in no case shall price differentials be paid for the purpose of carrying out this policy.

(2) Where deemed appropriate, set aside portions of procurements for negotiation exclusively with firms located in labor surplus areas at prices no higher than those paid on the non-set-aside portion; provided, that performance shall be substantially within labor surplus areas. (For detailed procedures see §§ 401.205, 402.105, and 402.219 of this subchapter.)

(3) Assure that firms in labor surplus areas which are on appropriate bidders' lists are given the opportunity to submit bids or proposals on all procurements for which they are qualified and on which small business joint determinations have not been made. Whenever the number of firms on a bidders' list is excessive, a representative number of firms from labor surplus areas shall be included for the particular procurement.

(4) In the event of tie bids or proposals on any procurement, the contract shall be awarded in accordance with § 401.406–4 of this subchapter.

(5) Encourage prime contractors to award subcontracts to firms in labor surplus areas.

(6) Cooperate with other agencies listed in Defense Manpower Policy No. 4 in achieving the objectives of this policy.

(c) *Application.* The policy in paragraph (b) of this section shall be applicable to procurements estimated to be in excess of $25,000.

(d) *Implementation.* (1) The Departments shall cause information identifying labor surplus areas as defined above to be disseminated to appropriate procurement personnel. When an entire industry is depressed, the Director of Defense Mobilization may establish appropriate measures upon an industry-wide, rather than a normal geographical, basis. Designations of such industries will be accomplished by ODM Notifications, and such industries will thereafter be given special treatment as specified therein.

(2) Procedures shall be established with respect to the issuance of Invitations for Bids and Requests for Proposals, as set forth in §§ 401.205–3 and 402.105 of this subchapter. Awards of contracts involving labor surplus areas shall be made in accordance with § 402.219 of this subchapter.

(3) Contract files shall be documented to indicate the extent to which labor surplus areas were considered and the action taken with regard thereto.

§ 400.302–5 *Foreign purchases.* Foreign purchases shall be made in accordance with the provisions of Part 405 and upon compliance with any other applicable provisions of this subchapter.

2. Section 400.605–1 has been revised by eliminating paragraph (b). It now reads as follows:

§ 400.605 *Suspension of bidders.*

§ 400.605–1 *Causes and conditions under which departments may suspend contractors.* The Secretary of a Department or his authorized representative may, in the interest of the Government, suspend a firm or individual suspected of having committed fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a contract.

This revision is effective on or after 1 March 1954.

3. A new § 400.609 establishes Subpart F of Part 400 as a guide for oversea procurement operations, and provides for notification to the Secretaries with respect to certain actions taken by major oversea commanders. Specific attention is drawn to firms or individuals to whom United States Government contracts are denied, pursuant to the Economic Defense Administrative Action Program.

§ 400.609 *Procurement outside United States.* Although the provisions of this subpart and this part are not applicable to procurement outside the United States, its territories and possessions, the principles and procedures set forth therein shall be used as a guide by oversea commanders in the establishment and maintenance of a consolidated list of firms and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited, giving due consideration to laws or customs of the local foreign governments in which such lists are to be applicable. Advice of any debarment, ineligibility, or suspension, or release therefrom, by major oversea commanders will be furnished to the Secretary of the Department concerned and to the local representatives of the other military departments. Major oversea commanders will advise both the Secretary of the Department concerned and the Chief of the United States Diplomatic Missions in the country concerned of actions contemplated under this section which may have important political significance. In addition to firms or individuals included on any consolidated list by major oversea commanders, such list shall also include the names of firms or individuals to whom United States government contracts will be denied pursuant to the Economic Defense Administrative Action Program, as implemented by the Department of Defense, or pursuant to any other applicable statute, executive order, directive or regulation.

(R. S. 161; 5 U. S. C. 22)

T. P. Pike,
Deputy Assistant Secretary of Defense (Supply and Logistics).

January 27, 1954.

[F. R. Doc. 54–796; Filed, Feb. 4, 1954; 8:46 a. m.]

Part 401—Procurement by Formal Advertising

Subpart B—Solicitation of Bids

1. Section 401.202 is amended by adding "construction contractors", as follows:

§ 401.202 *Methods of soliciting bids.* Manufacturers, construction contractors, and regular dealers, as defined in § 400.201–9, regardless of size, who can establish or have established their fitness and ability to fulfill contract requirements, will be placed on mailing lists for bids or notices in advance of bids. Contracting Officers may elect to send either invitations for bids or advance notices, but shall use one method exclusively in each separate procurement action. Bids shall be solicited by the methods prescribed in §§ 401.202–1 and 401.202–2, and by the methods prescribed in §§ 401.202–3 and 401.202–4 to the extent deemed necessary by the Contracting Officer in order to assure full and free competition: *Provided*, That (a) bids shall be solicited sufficiently in advance of the opening of bids to allow bidders an adequate opportunity to prepare and submit their bids, and (b) bids with respect to classified purchases shall be solicited in accordance with procedures prescribed by each respective Department. Synopses of invitations for bids shall be prepared and distributed as prescribed in § 401.202–5.

§ 401.202–1 *Mailing or delivering to prospective bidders.* The form or forms to be used in the solicitation of bids shall be filled out and mailed (or delivered) to each prospective bidder. Invitations for Bids shall not be mailed to persons or firms other than manufacturers, construction contractors, or regular dealers, but may be mailed to Federal Government agencies, including procurement information offices.

§ 401.202–2 *Displaying in public place.* Copies of the form or forms to be used in the solicitation of bids shall be filled out and displayed at the purchasing office or at some other appropriate public place. To the extent that unclassified invitations for bids are available, they shall be provided at the purchasing office to manufacturers, construction contractors, and regular dealers, and to others having a legitimate interest therein, such as publishers, trade associations, procurement information services and others who disseminate information concerning invitations for bids; otherwise, the purchasing office may limit the availability of invitations to perusal at such office.

§ 401.202–3 *Publishing in trade journals.* A brief announcement of the proposed purchase may be made available for free publication to trade journals or magazines whose subscribers are manufacturers of, construction contractors for, or dealers in the supplies or services being procured.

2. "Construction contractor" is added to § 401.406–1 as a "responsible bidder."

§ 401.406 *Award.*

§ 401.406–1 *Responsible bidder.* A "responsible bidder" is a bidder who satisfies all of the following requirements:

(a) Is a manufacturer, construction contractor, or regular dealer, as defined in § 400.201–9 of this subchapter.

* * * * *

(R. S. 161; 5 U. S. C. 22)

T. P. Pike,
Deputy Assistant Secretary of Defense (Supply and Logistics).

January 26, 1954.

[F. R. Doc. 54–792; Filed, Feb. 4, 1954; 8:45 a. m.]

PART 401—PROCUREMENT BY FORMAL ADVERTISING

MISCELLANEOUS AMENDMENTS

1. A parenthetic reference to § 400.302–4 (b) (3) is added as follows to § 401.204 to implement Defense Manpower Policy No. 4, November 5, 1953.

§ 401.204 *Bidders' mailing lists.*

[401.204–1 through 6 remain unchanged.]

§ 401.204–7 *Excessively long bidders' mailing lists.* When the number of names on a bidders' mailing list is deemed to be excessive in relation to a specific procurement, such methods as (a) rotation of bidders' mailing lists, (b) use of pre-invitation notices, or (c) otherwise determined to be advantageous in this respect, may be employed to provide a reduced list of names for use in making the specific procurement. (But see § 400.302–4 (b) (3) of this subchapter with respect to firms located in labor surplus areas.)

2. A new section is added to implement Defense Manpower Policy No. 4, November 5, 1953.

§ 401.205 *"Set-asides" for firms in labor surplus areas.*

§ 401.205–1 *General.* When "set-asides" are used in compliance with § 400.302–4, of this subchapter, the procedures set forth in this section shall be applicable.

§ 401.205–2 *Determination of the quantity of "set-aside".* When the use of "set-asides" is deemed appropriate, procuring activities shall determine the optimum quantity which would probably result in the most favorable price, considering the manufacturing processes involved and the quantity required for an economical production run. Invitations for bids shall be issued for not less than such optimum quantity. The resulting "set-aside" shall also not be less than such optimum quantity. After award of the quantity not set aside, procurement of the "set-aside" shall be effected by negotiation pursuant to § 402.219 of this subchapter.

§ 401.205–3 *Special conditions to be inserted in invitations for bids.* Whenever it has been determined to set aside a quantity of a procurement in accordance with § 400.302–4, of this subchapter, the Invitation for Bids covering procurement of the items not set aside shall provide that:

(a) "Set-asides" in aid of labor surplus areas may be utilized.

(b) The right to participate in subsequent negotiation for any "set-asides" shall be conditioned upon the submission of a bid upon the items not set aside at a unit price within 120 percent of the highest award made with respect to quantities not set aside.

3. Amendments in the following paragraphs change the wording from "distressed employment area" to "labor surplus area".

§ 401.406–4 *Equal low bids.* (a) * * *

(2) Where two or more equal low bids are received from small business concerns, one of which is submitted by a bidder who will perform the contract in a labor surplus area as defined in § 400.302–4 of this subchapter, award shall be made to the small business concern who will perform the contract in such labor surplus area.

(3) In the case of equal low bids, two or more of which are submitted by small business concerns which will perform the contract in a labor surplus area, award shall be made by a drawing by lot limited to the small business concerns in the labor surplus area.

(4) Where two or more equal low bids are received, one bid being from a business concern (whether small or not) not in a labor surplus area and the other being from a bidder who, although not a small business concern, will perform the contract in a labor surplus area, award shall be made to the latter.

* * * * *

§ 401.406–5 *Statement and certificate of award.* In connection with every purchase made by formal advertising, the Contracting Officer shall prepare and execute a statement and certificate of award on U. S. Standard Form 1036, which shall be attached to the original documents and papers constituting the contract which are forwarded to the General Accounting Office. Such certificate shall either (a) state that the accepted bid was the lowest bid received, or (b) list all lower bids and set forth reasons for accepting a bid other than the lowest. In each case where an award is made pursuant to subparagraphs (1), (2), (3), or (4) of § 401.406–4 (a), such certificate shall briefly recite the circumstances under which award was made and shall contain a statement that it has been administratively determined that the award will further the Congressional policy with respect to small business expressed in section 2 (b) of the Armed Services Procurement Act of 1947 or will further the policy with respect to labor surplus areas, or both, as the case may be.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 27, 1954.

[F. R. Doc. 54–797; Filed, Feb. 4, 1954; 8:47 a. m.]

PART 402—PROCUREMENT BY NEGOTIATION

MISCELLANEOUS AMENDMENTS

1. New §§ 402.105 and 402.219 are added to implement Defense Manpower Policy No. 4, November 5, 1953.

§ 402.105 *Aids to labor surplus areas in negotiated procurements.* In implementing the policy set forth in § 400.302–4 quantities of negotiated procurements may be set aside in the same manner as provided in § 401.205 of this subchapter for formally advertised procurements. Requests for Proposals shall contain the provision required to be inserted in Invitations for Bids by § 401.205–3 (a) of this subchapter and shall provide that the right to participate in subsequent negotiation for any "set-asides" shall be conditioned upon the submission of an initial quotation upon the items not set aside, at a unit price within 120 percent of highest award made with respect to the quantities not set aside. The determination of quantities to be set aside shall be governed by § 401.205–2 of this subparagraph. The procedures for negotiation of "set-asides" are set forth in § 402.219.

§ 402.219 *Negotiation of "set-asides" for labor surplus areas.*

§ 402.219–1 *Authorization.* When "set-asides" are used in compliance with § 400.302–4 of this subparagraph, such "set-asides" shall be negotiated in accordance with procedures set forth in § 402.219.

§ 402.219–2 *Limitation.* Pursuant to section 644 of the Department of Defense Appropriation Act of 1954 (Public Law 179, 83d Congress), and any subsequent similar statutory limitations, no price differentials shall be paid for the purpose of aiding labor surplus areas.

§ 402.219–3 *Eligible bidders and offerors.* Negotiation for "set-asides" shall be conducted only with such responsible bidders or offerors which have previously submitted bids or proposals on the quantities not set aside conforming to the Invitation for Bids or Request for Proposals, providing such bids or initial proposals offered a unit price within 120 percent of the highest award made on the quantities not set aside, and provided further that contracts for such "set-asides" will be performed substantially in labor surplus areas.

§ 402.219–4 *Method of negotiation.* (a) Negotiation for "set-asides" shall be conducted with small business concerns prior to negotiation with other firms in such labor surplus areas. Within each such group, negotiation shall begin with the bidder or offeror which submitted the lowest responsive bid or proposal in connection with the procurement of the quantities not set aside.

(b) If procurement of the entire "set-aside" cannot be effected by the procedure set forth in paragraph (a) of this section, the unplaced portion of the "set-aside" may be procured in the most appropriate manner.

(c) In conducting negotiations for the "set-aside," it is permissible to reveal the unit price of the lowest award; however, in instances where the non-set-aside portion is procured by means of negotiation, cost or other pricing data pertaining to such award may not be divulged.

§ 402.219–5 *Limitations on contract price.* (a) When the procurement of quantities not set aside has resulted in one contract only, or in multiple awards all at the same price, awards for "set-asides" shall not exceed the contract price for the quantities not set aside.

(b) When the procurement of the quantities not set aside has resulted in multiple awards at different contract

prices, awards for "set-asides" shall be at a price determined by the Contracting Officer to be fair and reasonable, but in no event higher than the highest price awarded in connection with the quantities not set aside. In the absence of changes in market trends and other factors requiring consideration, the Contracting Officer shall consider the weighted average price of all awards made in connection with the quantities not set aside as being a fair and reasonable price. The weighted average shall be ascertained by adding the total dollar amounts of all awards in connection with the quantities not set aside and dividing the grand total by the total number of units included in all such awards.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 27, 1954.

[F. R. Doc. 54-798; Filed, Feb. 4, 1954; 8:47 a. m.]

PART 406—CONTRACT CLAUSES

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

The clause in § 406.103–12 is unchanged, but the instructions with respect to the clause are amended as follows:

§ 406.103–12 *Disputes.*

* * * * *

(a) With respect to inclusion of a "Disputes" clause in construction contracts, see § 415.004–3 (d) of this subchapter.

(b) In accordance with Department procedures, the foregoing clause may be modified to provide for intermediate appeal to the head of the procuring activity concerned. The decision of the Contracting Officer referred to in the above clause shall, if mailed, be sent by registered mail, return receipt requested.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 22, 1954.

[F. R. Doc. 54-802; Filed, Feb. 4, 1954; 8:48 a. m.]

PART 406—CONTRACT CLAUSES

SUBPART A—CLAUSES FOR FIXED-PRICE SUPPLY CONTRACTS

1. Section 406.104–11 (a) is revised by eliminating the phrase, "except contracts any of the receipts or accruals from which are subject to the Renegotiation Act of 1951 (See § 406.104–10), and amends the clause by inserting the phrase "unless otherwise provided by law."

§ 406.104 *Clauses to be used when applicable.*

§ 406.104–11 *Vinson-Trammell Act.* (a) In accordance with the requirement of section 3 of the Vinson-Trammell Act as amended and extended (34 U. S. C. 496 and 10 U. S. C. 311), and except as provided in paragraphs (b) and (c) of this section, any contract in an amount which exceeds or may exceed $10,000, known to be for the construction or manufacture of any complete aircraft or naval vessel, or any portion thereof, shall contain the following clause, except that in any advertised contract there may be inserted at the beginning of such clause the words "if this contract is in an amount which exceeds $10,000,":

VINSON-TRAMMELL ACT

The Contractor agrees that, unless otherwise provided by law, this contract shall be subject to all the provisions of the Vinson-Trammell Act as amended and extended (34 U. S. Code 496, and 10 U. S. Code 311) and shall be deemed to contain all the agreements required by Section 3 of said Act: Provided, however, that this clause shall not be construed to enlarge or extend by contract the obligations imposed by said Act. In compliance with said Act, the Contractor agrees to insert in such subcontracts hereunder as are specified in said Act either the provisions of this clause or the provisions required by said Act.

* * * * *

2. The security classification "Restricted" is omitted wherever there is such a reference in § 406.104–12 *Military security requirements.*

3. The clause in the following paragraph is amended to reflect the prohibitions in the current Department of Defense Appropriation Act.

§ 406.104–13 *Domestic food, clothing, cotton or wool.* In all contracts for the procurement of any article of food, clothing, cotton or wool, not excepted from the prohibition of annual appropriation acts as set forth in §§ 405.106–1 and 405.107 of this subchapter, insert the following clause:

DOMESTIC FOOD, CLOTHING, COTTON OR WOOL

The Contractor agrees that there will be delivered under this contract only such articles of food, clothing, cotton or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles) as have been grown, reprocessed, reused, or produced in the United States or its possessions.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 26, 1954.

[F. R. Doc. 54-793; Filed, Feb. 4, 1954; 8:45 a. m.]

PART 406—CONTRACT CLAUSES

SUBPART E—CLAUSES FOR PERSONAL SERVICES CONTRACT

Sections 406.503–1 to 406.503–8 remain unchanged.

The following section is amended as follows:

§ 406.503–9 *Patents.* Insert the clause set forth in § 408.112, which is based on Executive Order 10096: *Provided, however,* That upon written request by the prospective contractor and approval by the head of the procuring activity or his authorized representative, the clause may be modified or omitted, as the case may be, where (a) the period of employment is to be not more than 90 days in any 1 calendar year, or (b) both the following conditions are present: (1) The period of employment called for in the contract, or in any renewal thereof, is more than 90 days but not more than 1 year of full-time service, and (2) the prospective contractor is bound by an obligation which existed prior to entering into the proposed contract with the Government and which was not entered into contemplation thereof, the discharge of which would be inconsistent with the discharge of any obligation arising under Executive Order 10096.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 27, 1954.

[F. R. Doc. 54-799; Filed, Feb. 4, 1954; 8:46 a. m.]

PART 408—PATENTS AND COPYRIGHTS

MISCELLANEOUS AMENDMENTS

A revised § 408.109 sets forth the policy with respect to adjustment of royalties in view of the expiration of certain sections of the Royalty Adjustment Act of 1942. Revisions of the Patents clause for use in personal service contracts, and instructions for the inclusion of either Patents or Copyrights clauses in such contracts, are issued in the following sections:

§ 408.109 *Adjustment of royalties.* (a) Sections 1 and 2 of the Royalty Adjustment Act of 1942 (35 U. S. C. 89–90, 1946 edition), so far as they related to authority to initiate new actions, expired on 1 July 1953. Sections 1 and 2 provided, after due notice, for adjustment of royalties by issuance of an order by the head of the Department or his authorized delegate and specified the remedies of a licensor against whom an order was issued. The remaining sections of the Royalty Adjustment Act (35 U. S. C. 91–96, 1946 Ed.) are by the terms of said act permanent legislation. They are partly ancillary to sections 1 and 2, and in part provide for other patent matters. Section 3 is particularly important as providing authority to settle administratively claims against the United States accruing to the owners or licensors of patents or inventions under the Royalty Adjustment Act or any other law.

(b) If the contracting officer believes that any royalties paid or to be paid under a contract or prospective contract are unreasonable or otherwise improper, he should promptly report the matter to personnel having cognizance of patent matters for the procuring activity concerned. Such personnel shall review the royalties thus reported and such royalties as are reported under § 408.103.

In coordination with the contracting officer, such personnel shall:

(1) Take prompt action to protect the Government against payment of royalties on supplies or services (i) with respect to which the Government has a royalty-free license, or (ii) at a rate in excess of the rate at which the Government is licensed, or (iii) where the royalties in whole or in part constitute an improper charge.

(2) In appropriate cases enter into negotiation for a voluntary reduction of royalties.

§ 408.112 *Patent rights under contracts for personal services.* The following clause shall, except as otherwise provided in § 406.503–9 of this subchapter, be inserted in all personal services contracts for services to be performed by an individual as set forth in § 406.502 of this subchapter.

PATENTS

(a) For the purpose of determining the rights of the Government and the Contractor in and to inventions, the Contractor agrees to be bound by all the provisions of Executive Order 10096, 23 January 1950, and any orders, rules, regulations, or the like issued thereunder.

(b) The Contractor further agrees as follows: (i) to make written disclosure promptly to the Contracting Officer of all inventions of the Contractor which are conceived or first reduced to practice during the term of this contract, and to sign and execute all papers necessary for conveying to the Government the rights to which the Government is entitled in accordance with the determination made under the provisions of Executive Order 10096, or (ii) to certify to the Contracting Officer that, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first reduced to practice during the term of this contract.

§ 408.205 *Contracts for personal services.* The following clause shall be inserted in all personal services contracts as defined in § 406.502 of this subchapter, except under the circumstances described in § 408.203 or when the use of the clause in § 408.204 is deemed more appropriate:

[The clause is unchanged.]

(Sec. 1, 54 Stat. 712, as amended, sec. 201, 55 Stat. 839, 62 Stat. 20; 50 U. S. C. App. 1171, 611, 41 U. S. C. Sup., 151–161; E. O. 9001, 6 F. R. 6787, as amended by E. O. 9296, 8 F. R. 1429; 3 CFR, 1943 Cum. Supp.)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 27, 1954.

[F. R. Doc. 54–800; Filed, Feb. 4, 1954; 8:47 a. m.]

PART 411—LABOR

SUBPART D—LABOR STANDARDS IN CONSTRUCTION CONTRACTS

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

The following amendments to § 411.404 and 411.603 reflect in detail recent regulations of the Department of Labor with respect to administration and enforcement of contract provisions relating to construction contracts, and responsibilities of contracting officers with respect to enforcement of the provisions relating to the Walsh-Healey Public Contracts Act.

§ 411.404 *Administration and enforcement.*

§ 411.404–1 *In general.* Whenever the clauses under § 411.403–1 are applicable, the following action shall be taken or required in accordance with procedures prescribed by each respective Department. Whenever the clauses under §§ 411.403–2, 411.403–3 and 411.403–4 are applicable, the following action shall be taken or required, in accordance with procedures prescribed by each respective Department, to the extent pertinent to the applicable clauses.

§ 411.404–2 *Wage determinations*—(a) *Requests for.* Requests for the determination of wage rates by the Secretary of Labor shall be submitted on Department of Labor Form DB–11 (see §415.011 of this subchapter) at least 30 calendar days before required for the advertisement of negotiation of the contract for which the determination is sought. In exceptional cases, the Secretary of Labor may be requested to make a wage determination in less than 30 calendar days upon a proper showing of unusual circumstances justifying the need therefor.

(b) *Limitations.* If the proposed contract for which a wage determination has been secured has not been awarded within 90 calendar days from the date of such wage determination, a new wage determination shall be obtained and made a part of the proposed contract.

(c) *Modifications.* Modifications by the Secretary of Labor of an original wage determination shall be made part of the proposed contract if received prior to the award of the contract, provided that, in a formally advertised procurement, any modification received by the Department concerned less than 5 calendar days before the opening of bids may be disregarded if award is made within 30 calendar days after the opening of bids or within 90 calendar days from the date of the original wage determination, whichever is the earlier.

(d) *Posting.* The Contracting Officer shall ascertain that a copy of the wage determination is kept posted at the site of the work in a prominent place where it can be easily seen by the workers.

§ 411.404–3 *Additional classifications.* If any laborers or mechanics not listed in the wage determination attached to the contract are to be employed, their classifications and minimum wage rates shall be established by the contractor or subcontractor, with the approval of the Contracting Officer, conformably to the attached wage determination. A report of any such determination shall be transmitted to the Secretary of Labor. If the interested parties cannot agree upon any such additional classification and wage rate, the matter, accompanied by the recommendation of the Contracting Officer, shall be referred to the Secretary of Labor for final determination.

§ 411.404–4 *Apprentices.* The contractor or subcontractors shall be required to furnish certification or other evidence that each apprentice employed is registered in an approved apprenticeship program. (For certification form, see § 415.011–1 (c) of this subchapter.)

§ 411.404–5 *Subcontracts.* The Contracting Office shall obtain a list of all subcontracts, together with a description of the work to be performed thereunder, and shall ascertain that the required contract clauses have been incorporated in all subcontracts.

§ 411.404–6 *Payrolls and affidavits*—(a) *Submission.* Within 7 calendar days after the regular payment date of the payroll week covered, the contractor shall submit, or cause to be submitted for himself and his subcontractors, (1) copies of certified weekly payrolls in compliance with Clause (d) of § 411.403–1 and (2) weekly payroll affidavits in the form prescribed by § 415.011–1 (c) of this subchapter.

(b) *Examination.* The Department concerned shall make such examination of the certified payrolls and affidavits as may be necessary to assure compliance with contract, statutory and regulatory requirements. Particular attention should be given to the correctness of classifications and any disproportionate employment of laborers, helpers or apprentices.

(c) *Preservation.* Certified payrolls and affidavits shall be preserved by the Department concerned for a period of 3 years from completion of the contract and shall be produced at the request of the Secretary of Labor at any time during such period.

§ 411.404–7 *Investigations.* (a) The Department concerned shall make such investigations as may be necessary to assure compliance with contract, statutory and regulatory requirements. Contracts of 6 months or less duration shall be investigated before final payment is made, if feasible. Longer contracts shall be investigated with such frequency as may be necessary. Such investigations shall include interviews of employees on a sampling basis.

(b) Special investigations in detail shall be made when required by complaints or other evidence of violations. Complaints of violations shall be given priority.

(c) Statements, written or oral, made by an employee shall be treated as confidential and shall not be disclosed to the employer without the consent of the employee.

§ 411.404–8 *Reports of violation.* (a) A report of violations shall be made by the Department concerned to the Secretary of Labor except in cases of nonwillful violations where less than $200.00 is involved, restitution is made, and assurance is given of future compliance by the contractor or subcontractor concerned. Such reports shall include a statement of the findings as to the violations and information as to restitution made, payment deductions, contract terminations,

and the names and addresses of the workers, contractors and subcontractors concerned.

(b) Where there is substantial evidence that violations are willful and in breach of the False Affidavits Act (18 U. S. C. 1001) or other criminal statute, the matter shall be forwarded to the Attorney General for prosecution and the Secretary of Labor shall be informed of such action.

§ 411.404–9 *Suspensions and deductions of contract payments.* In the event of failure or refusal to pay all or any part of the wages due workers, the Contracting Officer may suspend further contract payments to the contractor in amounts equal to such unpaid wages until either restitution has been made directly by the contractor or subcontractor concerned or deductions against payment vouchers are made as provided below. If such failure or refusal appears continuing and willful, or in the event of any other failure or refusal to comply with contract, statutory, and regulatory requirements, the Contracting Officer may suspend all future contract payments to the contractor until such violations have ceased. If restitution is not made directly by the contractor or subcontractor within a reasonable time, or, in any event, prior to final payment under the contract, the Contracting Officer shall submit with the contractor's payment voucher or vouchers a "Schedule of Deductions from Payments to Contractors (act of August 30, 1935)" on Standard Form 1093 (see § 415.011–1 (b) of this subchapter), and the amount so shown to be due workers shall be deducted from the payments made to the contractor and shall be deposited in the Treasury in accordance with Department procedures.

§ 411.404–10 *Restitution.* Restitution of amounts due workers may be permitted at any time at the volition of the contractor or subcontractor and may be ordered by the Department concerned whenever wage underpayments are found to be nonwillful.

§ 411.404–11 *Contract terminations.* Whenever a contract is terminated for violation of the labor standards provisions, a report shall be submitted by the Department concerned to the Secretary of Labor and the Comptroller General. The report shall include the name and address of the terminated contractor or subcontractor, the name and address of the contractor or subcontractor who is to complete the work, the amount and number of the latter's contract, and a description of the work thereunder.

§ 411.404–12 *Cooperation with Department of Labor.* The Department concerned shall cooperate with representatives of the Department of Labor in the inspection of records, interviews with workers and all other aspects of investigations undertaken by the Department of Labor. When requested, the Departments shall furnish to the Secretary of Labor any available information with respect to contractors, subcontractors, their contracts and the nature of the contract work.

§ 411.603 *Responsibilities of contracting officers.* Whenever the Walsh-Healey Public Contracts Act is applicable, the Contracting Officer shall, pursuant to regulations or instructions issued by the Secretary of Labor and in accordance with procedures prescribed by each respective Department—

(a) Inform prospective contractors of the possible applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC–13) (see § 415.011–2 of this subchapter);

(c) Furnish to the contractor a form letter (Form PC–12) explaining the Walsh-Healey Act (see § 415.011–2 of this subchapter);

(d) Prepare and transmit two copies of DD Form 350 (top portion) or any alternate form approved by the Department of Labor and the Department concerned (see § 415.011–2 of this subchapter);

(e) Report to the Department of Labor any violation of the representations or stipulations required by the Walsh-Healey Act.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 26, 1954.

[F. R. Doc. 54–794; Filed, Feb. 4, 1954; 8:46 a. m.]

PART 413—INSPECTION AND ACCEPTANCE

APPENDIX D—RULES FOR NOTICE AND HEARING UNDER GRATUITIES CLAUSE IN ARMED SERVICES PROCUREMENT REGULATION 406.104–16

Appendix D is unchanged except for the insertion of the following phrase in the first sentence of Section 1 *Introduction:* Between the words "82d Congress" and "requires all contracts" insert the phrase, "and similar statutory requirements in subsequent Department of Defense appropriation acts", and change the word "requires" to "require".

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 22, 1954.

[F. R. Doc. 54–804; Filed, Feb. 4, 1954; 8:48 a. m.]

PART 415—PROCUREMENT FORMS

MISCELLANEOUS AMENDMENTS

1. Section 415.008–1 (e) is changed as follows:

§ 415.008 *Order and Voucher for Purchase of Supplies or Services (DD Form 738).*

§ 415.008–1 *General.* * * *

(e) The Departments may authorize installations to utilize reproducible masters in circumstances when it would be impracticable to use the 8-part form.

2. Section 415.010 is added to promulgate DD Form 748, General Provisions for Cost—Reimbursement Supply Contracts. Use of this form, in conjunction with DD Form 351 (Cover Page), will eliminate, to a large degree, the necessity for typewriting or otherwise reproducing in the contract, general provisions which are either mandatory or in frequent use. DD Form 748, may be used immediately, but is mandatory for use after 31 March 1954.

§ 415.010 *General Provisions for Cost-Reimbursement Supply Contracts (DD Form 748).* DD Form 748 (General Provisions for Cost-Reimbursement Supply Contracts) is prescribed for use in conjunction with DD Form 351 (see § 415.005).

§ 415.010–1 *Conditions for use.* DD Form 748 will be attached to any contract to which Subpart B of Part 406 of this subchapter is applicable, pursuant to § 406.202 thereof.

§ 415.010–2 *Instructions for use.* (a) DD Form 748 contains (1) all of the clauses required to be inserted in accordance with § 406.203 of this subchapter and (2) some of the clauses set forth in §§ 406.204 and 406.205 of this subchapter.

(b) The addition of clauses set forth in §§ 406.204 and 406.205 of this subchapter or of other clauses not inconsistent with requirements of this subchapter shall be accomplished by appending such clauses as "Additional General Provisions", numbered consecutively. The deletion or modification of clauses contained in the form or in the "Additional General Provisions" shall be accomplished by appropriate reference or provision in an "Alteration in Contract" clause to be included in the Schedule.

(c) These instructions must be read in conjunction with Subpart B of Part 406 of this subchapter to make certain that current clauses are in use at all times. In the event that the contents of a contract clause are changed before issuance of a revised DD Form 748, appropriate changes will be made in the contract by means of an "Alterations in Contract" clause. In any case, care must be exercised to see that current contracts have attached thereto the latest revision of DD Form 748.

§ 415.010–3 *Existing forms.* DD Form 748 replaces existing departmental forms currently in use for this purpose. Continued use of the replaced forms is authorized until existing stocks are exhausted or until 31 March 1954, whichever date is earlier.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 22, 1954.

[F. R. Doc. 54–803, Filed, Feb. 4, 1954; 8:48 a. m.]

PART 415—PROCUREMENT FORMS

MISCELLANEOUS AMENDMENTS

1. A new § 415.011 collates information with respect to all forms which may be required to be completed for the purpose of compliance with the contract clauses relating to labor.

§ 415.011 *Compliance with labor clauses.* This section prescribes standardized forms for use in complying with labor laws, regulations, and clauses.

§ 415.011–1 *Construction contracts.* (a) Department of Labor Form DB–11 (Request for Determination) shall be used, in accordance with the provisions of § 411.404–2, for the submission of requests for the determination of wage rates by the Secretary of Labor.

(b) Standard Form 1093 (Schedule of Deductions from Payments to Contractors) shall be used, in accordance with the provisions of § 411.404–9 of this subchapter, to report deductions against payment vouchers of contractors on account of failure to comply with labor laws, regulations and clauses.

(c) When required by § 411.404–6 (a) of this subchapter and the contract clauses prescribed by § 411.403–1 or § 411.403–4 of this subchapter, a "Weekly Payroll Affidavit and Certification" form, as set forth below, shall be used by the contractor. When the contract clauses prescribed by § 411.403–2 of this subchapter are applicable, the form set forth below shall be used by the contractor with the omission of paragraphs (2) and (3). Reproduction and supply of this form shall be the obligation of the contractors.

CONTRACTOR'S WEEKLY PAYROLL AFFIDAVIT

Payroll No. _____ Sheets 1 to _____
Payroll date _____ Gross amount _____
State of _____ } ss:
County of _____ }

I, _____
(Name of party signing affidavit)
_____, being duly sworn do de-
(Title)
pose and say:

(1) That I pay or supervise the payment of the persons employed by _____
(Contractor
_____ on Contract No. _____,
subcontractor)
at _____; that, during the payroll pe-
(Location)
riod comencing on the ____ day of _____, 19__, and ending the ____ day of _____, 19__, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____
(Contractor subcontractor)
from the full weekly wages earned by any person and that no deductions have been made or will be made, either directly or indirectly, from the weekly wages earned by any person, other than permissible deductions, as defined in the Regulations under the Copeland (Anti-Kickback) Act (18 U. S. C. 874 and 40 U. S. C. 276 (c) as amended) and described below:

_____

_____

(2) That the payrolls submitted for the above period are correct and complete; that the wage rates for laborers and mechanics contained therein are not less than the minimum wage rates shown in the contract; that the classifications therein set forth for each laborer and mechanic conform with the work he performed; and that all laborers and mechanics shown on such payroll have been paid for all hours of work beyond eight in a single day at a rate not less than time and one-half the straight-time hourly wage rate therein set forth.

(3) That all apprentices employed on the contract during the above payroll period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Federal Committee on Apprenticeship, U. S. Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship, U. S. Department of Labor.

_____
(Signature and title)

Sworn to before me this ____ day of _____, 19__.

[SEAL] _____
Notary public

§ 415.011–2 *Supply contracts.* (a) Department of Labor Form PC–12 (Rev. 3/49), a form letter explaining the Walsh-Healey Act, shall be furnished to the contractor in accordance with the provisions of § 411.603 of this subchapter.

(b) Department of Labor Form PC–13 (Rev. 1/50), is a poster required to be furnished to the contractor in accordance with the provisions of § 411.603 of this subchapter.

(c) DD Form 350 or any alternate approved form shall be used in accordance with the provisions of § 411.603 of this subchapter to furnish the Department of Labor certain information in lieu of utilizing the Department of Labor Form PC–1 as required by administrative regulations of the Secretary of Labor.

2. New §§ 415.012 and 415.013 prescribe standardized forms for Department of Defense-wide use in connection with the solicitation of quotations and proposals in negotiated procurements.

§ 415.012 *Request for quotation (DD Form 747).*

§ 415.012–1 *General.* DD Form 747 (Request for Quotations) is designed to obtain price, cost, delivery, or any other information from suppliers in connection with negotiated procurements for supplies and services (other than personal) in excess of $5,000. DD Form 747 may also be used in connection with procurements of $5,000 or less when the Contracting Officer considers written quotations necessary. With respect to the solicitation of written quotations for small purchases, i. e., less than $1,000, § 402.603 of this subchapter will be complied with.

§ 415.012–2 *Conditions for use.* DD Form 747 is authorized for use in connection with the negotiation of contracts or purchase orders for supplies or services (other than personal) when it appears reasonably certain that the procurement will be consummated by (a) a purchase order, (b) a fixed price type contract involving extensive negotiation and signature by both parties, or (c) a cost reimbursement type contract. Where information pertaining to financial data or additional facilities is required, the use of properly approved departmental forms for these purposes is authorized.

§ 415.012–3 *Forms superseded.* The form prescribed herein supersedes the following departmental forms: (a) Department of the Army-War Department Form 104, War Department Form 105; (b) Department of the Navy-NAVSANDA 109, NAVAER 2894, NAVAER 2896, ASPPA Form RFP 400, NAVSHIPS 4504 (9–53), BUORD Request for Proposals Forms; (c) Department of the Air Force-War Department Form 104, War Department Form 105; and (d) all other forms used by the Departments for requesting proposals and quotations under the conditions set forth in § 415.012–2. The continued departmental use of the replaced forms is authorized until existing printed stocks are exhausted or until April 30, 1954, whichever is earlier.

§ 415.013 *Forms for request for proposals, proposal and acceptance.*

§ 415.013–1 *General.* The following Department of Defense forms are prescribed for use under the condition set forth in § 415.013–2 below in connection with negotiated procurements for supplies or services (other than personal) in excess of $5,000.00:

DD Form 746 Request for Proposals and Proposal (Negotiated Fixed-Price Contract)
DD Form 746–1 Schedule, Request for Proposals and Proposal
DD Form 746–2 Acceptance of Proposal (Negotiated Fixed-Price Contract)

These forms may also be used for negotiated procurements of $5,000 or less when the contracting officer considers written proposals necessary. With respect to the solicitation of written proposals for small purchases, i. e., less than $1,000, § 402.603 of this subchapter will be complied with.

§ 415.013–2 *Conditions for use.* (a) DD Forms 746 and 746–1 (together with U. S. Standard Form 32 and any other applicable provisions) shall be used in connection with the negotiation of contracts for supplies or services when it appears practicable and desirable to commence negotiations by soliciting written offers from potential suppliers which, upon written acceptance by the Government, would create a binding contract without further action by either party.

(b) When proposals have been submitted on DD Forms 746 and 746–1, and it is in the interest of the Government to accept a supplier's proposal without further negotiation, price and other factors considered, DD Form 746–2 shall be used. In such instances the contract will consist of (1) the Request for Proposals and proposal (including any written amendments), (2) the Schedule, (3) the General Provisions, (4) the Acceptance of the Proposal, and (5) any continuation sheets attached to the foregoing documents.

(c) When a proposal, submitted by a supplier, is not acceptable to the Government without further negotiation, a resulting contract may be prepared on DD Form 351 for signature by both parties. If the circumstances are such that the supplier can amend his proposal in writing to reflect the further negotiations,

the amended proposal may be accepted on DD Form 746-2.

(d) When a continuation sheet is necessary, U. S. Standard Form 36 (Continuation Sheet (Supply Contracts)) shall be used.

(e) When a cost breakdown is required in connection with a proposal, DD Form 633 (Cost and Price Analysis) shall be used, to the extent provided in § 415.002.

(f) Where information pertaining to financial data or additional facilities is required, the use of properly approved Departmental forms for these purposes is authorized.

(g) Authorization for use of the above forms does not preclude the use of purchase order forms prescribed in other sections of this part.

§ 415.013-3 *Forms superseded.* The forms prescribed in this subpart supersede the following Departmental forms: (a) Department of the Army-War Department Form 104, War Department Form 105, War Department Form 47 (except for the purchase of subsistence and other supplies wherein price quotations are subject to daily fluctuation); (b) Department of the Navy-NAVAER 2894, NAVAER 2896, ASPPA-RFP-400, ASPPA-A-400, NAVSANDA-109, NAVSHIPS 4504 (9-53) and BUORD Request for Proposals; (c) Department of the Air Force-AMC Form 98; and (d) all other forms used by the Departments under the conditions set forth in § 415.-013-2. The continued Departmental use of the replaced forms is authorized until existing printed stocks are exhausted or until April 30, 1954, whichever is earlier.

(R. S. 161; 5 U. S. C. 22)

T. P. PIKE,
Deputy Assistant Secretary of Defense (Supply and Logistics).

JANUARY 26, 1954.

[F. R. Doc. 54-795; Filed, Feb. 4, 1954; 8:46 a. m.]

Chapter VII—Department of the Air Force

Subchapter F—Reserve Forces

PART 864—ENLISTED RESERVE

SERVICE OBLIGATIONS UNDER THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT

Sections 864.31 to 864.40 (32 CFR 864.31 to 864.40) are revoked and the following new sections are issued in lieu thereof:

Sec.

AUTHORITY: §§ 864.31 to 864.43 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply sec. 4, 62 Stat. 605, as amended; 50 U. S. C. App., 454.
SOURCE: AFR 45-35.

§ 864.31 *Purpose.* (a) The regulations contained in §§ 864.31 to 864.43:

(1) Define the obligations of certain Reserves of the Air Force.

(2) Determine the applicability of these obligations to those persons who have been transferred to the Air Force Reserve after a period of active duty, and to those persons who were initially enlisted or appointed in the Reserve components of the Air Force after June 19, 1951.

(3) Implement the approved policy of the Secretary of Defense regulating transfers between Reserve components of the Armed Forces.

(4) Establish credit for service in one or more Reserve components of the same or another Armed Force against the requirements of section 4 (d) of the Universal Military Training and Service Act (sec. 4 (d), 62 Stat. 607, as amended; 50 U. S. C. App., 454 (d)).

(b) Sections 864.31 to 864.43 should not be construed as requiring the discharge of any member of the Air National Guard of the United States while not in the Federal service.

§ 864.32 *General.* After June 25, 1948, and prior to the enactment of the June 19, 1951, amendments to the Universal Military Training and Service Act (65 Stat. 75), the obligation to serve in the Reserve components applied only to those persons otherwise subject to induction, who, after serving a period of active service, were transferred to a Reserve component of an Armed Force for periods of either 5 or 6 years. After June 19, 1951, however, any person under 26 years of age who is initially enlisted, inducted, or appointed in any of the Armed Forces of the United States including the Reserve components thereof will assume, as of the date of such initial enlistment or appointment, a service obligation which will continue in effect until a total of 8 years of service has been completed. The 8-year period may be composed of Regular or Reserve component service or any combination thereof, either on active duty or by participation in Reserve training program, as prescribed in §§ 864.31 to 864.43.

§ 864.33 *Definitions.* For the purpose of §§ 864.31 to 864.43, unless otherwise specifically indicated, the following definitions apply:

(a) *Five-year Reservist.* A person who, being subject to induction, was inducted or enlisted for active military service between June 24, 1948, and June 19, 1951 (both dates inclusive), and who:

(1) At time of induction or enlistment was under 26 years of age,

(2) Served for a period of less than 3 years, except those persons who completed at least 21 months of active service and who, thereafter, served satisfactorily on active service under a voluntary extension for a period of at least 1 year, and

(3) Upon completion of such period of active military service was required by law to serve in, and was transferred to, the Air Force Reserve for a period of 5 years.

(b) *Six-year Reservist.* A person who, while subject to induction, enlisted for a period of 1 year between June 24, 1948, and June 19, 1951 (both dates inclusive), and who:

(1) At enlistment was between 18 and 19 years of age, and

(2) Upon completion of such term of enlistment, was required by law to serve in, and was transferred to, the Air Force Reserve for a period of 6 years.

(c) *Eight-year obligor or eight-year Reservist.* A person who, subsequent to June 19, 1951, and prior to his 26th birthday, is initially inducted, enlisted or appointed under any provision of law in any of the Armed Forces of the United States, including the Reserve components. Such persons are required to complete a total period of 8 years of active service and/or service in a Reserve component. While such a person is in a Reserve of the Air Force status, he may be referred to as an "eight-year Reservist." A reenlistment or appointment from enlisted status or the induction of a person already possessing Reserve status, does not constitute an initial enlistment, appointment, or induction for the purpose of §§ 864.31 to 864.43. Persons enlisted or appointed in the Regular Air Force may complete the 8-year service obligation while in such status.

(d) *Satisfactory participation in an organized unit.* The term "organized unit," as used in §§ 864.31 to 864.43 applies only to those units and training program elements of the Reserve components of the Air Force which require a minimum of 35 scheduled drills or training periods or days of active Federal service, or any combination thereof each year. These units and program elements are listed in subparagraph (1) of this paragraph. The term "satisfactory participation" includes membership in an organized unit and attendance at not less than 90 percent of the scheduled training activities thereof.

(1) *Organized units of the Reserve components of the Air Force.* Each of the following units and program elements is deemed to be an organized unit:

(i) All units of the Air National Guard of the United States.

(ii) Combat support wings and units.

(iii) Combat wings and units.

(iv) Flying training wings and units.

(v) Replacement training squadrons.

(vi) Specialist training units, provided that the person is in a pay status.

(vii) Mobilization assignment Reserve sections (mobilization assignees will be deemed to be members of organized units).

(2) *Participation.* Minimum participation standards are established for each unit and program element of the Reserve components of the Air Force and are set forth in applicable directives

pertaining thereto. Persons whose obligation under the Universal Military Training and Service Act is predicated upon satisfactory participation also must meet all of the following requirements:

(i) Assignment to an organized unit.

(ii) Attendance at all scheduled drills, unit training assemblies, training periods or days of active Federal service of the unit, unless excused by proper authority, provided that such excused absences will not exceed 10 percent of those scheduled activities.

(iii) Satisfactory performance of duties as determined by unit commanders.

(e) *Constructive credit points.* As used in §§ 864.31 to 864.43 and only for the purpose described herein, the phrase "constructive credit points" or the word "points" refer to that credit which is awarded to 6-year Reservists and 5-year Reservists for membership in a Reserve component, satisfactory participation as a member of an organized unit, or performance of active duty. This credit is accumulated only for the purpose of determining fulfillment of the Reserve obligation imposed by the law. Constructive credit for points for determining fulfillment of the service obligation will not be awarded to 8-year Reservists.

(f) *Active military service.* Full-time duty with the active establishment, either on extended active duty or on active duty for training. The terms "active military service" and "active duty" are synonymous.

§ 864.34 *Reserve obligation.* (a) Five-year Reservists are required to retain membership in one of the Reserve components of the Air Force for a period of 5 years. This period may be reduced as hereinafter provided.

(b) Six-year Reservists are required to retain membership in one of the Reserve components of the Air Force for a period of 6 years. This period may be reduced as hereinafter provided. It is the duty of each such person to participate satisfactorily in an organized unit or an officer training program provided that he is mentally and physically qualified, provided further that such an assignment or training program is available, and can, without undue personal hardship, be filled by him.

(c) Eight-year Reservists are required to retain membership in one of the Reserve components of the Air Force during such time as they are not members of one of the Regular components of the Armed Services until a total of 8 years of service has been completed. Such period of 8 years may be composed of Regular or Reserve service or a combination thereof, either on active duty or by participation in Reserve training programs, or a combination thereof, as hereinafter prescribed. This 8-year service obligation may not be reduced. It is the duty of each such person to participate satisfactorily in an organized unit or an officer training program provided that he is mentally and physically qualified, provided further that such an assignment or training program is available, and can without undue personal hardship, be filled by him.

§ 864.35 *Fulfillment of five-year Reserve obligation.* (a) A 5-year Reservist will be considered as having completed his Reserve obligation when he has accumulated 180 consecutive credit points and will be discharged and issued an appropriate certificate of discharge or service unless:

(1) His enlistment or obligated period of service is extended, either voluntarily or involuntarily, under any provisions of law, or

(2) He is on active military service, in which case, subject to the following exceptions, the accrual of 180 points will not serve as a basis for his release from such service prior to expiration of the period for which ordered into active military service. Except as otherwise provided herein, the Reserve obligation with regard to a 5-year Reservist who has accrued 180 points will not exceed 3 years in the event he had been performing satisfactory service in an organized unit or an officer training program (while a member of a Reserve component) immediately prior to reporting for active military service, and will not exceed 5 years in other cases.

(b) Constructive credit points will be awarded at the rate of three points for each month of membership in a Reserve component after the date of transfer thereto. Thus, a 5-year Reservist can accrue 180 points and complete his period of obligated Reserve service in exactly 5 years. Accelerated fulfillment of the 5-year Reserve obligation, however, is encouraged. The activities of the person and extent of Reserve participation can materially reduce the obligated period of Reserve service. For example, five points will be awarded for each month of active service performed prior to the date that a person who remained subject to induction, was inducted, enlisted, or appointed on or after June 24, 1948.

(1) Five-year Reservists with 21 months or more of original active military service will accumulate:

(i) 5 points for each month of satisfactory participation in an organized unit. Fulfillment of the Reserve obligation could thus be accomplished in 3 years.

(ii) 5 points for each month of active military service performed at any time prior to enlistment, induction, or appointment on or after June 24, 1948.

(iii) 15 points for each month of active military service performed subsequent to transfer to the Reserve. Fulfillment of the Reserve obligation could thus be accomplished in 1 year.

(2) Five-year Reservists with less than 21 months of original active service will accumulate:

(i) 3.75 points for each month of satisfactory participation in an organized unit. Fulfillment of the Reserve obligation could thus be accomplished in 4 years.

(ii) 5 points for each month of active military service performed at any time prior to enlistment, induction, or appointment on or after June 24, 1948.

(iii) 8.5 points for each month of active military service performed subsequent to his transfer to the Reserve. Fulfillment of the Reserve obligation could thus be accomplished in 21 months.

(3) Accelerated fulfillment of Reserve obligation (accrual of 180 points) will not, in time of war or national emergency declared by Congress, relieve a 5-year Reservist from his obligation to serve in a Reserve component of the Air Force for the full period of 5 years.

(c) Termination of Reserve status by discharge or separation in legal effect terminates the Reserve obligation, except that a discharge or other type of separation for the purpose of immediate entry or reentry into the Air Force Reserve, the Air National Guard of the United States, the Regular Air Force, or any other Reserve or Regular component of the Armed Forces, or to enter an officer training program in which the person has a military status, will not constitute a termination of such obligation. Additional service performed after such a discharge or other type of separation will be counted toward fulfillment of the obligation.

§ 864.36 *Fulfillment of six-year Reserve obligation.* A 6-year Reservist will be considered as having completed his Reserve obligation when he has accumulated 144 constructive credit points and will be discharged and issued an appropriate certificate of discharge, unless his enlistment or obligated period of service is extended either voluntarily or involuntarily under any provision of law, or except as provided in paragraphs (b) and (d) of this section. The awarding of constructive credit points and fulfillment of Reserve obligations will be in accordance with the following:

(a) 3 credit points will be awarded for each month or fractional part thereof of satisfactory service in an organized unit of any Reserve component or in an officer training program (while a member of a Reserve component). This would enable the 6-year Reservist to complete his obligation in 4 years, except as provided in paragraph (d) of this section.

(b) 6.75 credit points will be awarded each month or fractional part thereof of active military service performed after transfer to a Reserve component, regardless of whether active military service was performed voluntarily or involuntarily under any provision of law. This would enable the 6-year Reservist to complete his obligation after a minimum of 21 months of additional active military service, except as provided in this paragraph or in paragraph (d) of this section. The accrual of 144 credit points by a 6-year Reservist who is performing active military service will not serve as a basis for his release from such service prior to the expiration of the period for which ordered into active military service unless:

(1) Subsequent to his transfer to the Reserve component, his total service, including time spent in active military service, equals 6 years, or

(2) Subsequent to his transfer to the Reserve component, his total active military service, combined with satisfactory service in an organized unit of a Reserve component or satisfactory service in an officer training program while a member of a Reserve component, or both, amounts to 4 years.

(c) 2 credit points will be awarded for each month of service or fractional part thereof in other training program elements of the Reserve components. This would require the full 6 years in a Reserve component.

(d) Notwithstanding paragraphs (a) and (b) of this section, the accrual of 144 credit points will not, in time of war or national emergency declared by Congress, relieve a 6-year Reservist from his obligation to serve in a Reserve component.

(e) Notwithstanding paragraphs (a) through (d) of this section, the Air Force may, for cogent reasons, and at any time prior to completion of the Reserve obligation, discharge any 6-year Reservist. Such discharge terminates the Reserve obligation and an appropriate certificate of discharge will be issued. However, a discharge or other type of separation for the purpose of immediate entry or reentry in the same or any other Reserve component of the Armed Forces, in the same or any other status, or to enter an officer training program in which the person has a military status, will not terminate the Reserve obligation. Additional service performed after such discharge or separation will be counted toward fulfillment of such obligation.

§ 864.37 *Fulfillment of eight-year service obligation.* The 8-year service obligation will be considered to have been fulfilled or terminated:

(a) Upon discharge for the purpose of complete separation from any military status or upon revocation or termination of commission or appointment, acceptance of resignation in place of elimination action or under conditions other than honorable, being dropped from the rolls, dismissal, or

(b) Pursuant to §§ 864.31 to 864.43, the person concerned has served as a member of one or more of the Regular or Reserve components of the Armed Forces for a total of 8 years. Upon completion of such service, the 8-year Reservist may, if otherwise eligible, be discharged.

§ 864.38 *Administrative discharge.* The Air Force may discharge administratively, at any time prior to the completion of the Reserve obligation, any 5-year Reservist, 6-year Reservist, or 8-year Reservist, in accordance with procedures established in applicable regulations.

§ 864.39 *Policy regulating transfers between Reserve components.* Interservice transfers of persons who have an obligation for service under the Universal Military Training and Service Act (62 Stat. 604, as amended; 50 U. S. C. App., 451–470), between Reserve components of the Armed Forces should be accomplished only in instances wherein the Reservist requests or consents to such transfer and wherein the two services concerned mutually agree that such transfers are in the best interest of the Armed Forces. An Armed Force may request the transfer of a particular Reservist from a Reserve component of another Armed Force.

(a) Requests will normally be made only when:

(1) The initiating Armed Force has a specific vacancy for the person concerned in an organized unit within a reasonable distance of the person's domicile or place of business, or

(2) The person concerned applied for and the gaining Armed Force desires his enrollment in its officer training program.

(b) Requests will be approved only when:

(1) The losing Armed Force does not have an organized unit within a reasonable distance of the domicile or place of business of the person to which the Reservist may be usefully assigned, or

(2) The Reservist has special experience or professional, educational, or technical background which is clearly of greater use to the gaining Armed Force and which use outweighs the value of his previous training in the losing Armed Force, or

(3) The person concerned will be enrolled in an officer training program of the gaining Armed Force without regard to subparagraph (1) of this paragraph.

(c) Interservice transfers between Reserve components of the Armed Forces will be accomplished by discharge from the Reserve component in which serving for the purpose of immediate enlistment or appointment in the Reserve component of the service concerned. Where membership in the officer training program does not confer military status, discharge will be for the purpose of immediate enlistment in the Reserve component of the gaining service. Discharge for this purpose will not constitute a fulfillment of the obligation under section 4 (d) of the Universal Military Training and Service Act (sec. 4 (d), 62 Stat. 607, as amended; 50 U. S. C. App., 454 (d)). Additional service performed after such discharge will be counted toward fulfillment of such obligation.

§ 864.40 *Transfers to other services by members of the Air Force Reserve.* Individual members of the Air Force Reserve when not on active duty may be transferred to Reserve components of other services as provided in this section:

(a) *Requests initiated by a service.* (1) The Departments of the Army and Navy may request the services of a particular Air Force Reservist.

(2) Transfer will be approved only when the requirements established in § 864.39 are met.

(3) Requests will include:

(i) Statement that there is a specific vacancy for the person in an organized unit within a reasonable distance of his domicile or place of business where he will receive inactive duty training.

(ii) Statement that the person concerned will accept such change and will participate in inactive duty training as prescribed by the Secretary of Defense for members of units who are given exemption under section 6 (c) (1) of the Universal Military Training and Service Act (sec. 6 (c), 62 Stat. 610, as amended; 50 U. S. C. App., 456 (c)).

(iii) Statement, when applicable, on the Reservist's special experience, or professional or technical background, and the need thereof by the initiating service.

(4) Requests for the service of a member of the Air Force Reserve may be initiated by State senior Army instructors or naval district commanders and transmitted directly to the commander of the Continental Air Command numbered air force of the area in which the Reservist resides. Such requests will not be forwarded to Headquarters USAF, except in the event of disapproval where the requesting agency feels that adjudication by higher authority is necessary to the best interests of the Department of Defense.

(b) *Requests initiated by individual members of the Air Force Reserve.* (1) Individual Reservists may initiate requests for transfer to a Reserve component of another Service.

(2) Requests will be approved only when all of the requirements of § 864.39 are met.

(3) Requests will include:

(i) A statement from the State senior Army instructor or naval district commander of the service to which transfer is desired, covering in sufficient detail the requirements specified by paragraph (a) (3) of this section, when applicable.

(ii) A statement by the person on whether he is or is not assigned to an organized unit and, if not, whether he has applied for such assignment, and stating further that, if the transfer is approved, he will accept assignment to the organized unit of the gaining service.

(iii) A detailed statement by the person on the experience and qualifications which indicate the transfer is in the best interests of the Department of Defense.

(4) Individually initiated requests for transfers will be forwarded to the commander of the Continental Air Command numbered air force concerned through the local unit commander, if applicable, for approval.

(c) *Approval action.* Approval action will include informing the person in writing that appropriate action will be taken to effect his discharge as a Reserve of the Air Force upon receipt of documentary evidence that he has been accepted for enlistment or appointment as a Reserve of the Armed Force to which transfer has been requested. Discharge will not be accomplished, however, until notification of the person's enlistment or appointment in the new service has been received.

§ 864.41 *Maintenance of records—* (a) *Record of constructive credit points.* The custodian of the Reservists' records will maintain accurate record of constructive credit points earned by each Reservist toward fulfilling his obligation. Upon transfer of a Reservist, including transfers between the Air Force Reserve and the Air National Guard of the United States, an itemized statement showing the number of points earned to date of transfer and inclusive date thereof will be entered in his WD AGO Form 24A or DD Form 230, "Service Record (For Enlisted Personnel)". In the event the Reservist is discharged due to enlistment or appointment as a Reserve of another Armed Force, the gaining agency will be informed of the

person's Reserve obligation and credits earned toward fulfilling that obligation.

(b) *Counting fractional parts of months.* In computing constructive credit points, fractional parts of months will be counted only when the fractional part equals half a month or more. When a person serves for half a month in an organized unit and half a month in another training program element, or half a month on active military service and half a month not on active duty, he will be credited for the month involved with the number of points applicable for the type of service which accrues the larger number of points.

§ 864.42 *Air Force Reserve Officers' Training Corps program.* Personnel participating in the Air Force Reserve Officers' Training Corps (ROTC) program may remain enlisted members of the Air Force Reserve during such enrollment. The Air Force commander having jurisdiction over such personnel will be furnished with a statement showing satisfactory participation in the Air Force ROTC program by the professor of air science and tactics at the end of each year during such enrollment. If the Reservist is dropped from enrollment in the Air Force ROTC at any time, the professor of air science and tactics will immediately notify the Air Force commander concerned. Reserves of other Armed Forces who are selected for enrollment in the advanced course of Air Force ROTC must be transferred to the Air Force Reserve as provided in § 864.39 prior to formal enrollment.

§ 864.43 *Ready and Standby Reserve status of obligated Reservists.* All Reserves of the Air Force are Ready Reservists and remain subject to involuntary active military service in the event of an emergency proclaimed by the President unless and until they qualify for and elect Standby Reserve status. Five-year Reservists, 6-year Reservists, and 8-year Reservists are not precluded by their obligation from electing Standby status at any time they become qualified. Such Reservists may also agree to remain Ready Reservists or to assume Ready Reserve status in order to participate in certain Reserve training activities. Acceptance of Standby status does not reduce or otherwise affect the obligation to remain a member of a Reserve component and the duty to participate satisfactorily in an organized unit.

[SEAL] K. E. THIEBAUD,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 54-790; Filed, Feb. 4, 1954; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 922]

[Docket No. AO-250]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND A DESIGNATED PART OF CALIFORNIA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 19 F. R. 57), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of Valencia oranges grown in Arizona and a designated part of California. Such marketing agreement and order would be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C. Any such exceptions should be filed in quadruplicate, and must be received prior to the close of business on the fifteenth day after the publication of this recommended decision in the FEDERAL REGISTER.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and marketing order (hereinafter referred to as the "order") were formulated, was held at Los Angeles, California, from December 7 to December 10, 1953, both dates inclusive. Such hearing was held pursuant to a notice thereof which was published in the FEDERAL REGISTER (18 F. R. 7358) on November 20, 1953. Said notice contained a draft of a proposed marketing agreement and order which had been presented to the Department of Agriculture by the Sunkist Growers, Incorporated, a cooperative association of orange growers in California and Arizona, with a petition for a hearing thereon. The objective of the proposed marketing agreement and order is to bring to the Valencia orange industry of California and Arizona the benefits of the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act").

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(2) The existence of the right to exercise Federal jurisdiction in this instance;

(3) The definition of the commodity and determination of the production area to be affected by the marketing agreement and order;

(4) The identity of the persons and transactions to be regulated;

(5) The specific terms and provisions to be incorporated in the proposed marketing agreement and order, such as:

(a) The definitions of such terms as "Secretary," "act," "production area," "person," "fiscal year," "marketing year," "grower," "oranges available for current shipment," "tree crop," "early maturity oranges," "general maturity," "box," "central marketing organization," "carload," and "export";

(b) The establishment and maintenance of an administrative agency, to be known as the Valencia Orange Administrative Committee (hereinafter referred to as the "committee") for conducting marketing agreement and order operations, the powers and duties of such committee, and its manner of doing business;

(c) The incurring of expenses by the committee and the levying of assessments;

(d) The formulation and adoption of a marketing policy for each prorate district each season;

(e) The issuance of volume regulations;

(f) The issuance of size regulations, and the relaxation of such regulations in hardship cases;

(g) The issuance of internal quality regulations;

(h) The division of the production area into prorate districts;

(i) The specification of the purposes for which oranges may be handled free from regulation;

(j) The keeping of records and filing of reports by handlers;

(k) The requirement of compliance with all provisions of the marketing agreement and order and with regulations issued pursuant thereto; and

(l) Additional terms and conditions as set forth in §§ 922.81 through 922.90 and published in the FEDERAL REGISTER (18 F. R. 7358) on November 20, 1953, which are common to marketing agreements and orders, namely, right of the Secretary, effective time, termination, effect of termination or amendment, duration of immunities, agents, derogation, personal liability, and separability, and certain other terms and conditions as set forth in §§ 922.91 through 922.93, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only, namely, counterparts, additional parties, and order with marketing agreement.

Findings and conclusions. The findings and conclusions on the foregoing material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) It is concluded that a marketing agreement and order program is needed to regulate the handling of Valencia oranges grown in the production area to

establish and maintain such orderly marketing conditions thereof as will tend to establish parity prices for such oranges.

The average price received by producers in California-Arizona for oranges shipped for fresh consumption during the 1950–51 marketing season was $2.28 per box, on tree, or 54 percent of the parity price for such oranges. During the 1951–52 and 1952–53 seasons the comparable prices received by producers were $2.37 and $1.78 per box, respectively, or 57 and 44 percent of the respective parity prices for such oranges. During July, August, September, and October of the 1952–53 season average on-tree prices received by producers for California-Arizona oranges shipped for fresh consumption were $1.16, $0.91, $1.46, and $1.11 per box, respectively. These prices were 29, 23, 36, and 28 percent, respectively of the parity prices for such oranges.

Average prices received for oranges by producers in California and Arizona have been low in relation to parity during recent seasons. During the 1952–53 marketing season, prices received by such producers for Valencia oranges were especially low in relation to the parity levels.

Valencia oranges produced in California and Arizona are marketed primarily during the summer months. The heaviest shipments usually occur in June, July, August, and September. The Valencia orange lends itself to processing as well as shipment to market in fresh form, and during the 3 seasons ending in 1951–52 an average of nearly 40 percent of such orange production was used in other than fresh fruit channels.

The increase in the production of oranges in Florida during recent years and the increased processing of orange products, especially frozen concentrated orange juice, have resulted in increased competition to California-Arizona Valencia orange producers. For example, during the 5 seasons ending in 1943–44 Florida orange and tangerine production averaged 34 million boxes annually. During the same period an average of less than 5 million cases (equivalent 24 No. 2's) per year of canned orange juice was packed in the United States and there was no commercial production of frozen concentrated orange juice. During that period, with relatively little competition from processed orange juice products, Califorina-Arizona Valencia orange producers shipped an average of 84 percent annually of the total crop of Valencia oranges to fresh fruit channels.

During the 3 seasons ending 1951–52, production of Florida oranges averaged nearly 73 million boxes annually. During these seasons the average annual U. S. pack of canned orange juice exceeded 21 million cases (equivalent 24 No. 2 cans), and an average pack in excess of 36 million gallons of frozen concentrated orange juice was produced annually. In the face of this competition from processed orange products, the share of the California-Arizona Valencia crop shipped to fresh markets was reduced to 61 percent.

The nature of the present total market for fresh oranges and processed orange products during the California-Arizona Valencia season, therefore, is such that only approximately two-thirds or less of the California-Arizona Valencia orange crop can be expected, on the average, to be shipped to market in fresh form.

Oranges may be stored on the tree after reaching maturity; and when the crop of oranges in a particular producing district has reached maturity, all of the fruit is capable of being shipped. Producers usually are anxious to harvest their fruit early in order to avoid loss from drop or deterioration in grade and quality. Average returns to producers of California-Arizona Valencia oranges used for processing are lower than those received from sales in fresh fruit channels, although prices received for the discounted grades and sizes of fruit sold in fresh fruit channels tend to equal those received from fruit sold for processing. As a consequence, producers exert strong pressures upon handlers to ship their fruit to fresh markets as rapidly as possible. It is extremely difficult for operators of packing houses to ignore such pressures during the marketing season and to limit shipments of such oranges to the requirements of the then current market demand.

The authority to regulate shipments to fresh markets each week under a marketing program provides a means to withstand such pressures to ship and thereby to limit the quantity of fruit shipped to that required in marketing channels. In addition, the proposed marketing agreement and order makes readily available to handlers knowledge of the quantity which is to be shipped each week, as well as more accurate information concerning the quantity of fruit available in and en route to consumer markets. Receivers of California-Arizona Valencia oranges, moreover, would be provided with a basis for maintaining their commercial operations in the light of information with respect to the rate at which supplies will be made available to them.

Such conditions do not exist in the absence of a marketing agreement and order, and the evidence indicates that there exists a tendency on the part of handlers, in the absence of some program providing restraint of shipments, to ship excessive quantities because of desires of producers to pick their fruit and thereby avoid losses through damage or deterioration in the groves. Moreover, no individual handler or group of handlers successfully can increase the level of prices by reducing shipments because other handlers can nullify such action by increasing their shipments accordingly.

A recent study of consumer purchases indicates that about one-half of the fresh Valencia oranges purchased by consumers was used for slicing or eating out of hand and the remainder used for juice.

The greatest competition, in terms of volume, to sales of fresh California-Arizona Valencia oranges is provided by sales of processed orange juice, especially frozen concentrated orange juice. Average prices to consumers per ounce of equivalent single-strength juice are substantially higher in the case of fresh oranges than in the case of processed orange products. The behavior of market prices of California-Arizona fresh Valencia oranges reveals that when sales of such oranges are maintained at quantities approximating those required by consumers who desire fruit for slicing or who prefer to prepare juice from fresh oranges, prices in consuming markets tend to be maintained at levels substantially in excess of comparable levels for the processed juice. When supplies of California-Arizona Valencia oranges offered for sale, however, exceed those which are required by such consumers, the prices of the fresh oranges tend to become more directly competitive with those at which the processed juice is offered for sale. Such prices are substantially below those at which fresh California-Arizona Valencia oranges profitably can be packed and shipped for sale in fresh commercial channels.

Returns to producers of California-Arizona Valencia oranges will be increased if the rate of shipments of fresh Valencia oranges is maintained at quantities commensurate with those required by consumers preferring slices or juice from fresh oranges, rather than increased to quantities in excess of these. If California-Arizona Valencia oranges are diverted from fresh fruit channels as a result of regulation, they will be used in processing outlets where additional quantities used have no or little significant effect upon price. This is because such additional quantities would be small in relation to the total quantities used for processing orange products, the great bulk of which are produced in Florida. Hence, such regulation will improve returns to producers because the oranges would be transferred from fresh fruit outlets, where the reduction in supplies would increase prices, to outlets where the increase in supplies would have little or no effect upon prices.

Therefore, it is concluded that a marketing agreement and order is needed to effectuate the declared policy of the act by establishing orderly marketing conditions for Valencia oranges grown in the production area through providing a means of limiting, each week, the quantity of such oranges that may be shipped to fresh channels.

Market prices of fresh California-Arizona Valencia oranges reveal the existence of price differentials, with the most preferred sizes receiving premiums and the less preferred sizes receiving discounts from the average. These differentials, when considered in relation to the quantities sold, provide an indication of market preferences for various sizes of such oranges.

Prices to producers and total returns could be augmented by making only the more preferred sizes of fruit available in fresh fruit channels. Such results could be obtained under the marketing agreement and order by prohibiting the handling of a portion or all of some of the discounted sizes of oranges. Size limitation would tend to increase consumer satisfaction and stimulate de-

mand. Competition in the marketing of oranges is based to a considerable extent on price; and the offering of oranges of less desirable sizes at discounts tends to depress prices for better sizes.

Often, shipments are made of sizes of oranges that do not receive prices covering the cash costs of harvesting and marketing. Limitation of shipments of such sizes would not only improve the size composition of the oranges shipped but also improve average returns to producers by preventing losses incurred through the shipment in fresh form of such sizes.

The objective to be followed under the marketing agreement and order is that of tailoring the supply of oranges available for sale in fresh fruit channels to the demand in these outlets. Such tailored supply should include the more preferred sizes of oranges, and the least desirable sizes should be diverted from fresh outlets. The marketing agreeemnt and order is designed to effectuate the declared policy of the act by establishing orderly market conditions for Valencia oranges grown in the production area through limiting the quantity of Valencia oranges that may be handled each week in fresh outlets and also through limitation on the sizes of oranges handled in such channels.

(2) Any handling of California-Arizona Valencia oranges in fresh fruit channels exerts an influence upon all other handling of such oranges in fresh form. Sellers of such Valencia oranges, as of other commodities, transact their business in a manner designed to achieve the highest return for the quantities of oranges they have available for sale. In effecting these transactions, the sellers survey all accessible markets in an endeavor to take advantage of the best opportunities to market the fruit. Markets within the State of California or within the State of Arizona provide opportunities to dispose of fresh Valencia oranges in the same fashion as do markets within other States, or within Canada. A sale of a particular quantity of Valencia oranges within a market in the State of California or in the State of Arizona exerts a direct influence upon all other sales of such oranges, as does a sale of Valencia oranges in a market within another State.

The pattern of the prices received for sales of oranges in markets located within the State of California and in markets located outside thereof indicates parallel movement on a weekly and on a monthly basis. This pattern of price behavior follows from the manner in which handlers transact their business in response to conditions of supply and demand, and indicates the interdependence or interplay of the price structures of such markets. Moreover, if prices in any particular market, whether it is situated within the State of California or the State of Arizona or any other State, rise above comparable prices in all other markets, supplies of oranges are diverted to that market. Conversely, if prices fall in any particular market, supplies are diverted away from that market. For example, relatively low prices in the States of California and Arizona would result in a greater quantity of Valencia oranges shipped to markets in other States. The converse of this is also the case. The diversion of carloads, while in transit, from an original destination to another destination is a common practice. The record shows that half of the oranges shipped unsold by one large marketing organization is diverted at least once en route to market. Such diversions provide examples of handlers' responses to changes in demand conditions as between markets.

If shipments of oranges to markets outside the States of California and Arizona were regulated while at the same time shipments of oranges to markets within the States of California and Arizona were not so regulated, prices received by growers for sales in such intrastate markets would tend to be reduced to levels below those prevailing in markets in other States. Producers would have to receive higher prices for oranges marketed in interstate commerce as a result of the lower prices received in intrastate markets in order to achieve the level of prices which it is the policy of Congress, as expressed in the act, to establish. Lower prices for intrastate shipments have a serious effect upon total returns to producers, because a large portion of the Valencia orange crop is marketed in fresh form in such intrastate markets. About one-eighth of the total sales in fresh fruit channels of Valencia oranges grown in the States of California and Arizona is destined to markets within such States. In addition, the population in California and in Arizona has been increasing and is expected to continue to increase, and such percentage will increase accordingly.

Oranges sold in fresh markets, whether they are located within the State of California or the State of Arizona or in any other State, are prepared for shipment prior to packaging in exactly the same fashion. Some of the Valencia oranges sold in the State of California are not packed in a standard orange box and are sold as "loose" oranges. For those oranges which are sold as "packed" oranges, regardless of their ultimate destination, the preparation for market is identical. In most cases, the ultimate destination of the oranges is not known at the time of packaging and there is a commingling of the fruit ultimately destined for sale within the States of California and Arizona with that ultimately destined for sale in other States. In addition, oranges shipped to terminal markets within the production area often are diverted from such markets to markets outside of the production area. Usually it is not known at the time of shipment to terminal markets within the production area whether such oranges will be reshipped to markets in other states. Oranges destined for markets within the States of California and Arizona are so inextricably intermingled with oranges destined for markets within other States that it would be extremely difficult effectively to regulate shipments to interstate markets only.

All handling within the State of California or within the State of Arizona of Valencia oranges grown in the production area directly burdens, obstructs, and affects interstate and foreign commerce in such oranges. It is found, therefore, that all handling of Valencia oranges grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(3) The term "oranges," as used in the marketing agreement and order, identifies the kind of orange referred to therein, as distinguished from all other kinds of oranges. The term "oranges" should be defined to mean any and all strains of the Valencia variety of oranges. The Valencia variety is separate and distinct from other varieties of oranges. Valencia oranges are commonly recognized and distinguished from other varieties of oranges by persons who are engaged in the handling of oranges. This variety of orange grown in the production area is marketed principally during the summer months.

The term "production area" should be incorporated in the marketing agreement and order as the means of specifying the area within which Valencia oranges must be produced before the handling thereof is subject to regulation. The definition of such term is such as to include the State of Arizona and that part of the State of California south of the 37th Parallel. Production of Valencia oranges north of the 37th Parallel in the State of California is negligible, and is of no commercial significance. Those Valencia oranges grown north of the 37th Parallel are produced in quantities too small to be handled in a commercial fashion.

Oranges produced in the various producing districts south of the 37th Parallel in the State of California and in the State of Arizona cannot readily be distinguished from each other, are marketed at approximately the same time, and compete with each other in the markets. Most of the oranges produced in the proposed production area are handled by large marketing organizations which market oranges grown throughout the entire area. This area embraces three principal producing regions which are referred to as prorate districts and are discussed in issue 5 (h) of this recommended decision. The grade, size, and container specifications, and packing and selling operations are similar throughout the entire production area, and the freight rates from each of the producing districts to the primary eastern terminal markets are identical. Because of these facts, the exclusion of any part of the proposed production area would tend to make the operation of the proposed program ineffective. It is concluded that the production area, as defined, is the smallest regional production area found practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined to identify those persons who handle oranges in the manner described in the term "handle," because such persons are subject to the marketing agreement and order regulations.

The term "handle" should be defined to identify those activities which are

subject to regulation under the marketing agreement and order. Such activities with respect to Valencia oranges grown in the production area should include purchasing, selling, consigning, transporting, or shipping oranges. Each of the foregoing activities is a handling function in the current of commerce with respect to Valencia oranges grown in the production area and should be subject to regulation under the marketing agreement and order. In addition, the placing of oranges in the current of commerce in any other manner should be subject to regulation thereunder. Moreover, the performance of any one or more of these activities should constitute handling irrespective of the ultimate destination or end use of the oranges. Handling for export markets, and for other specified markets or uses enumerated in § 922.67 of the proposed marketing agreement and order, is not subject to regulation, however, for the reasons set forth in issue 5 (i) of this recommended decision.

The "handling" function occurs prior to every sale of such oranges at retail by a person in his capacity as a retailer. The handling of Valencia oranges grown in the production area commences immediately after such oranges are picked. Therefore, it is necessary to define handling as commencing after the separation of the orange from the tree so as to include all handling transactions and thereby include all handlers within the provisions of the marketing agreement and order. The term, however, should be limited by particular exceptions in order to make its applicability specific and to simplify the administration of the program.

With the exception of the processes specifically excluded in the definition of the term "handle," all activities from the time the orange is picked until it is offered for sale at retail, by a person in his capacity as a retailer, are included in the process of handling. However, the movement for hire by a carrier, common or otherwise, of oranges owned by another person should not constitute handling because such carrier has no proprietary interest in the fruit. Moreover, a common carrier is required, in providing service, to transport commodities at the request of the shipper.

The specific exceptions to the term "handle" should include the sale of oranges on the tree. This exception is stated to preclude any misunderstanding. The handling process does not actually begin until the oranges have been separated from the tree.

The transportation of oranges to a packinghouse, for the purpose of having such oranges prepared for market, also should not be included in the term "handle," because it is not necessary to regulate such transactions to accomplish the purposes of the marketing agreement and order. Nor should such preparation for market be included within the definition of the term "handle." The regulatory scheme proposed in this program should be applied at the earliest stages when oranges begin their movement to market even though handling has occurred prior thereto. If oranges are sold or shipped to market immediately after picking, the regulation should be applied when they are so sold or shipped. However, it would serve no useful purpose to apply regulations prior to the preparation for market of oranges in a packinghouse. Practically all of the oranges in the production area are prepared for market at packinghouses. It is after oranges are so prepared, when a packinghouse is utilized, that the regulation should be applied. The preparation of oranges for market includes, but is not limited to, cleansing and sorting of the fruit, as well as placing it in a container (if necessary) preparatory to offering it for sale or movement to market.

Although often it is the practice to store oranges in the packinghouse, or in nearby storages within the production area before the fruit is offered for sale by the first handler, the preparation of oranges for market should not include all such storage of oranges. Subsequent to the sale of the fruit, the oranges often are stored by the purchaser. Thus, the storage of oranges within the area of production, under such rules and regulations as the committee may, with the approval of the Secretary prescribe, should be provided in the marketing agreement and order. It is impracticable to set forth such rules or regulations in the marketing agreement and order, because conditions affecting storage practices are subject to rapid changes. The marketing agreement and order provisions should authorize the committee, with the approval of the Secretary, to establish, and amend, such rules and regulations as are necessary to effectuate such exemption.

A fourth exemption from the term "handle," excluding the sale of oranges at retail by a person in his capacity as such retailer, should be specified in order to set forth clearly the exclusion of such sales as required by the act. However, the occasional sale of a small quantity of oranges by a packinghouse to a consumer should not come within this exemption, because such sale is not by a retailer in his capacity as such retailer.

The act also prohibits the application of the proposed marketing agreement and order program to a producer of Valencia oranges grown in the production area in his capacity as a producer. Any person, however, who handles oranges, as such term is defined in the marketing agreement and order, should be subject to regulation as a handler thereunder as to such handling transactions.

The term "handle" should relate to transactions involving markets in the continental United States, Canada, and Alaska. The continental United States and Canadian markets are combined because such markets are considered by sellers of Valencia oranges grown in the production area to be, and are, one "domestic" market. Alaska should be included in the "domestic" market because it is supplied principally by shipments moving through northwest ports. Hence, its inclusion tends to assure compliance with the regulations of the program on the part of handlers shipping to northwest and Canadian markets. Shipments to other—the export—markets are not proposed to be regulated under the marketing agreement and order because sales in or to those markets do not directly compete with, and are considered as diversions from, the "domestic" market.

The act permits regulation, on the basis of volume or size, or both, of all handling of Valencia oranges grown in the production area which is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. Since all handling of Valencia oranges grown in the production area is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that the handling of all such oranges, with the exceptions hereinbefore noted, should be subject to regulation under the marketing agreement and order.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the recommended marketing agreement and order. Those terms should be defined for the purpose of designating specifically their applicability, and establishing appropriate limitations of their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative.

The definition of "person" follows the definition of that term as set forth in the act, and is intended to cover all possible legal entities.

The term "fiscal year" should be defined to identify the 12-month period with respect to which the financial records of the Valencia Orange Administrative Committee—the agency established to administer the program—are to be maintained. It is the practice of handlers in the production area to maintain their records on a 12-month period ending October 31. Moreover, practically all handlers of Valencia oranges are regulated under Order No. 14 (7 CFR Part 914; 18 F. R. 5638), and the Naval Orange Administrative Committee, which administers Order No. 14, operates on a similar fiscal year basis. The fiscal year established for the Valencia Orange Administrative Committee should be the 12-month period ending October 31 because such a period corresponds to the fiscal year utilized by handlers, and its use would facilitate the maintenance of financial records in connection with program operations. The initial fiscal year should, however, commence with the effective date of the program and end on October 31, 1954.

The term "marketing year" should be defined to identify a period within which the marketing of a given crop of

Valencia oranges takes place and the regulatory operations of the agency are conducted. Valencia oranges grown in the production area are marketed during the period usually beginning in February and continuing into December. Testimony at the hearing proposes that a calendar year be established for such a period. The marketing year, however, should be established as a 12-month period ending January 31 of each year in order to enable the agency members selected for a given marketing year to conduct the annual meeting held prior to January 31 and also to allow adequate time for the nomination and selection of subsequent members and alternate members of the agency.

The term "grower" should be synonymous with "producer" and should be defined to mean any person who is engaged in the production of oranges for market and who has a proprietary interest therein. A definition of such term is necessary for such determinations as eligibility to vote for, and to serve as, a grower member or alternate grower member of the Valencia Orange Administrative Committee, and for other reasons. The term should be limited to those who have an ownership interest in the oranges produced. It should not include laborers or others who perform work for a fee for hire in producing the oranges. Evidence at the hearing indicates that each business unit (such as a corporation, partnership, or community property ownership) engaged in the production of oranges for market should, when voting, be entitled to only one vote.

The term "oranges available for current shipment" should be defined to mean all oranges as measured by the tree crop. Such quantity is used in determining the amount of oranges that may be shipped by an individual handler each week when volume regulation is in effect and thus provides the basis for the establishment of equity between handlers under such regulation. The testimony indicates that the use of the tree crop as a basis for this computation is the only practical and equitable means of measuring the availability of oranges for shipment. While conceivably the merchantable supplies of oranges should be used to determine the quantity of oranges available for current shipment, it was shown to be impossible to measure accurately such merchantable supplies. For example, it is not possible to determine with precision the extent of frost damage in a particular grove; nor is it possible to forecast accurately the size composition of oranges on the tree in a particular grove. Therefore, the oranges available for current shipment should be measured by the total quantity of oranges on the tree.

The term "tree crop" should be defined to mean the total quantity of oranges on the trees as determined by the committee. This term provides the basis for the measurement of oranges available for current shipment. Since the oranges are stored on the trees, the term "tree crop" is appropriate. However, the measurement of the tree crop is determined finally by the number of boxes of oranges delivered to the packinghouse. Therefore, the tree crop as estimated by the committee should be calculated as an estimate of the number of boxes of oranges to be delivered to the packinghouse.

The term "early maturity oranges" should be defined to identify those oranges which have reached maturity in advance of "general maturity" in the same prorate district. Because of variations in climatic conditions, oranges in particular groves attain maturity at earlier dates than oranges in other groves. Maturity should mean that stage of ripeness as measured by applicable State laws. The applicable State laws provide minimum requirements for color and minimum sugar-acid ratios as criteria for maturity. Although there is a slight variation between the present maturity requirements of the State of California and of the State of Arizona, such differences in the requirements are so slight as to be negligible and will not adversely affect the use of these standards in the operation of the program. The provisions of the marketing agreement and order relating to early maturity oranges authorize the issuance of allotments to handlers of such oranges in advance of the time that allotments are given to handlers of all oranges in the same prorate district, thereby providing a basis for equitable treatment of handlers of such early maturity oranges.

The term "general maturity" should be defined to identify the time at and after which the committee determines allotments shall be distributed to all handlers in a particular prorate district, because allotments are issued separately for each prorate district. The committee should consider the maturity of the fruit, as well as other factors, in making this determination.

The term "box" should be defined to identify the common unit of measurement of quantity of oranges currently used in California and Arizona. This unit is described in terms of cubic capacity, and the net weight of the fruit contained therein will vary with the size of the oranges. The net weight of a standard box of average size oranges is 77 pounds. The State of Arizona definition of a standard two-compartment orange box is the same as that found in section 828.83 of the Agricultural Code of California, referred to in the marketing agreement and order. It is also necessary to provide for the equivalent of a box in order to convert the oranges that may be marketed in other types of containers to a standard box basis. If the standard container presently used in the marketing of oranges should be replaced, in the future, by a container with a different cubic capacity, the committee should have the authority, with the approval of the Secretary, to redefine "box" in accordance with the common unit of measurement then in existence.

The term "central marketing organization" should be defined to identify those organizations which market oranges for more than one handler in the production area. Such marketing organizations predominate in the selling of oranges produced in California and Arizona, and occupy important roles in the selection of members for the administrative agency under the marketing agreement and order.

The term "carload" should be defined to identify the unit of loading of oranges in railroad cars for shipment to fresh markets. Volume regulations may be recommended and issued in terms of carloads of oranges for each prorate district. At the present time, a normal loading of railroad cars in California and Arizona is 462 standard boxes of oranges. In the event standard carloadings are changed, because of changes in containers or carloading practices, the committee should have the authority, with the approval of the Secretary, to redefine carload to conform to existing loading practices.

The term "export" should be defined to mean the handling of oranges to foreign markets which are not under the provisions of the marketing agreement and order. Shipments to markets within the continental United States, Canada, and Alaska are regulated within the provisions of the proposed program.

(b) It is necessary to establish an agency to act in administering the proposed marketing agreement and order under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Valencia Orange Administrative Committee" or "Committee" is a proper identification of the agency and reflects the administrative character thereof. It should be composed of 11 members, of whom 6 should represent producers, 4 should represent handlers, and 1 should represent neither growers nor handlers. Alternate members should be provided to act in the place and stead of the members. Such a committee would give adequate representation to the different segments of the industry and would not be unwieldy. The foregoing division of the members between producers and handlers would provide suitable producer representation and handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee and an opportunity for presentation of handling and marketing viewpoints and problems from the handlers' standpoint. The "neutral" member, representing neither growers nor handlers (other than a charitable or educational institution which is a grower or handler), is provided to represent the general public and contribute stability to the operations of the committee.

Except for the initial members and alternates, the term of office of members of the committee and of their respective alternates should be 2 marketing years. Two years would permit the continuance in office of experienced members and alternates. It would also give producers an opportunity to recommend to the Secretary changes in their representatives at reasonable intervals. The initial term of office should begin with the effective date of the order and should terminate on January 31, 1956. Subsequent terms of office should begin on February 1, 1956, and on February 1 of each even-numbered year thereafter. Members and alternate members should

continue to serve until successors have been selected and have qualified in order to provide continuity to the membership of the committee. Nominations for members of the committee and their alternates should be submitted to the Secretary as the result of a nomination procedure prescribed by him. The Secretary would have the benefit of the industry recommendations in respect to committee membership, and should select persons for each member or alternate member position from such recommendations or from other qualified persons.

Nomination for membership and representation on the committee should reflect the situation existing in the marketing of Valencia oranges grown in the production area. Marketing organizations predominate in the marketing of oranges grown in such area. There are 3 large cooperative central marketing organizations in the production area, one of which handles in excess of one-half of the total tonnage of oranges. Most of the independent shippers are members of an independent association. The central marketing organizations market oranges produced throughout the production area. The interests of these organizations, therefore, are closely identified with producer interests in each of the important producing regions. Furthermore, such organizations must consider marketing problems affecting the producing area as a whole. It is appropriate, therefore, in view of the institutional structure of the marketing function in the production area, to provide for nominations by, and producer and handler representation obtained through, such marketing organizations or growers affiliated therewith. This procedure would tend not only to result in representation from all producing districts on a small committee but also to reflect the industry organization.

The marketing agreement and order should, therefore, prescribe a nomination and selection plan for committee members and their alternates which would provide representation on the committee as follows: (1) Three grower and 2 handler members to represent any cooperative marketing organization which handles more than 50 percent of the total volume of oranges handled during the marketing year in which nominations for members are submitted, except that the marketing year for initial nominations should be the marketing year ending January 31, 1954; (2) two grower and 1 handler members to represent all other cooperative marketing organizations; (3) one grower and 1 handler members to represent all producers and handlers not affiliated with cooperative marketing organizations; and (4) the members so selected should meet and by a concurring vote of at least 6 members should select nominees for a neutral member and alternate member of the committee.

When voting for nominees, each grower should be entitled to cast one vote to assure an equal voice in the election. The votes of cooperative marketing organizations which did not handle more than one-half of the oranges handled during the marketing year in which nominations are submitted (or the preceding marketing year in the case of initial nominations), or the growers affiliated therewith, should be weighted by the tonnage handled during such marketing year in order to reflect the relative magnitudes of such organizations in selecting nominees.

An alternate member should be provided for each member. Provision for alternate members assures a full committee when it meets and would tend to insure that each group having representation on the committee would be fully represented at the committee meetings. Provision also should be made for a member to designate an alternate other than his own alternate to act in his stead, if the alternate member so designated was selected from the same group which was authorized to nominate the member. This permits full attendance at meetings without creating an undue burden on the members and alternate members selected.

Any person selected by the Secretary as a member or alternate member of the committee should indicate his willingness to serve as such by filing a written acceptance with the Secretary within 10 days after being notified of his selection. Provision should be made for the filling of any vacancies on the committee, including selection by the Secretary where nominations are not conducted as prescribed, in order to provide for maintaining a full membership on such committee.

The committee should be given those specific powers which are set forth in section 8c (7) (C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the marketing agreement and order, are necessary for the discharge of its responsibilities. The duties are generally similar to those specified for administrative agencies under other marketing programs of this character. It is intended that any activities undertaken by members of the committee will be confined to those which reasonably are necessary for the committee to perform the duties specified in the program.

One of such duties should provide for the reapportionment, with the approval of the Secretary, of the representation of producer members or handler members of the committee nominated pursuant to § 922.22 (c) and (d), respectively. Recently there was a change in the corporate structure of a central marketing organization from an independent to a cooperative status. Changes in producers' or handlers' marketing affiliations take place, from time to time, in the production area. Such changes may be so significant that either growers affiliated with cooperative marketing organizations or growers not affiliated with cooperative marketing organizations may contribute the largest share of the volume of oranges handled by organizations not qualified under § 922.22 (a). Such changes may necessitate a reapportionment of the committee membership to effectuate proportionate representation. However, in the event changes in handler affiliations are of such a magnitude that either of such groups should not be represented by at least one handler and one grower member, the change in the marketing institutional structure should be considered of such significance that a hearing to amend the marketing agreement and order program should be held.

A quorum should consist of at least 6 members and any action of the committee should require at least 6 concurring votes. These requirements are necessary to prevent any action being taken without the concurrence of a majority of the committee. The committee should be permitted to vote by telephone, telegram, or other means in order to save the time of its members, to conserve its funds, and to permit rapid action in the case of emergency. Any votes cast in this fashion should be confirmed promptly in writing, to provide an accurate record of the votes so cast. All voting at an assembled meeting, however, should be cast in person.

The members of the committee, and their respective alternates when acting as members, should be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties. They should also receive compensation at a rate to be determined by the committee, which rate should not exceed $10 per day for each day devoted to the performance of their duties. Compensation and reimbursement are necessary to offset expenditures incurred because of service on the committee.

The marketing agreement and order should provide for an annual report of its operations to acquaint producers and handlers of the activities performed during the marketing season. This report should review regulatory operations separately for each prorate district because regulations are issued on such basis. It should be mailed to the Secretary and to each handler and grower of record in order to acquaint all interested parties with the policies and operations of the program during the marketing season. The report should be prepared and mailed prior to December 15, and a public meeting should be held prior to January 31, in order to review the season's activities as soon after their completion as reasonably possible. The report should deal with the influence of regulations upon the competitive position of California-Arizona Valencia oranges with other fresh and processed oranges, because an economically sound marketing program requires continuous review of its operations in the light of long-run economic changes. The annual report should be reviewed and discussed at an open meeting to provide interested handlers and producers an opportunity to clarify any questions they may have with respect to the program policies or operations. Moreover, such a meeting would serve to acquaint the committee with the views or suggestions of interested handlers or producers concerning such matters.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal year for its maintenance and functioning and for such other purposes as the Secretary

may, pursuant to the provisions of the marketing agreement and order, determine to be appropriate. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by an administrative agency such as the Valencia Orange Administrative Committee, and requires that each marketing program of this nature contain provisions requiring handlers to pay pro rata the necessary expenses. Moreover, in order to assure the continuance of the committee, the payment of assessments may be required even if particular provisions of the marketing agreement and order are suspended or become inoperative.

Each handler should pay to the committee upon demand with respect to all oranges handled by him, as the first handler thereof, his pro rata share of such expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal year. Each handler's share of such expenses should be equal to the ratio between the total quantity of oranges handled by him as the first handler thereof during the applicable fiscal year and the total quantity of oranges so handled by all handlers during the same fiscal year. In this way, payment by handlers of assessments would be proportionate to the respective quantities of oranges handled by each handler. Also, assessments would be levied on the same oranges only once.

Handlers should be permitted to make advance payments of assessments and the committee should be permitted to borrow a limited sum of money in order to function during the initial fiscal year and to continue operations during succeeding fiscal years. This provision should be included because the committee will need funds to set up an office, employ and retain personnel, and incur such other expenses as would be necessary to administer the provisions of the program.

The Secretary should have the authority, at any time during a fiscal year, or thereafter, to increase the rate of assessment when necessary to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Since the act requires that administrative expenses shall be paid by all handlers pro rata, it is necessary that any increased rate apply retroactively against all oranges handled during the particular fiscal year.

If, at the end of any fiscal year, the assessments collected exceed the expenses incurred, each handler's share of such excess should be credited to him against the operations for the following fiscal year. If any handler makes a demand for payment thereof, refund should be made to him. The right of every handler to the return of his pro rata share of the excess funds would be recognized by providing for the payment of such share to him in case he requests it. However, good business practice requires that any such refund may be applied by the committee first to any outstanding obligations due the committee from any person who has paid in excess of his pro rata share of expenses.

All assessment monies received by the committee should be used solely for the purposes, and accounted for in the manner, specified in the marketing agreement and order.

The Secretary should be authorized to require the committee, at any time, to account for all receipts and disbursements. Such authority would aid in assuring careful administration of assessment funds.

(d) The committee should formulate and adopt a marketing policy in advance of its recommendation for regulation for each prorate district during any particular season. The committee should give notice to all producers by publication in newspapers and to handlers by mail of meetings held for the purpose of formulating such marketing policy, and should transmit a report of the marketing policy to the Secretary and to each grower and handler who files a request for such report. The policy so established would serve to inform persons in the industry, in advance of the marketing of the crop in a particular prorate district, of the committee's plans for regulation and the basis therefor. Handlers and producers then could plan their operations in accordance therewith. The policy also would be useful to the committee in making specific recommendations to the Secretary of proposed volume and size regulations. The committee's marketing policy report would assist the Secretary in determining whether regulations should be placed into effect.

In preparing its marketing policy report the committee should provide data showing (1) the available supplies of oranges in the prorate district; (2) the estimated utilization of such oranges in the alternative channels; (3) the schedule of estimated weekly quantities to be recommended to be shipped to fresh markets; (4) available supplies of competitive oranges, as well as other competitive citrus commodities; and (5) the level and trend of consumer income, as well as other pertinent factors affecting market conditions of oranges, to assure the development of an economically sound and practical marketing policy.

Testimony at the hearing indicates that the problems involved in arriving at a carefully constructed marketing policy might be considered more completely if marketing policy statements for each of the prorate districts were developed simultaneously. Such a procedure would permit the development of a plan for an orderly transition of allotments from earlier to later prorate districts by giving simultaneous consideration to problems affecting each of the districts and the production area as a whole. Consequently, to the extent that the information available to the committee enables the preparation of marketing policies for each prorate district at the same time, and prior to the recommendation of any regulation, such practice should be followed.

The marketing policy statement should be revised if changes in the supply or demand conditions necessitate a marked change in the policy set forth by the committee at the beginning of the season for each prorate district. Each report of any such changed marketing policy should be submitted promptly by the committee to the Secretary and to each grower and handler requesting such report, along with the data considered by the committee in revising such statement.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for oranges grown in the production area as will tend to establish parity prices for such oranges. The regulation of the volume of weekly shipments of oranges provides a means of carrying out such policy.

The order should provide for the committee to recommend, and the Secretary to issue, regulations limiting the quantity of oranges which may be shipped during weekly periods from the production area whenever such regulations will effectuate the policy of the act. The marketing agreement and order should contain provisions relating to (1) the method of recommending and fixing the quantities so limited; (2) the calculation of shares of individual handlers of the quantities so limited under regulation; and (3) adjustments of such shares which may be made to provide flexibility of operations for handlers under regulation.

(1) The marketing agreement and order should provide that the committee may meet and recommend to the Secretary the total quantity of oranges which it considers advisable to be handled the next succeeding week in each prorate district. In arriving at its recommendations, the committee should obtain and consider complete information with respect to each significant factor affecting market conditions for oranges. Among such factors, the market opportunities for Valencia oranges, the available supplies and condition of Valencia oranges in each prorate district, and the seasonal pattern of shipments from each prorate district, are of particular significance.

The record shows that the committee should not recommend that no oranges may be handled in any prorate district for any week. Prior to the adoption of a marketing policy relating to a particular prorate district, oranges produced in such district would be handled without restriction. After the adoption of such marketing policy, handlers possessing early maturity oranges would be entitled to receive early maturity allotments, as discussed hereinafter, unless no limitation of shipments was issued which, of course, would eliminate the need for early maturity allotments. Moreover, the testimony shows that the maturity of oranges shipped is regulated under State laws and that this program is not designed to prescribe more stringent maturity requirements, or to prohibit shipments to accomplish such an end.

The marketing agreement and order should authorize the committee to recommend an increase in the quantity that the Secretary has fixed to be shipped during any week in the event market conditions warrant such increase. There should be no authorization for a decrease in any quantity fixed by the Secretary to be shipped during any given week, because handlers could not be expected to reduce their shipping schedules

without reasonable and timely notice. Furthermore, inequities could result thereby if some handlers had shipped their total allotment prior to such reduction.

The Secretary should fix, or increase, the quantity of oranges which may be handled in any prorate district during a particular week whenever he finds from the recommendations and information submitted by the committee, or from other available information, that to so limit the quantity of oranges shipped would tend to effectuate the declared policy of the act.

(2) A program of this nature should provide a method for allotting the total quantity of the regulated commodity which may be handled during a specified period so that such quantity may be apportioned equitably among all of the handlers thereof. Under the provisions of the proposed marketing agreement and order, this is achieved by providing that each handler in a particular prorate district should be given the same opportunity to market oranges under volume regulation as each other handler in that district. The equality of opportunity to market oranges should exist among handlers within a particular prorate district, because the market opportunities vary as between prorate districts as the result of the different timing of maturity and shipping life of the oranges grown in such prorate districts.

The act requires, in effect, that such equitable apportionment should be on the basis of the quantity of the regulated commodity which each handler has available for current shipment, or upon the quantity of such commodity shipped by each such handler in such prior period as the Secretary determines to be representative, or both. Under this program, an individual handler's equity or share of the limited quantity which may be handled from a particular prorate district during any week should be based upon the quantity of oranges currently controlled, as hereinafter discussed, by such handler. Testimony at the hearing indicates that the quantities of oranges controlled and handled vary between handlers from year to year. Therefore, the determination of an individual handler's share on the basis of past performance, or a combination of past performance and current control, would not truly reflect the current status of each handler in relation to all others. However, the use of the quantity of oranges currently under control as a basis for determining individual handler's equities is practical under this program as it is possible to determine such quantity with reasonable precision.

The equity of each handler in the total quantity which may be handled in a prorate district during any week should be expressed as his prorate base. A prorate base should be the ratio between the quantity of oranges available for current shipment of the particular handler and the total quantity of oranges available for current shipment of all such handlers in the particular prorate district. Thus each handler's share of the limited quantity of Valencia oranges which may be shipped from a given prorate district each week under volume regulation would represent the same percentage as his share of the total quantity of Valencia oranges available for current shipment in such prorate district.

The marketing agreement and order should provide that each person who controls oranges available for current shipment and proposes to handle such oranges, should make application to the committee for a prorate base and for allotments, to assure an orderly basis for establishing equities. This application should contain the information set forth in the proposed marketing agreement and order. Such information is necessary to substantiate the quantity of oranges available for current shipment of each handler, in order to insure that the determination of allotments issued to individual handlers will be correct. Such application should include only such oranges as the handler has title to, or a bona fide contract to handle or purchase, because the right to handle should be contingent upon actual control over the marketing of such oranges.

The marketing agreement and order should provide for adjusting the quantity of oranges under control of individual handlers as such handlers gain or lose control of the marketing of such oranges during the marketing season. Producers should be given the opportunity of transferring the marketing of their crops from one handler to another. A handler who thus has gained or lost control over the handling of oranges should have the amount of his oranges available for current shipment adjusted to reflect such change. The provisions of the marketing agreement and order, however, should be so drawn that a handler will not gain an unfair advantage if a producer transfers his marketing affiliations. For example, a handler could obtain more than his proportionate share of allotments if he is allowed to retain allotments which were earned by the transferring producer's tree crop and use them "for handling other producers' oranges. As a consequence, the marketing agreement and order should provide that, if the committee determines that a handler who has lost control of oranges has not handled his share of such oranges, the quantity of his remaining oranges available for current shipment correspondingly should be reduced over a period of time. This adjustment should place such handler in the relative position he would have occupied had he never controlled the transferred portion of the oranges. On the other hand, the provisions of the program should discourage widespread transfers by producers, because such transfers would make the operation of the program and the maintenance of equity among handlers difficult. Accordingly, when a producer transfers the marketing of his oranges to another handler, such new handler's quantity of oranges available for current shipment should be increased at the time of transfer, but such new handler should not receive such allotments as were earned by the transferring producer's oranges prior to the time of transfer.

The committee should be authorized to correct errors of estimates of the quantity of oranges available for current shipment of each handler and to adjust accordingly all such quantities of oranges available for current shipment to offset any such errors found to exist in order to insure that the equities of individual handlers are maintained. Such adjustments should increase or reduce, by such quantity and for such a period as may be necessary and reasonable, the quantity of oranges available for current shipment of the particular handler whose quantity has been erroneously estimated so that the total allotments issued to such handler will equal the total allotments the handler would have received had his quantity of oranges available for current shipment been correctly estimated. The individual handler should be required to report to the committee any change in his control of oranges in order to assist the committee in making adjustments and to simplify the administration of this provision.

The committee should compute each week during the marketing season, when volume regulation is likely to be recommended by the committee, the total quantity of oranges available for current shipment of each person who has applied for a prorate base and for allotments. If volume regulation is recommended, the committee should also compute a prorate base for each such person, and should notify the Secretary and each person of his prorate base.

Whenever the Secretary has fixed the total quantity of oranges that may be handled during any week from any prorate district, the allotments to each individual handler should be determined by multiplying the total quantity fixed by the Secretary to be handled by the prorate base computed for such handler. The committee should perform this operation and provide notice to each person of the allotment so computed for him. This procedure is needed to set forth clearly the manner in which the equities of handlers are calculated and in which each handler is notified of his allotment under volume regulation.

The committee should give any central marketing organization, upon its request, the same notice with respect to prorate bases and allotments applicable to each handler for whom it markets oranges as is given to such handler. Such notice would aid the marketing operations of such organizations.

The evidence indicates that the equities of handlers under regulation are not disrupted seriously in seasons of minor damage from frost or wind or rain. This is because those handlers who suffer such damage would, since their equities would be based on the respective tree crops they control, have the opportunity to ship a share of their merchantable oranges larger than before their crops had been so damaged. However, in seasons of major freezes, such as occurred in 1937, 1949, and 1950, with heavy and varying degrees of damage affecting groves, it would not be possible to maintain individual handler's equities determined on the basis of oranges available for current shipment. Therefore, volume regulation should not be undertaken in seasons when major freezes re-

sult in heavy and differing degrees of damage to groves.

(3) The marketing agreement and order should contain provisions authorizing adjustments in allotments issued to individual handlers in order that rigidities imposed by the calculation of equities provided for in the program may be made workable in response to current changes in handlers' activities. Such adjustments should authorize overshipments, undershipments, and loans between individual handlers. Also, the committee should be authorized to withhold allotments from all handlers and loan such allotments to particular handlers to offset conditions with respect to the marketing life and maturity of oranges controlled by such individual handlers.

The marketing agreement and order should provide that, during any week when volume regulation is in effect, any person may handle, in addition to his weekly allotment, a quantity of oranges equal to 10 percent of such allotment, or one carload, whichever is greater, with the proviso that the quantity of oranges so handled be deducted from his allotment for the next week and for succeeding weeks until repaid. This provision is necessary in order that handlers be permitted to conduct their business in an orderly fashion. Thus, particular orders, or carlot quantities, may be fulfilled to the extent of such additional quantity of oranges during any given week, even though the allotment issued does not equal such orders. The overshipments should be deducted from succeeding allotments issued to such handlers so that the total allotments issued to each such handler not exceed his fair share of all such allotments. In addition, such overshipments should not be permitted during any week in which a handler's allotment has been reduced to offset a previous overshipment, where his total weekly allotment is required to repay an allotment loan, or where a handler has not received an allotment under the marketing agreement and order for such week. These limitations are necessary, because unrestricted overshipments would enable any or all handlers to handle quantities in excess of their weekly allotments in any particular week and thus tend to defeat the purposes of volume regulation for that week. However, it would be impractical and serve no useful purpose to require that an overshipment incurred, but not repaid, during a given marketing season, be repaid in the following season. Therefore, the requirement to repay an overshipment should not be carried over to the following marketing season.

The marketing agreement and order should contain a provision permitting any handler who handled a quantity of oranges less than his allotment of oranges during a particular week to handle for the next week only an additional quantity of oranges equal to such undershipment. This provision is necessary, because at times weather or other conditions do not permit handlers to ship their allotments and they should be permitted to offset such reduction in shipments by handling them in a subsequent period.

The limitation of handling of undershipments for the next week only, and the requirement for immediate repayment of overshipments of allotment, are necessary to enable the committee to anticipate the quantity of oranges which may be handled as a result of prior undershipments or which may not be handled as a result of prior overshipments in recommending the volume to be shipped under regulation for a particular week.

Provision should be made for the lending and borrowing of allotments between persons within the same prorate district. Such loans are needed to enable handlers to operate efficiently by offsetting difficulties encountered as a result of the supply of labor, rate of harvest, and other factors affecting the rate of harvesting and packing of oranges. Loans should be confined within the same prorate district, because equities are established and maintained on a prorate district basis. Allotment loans should be confined to handlers to whom allotments have been issued, since indiscriminate loaning of allotments would complicate unduly the administration of this provision.

Loans of short life allotments should be made only to handlers to whom short life allotments have been issued, and the repayment thereof should be made only with short life allotments, because short life allotments may be used only in the handling of short life oranges. Loans of early maturity allotments, however, may be repaid with general maturity allotments because their due date may be subsequent to general maturity.

Transactions with respect to allotment loans should include a date for the repayment of such loans during the then current marketing season and should be confirmed to the committee within 48 hours to assure that there will be no abuse of the loan provision and in order to simplify the operations of this provision.

Allotment loans should be used only during the week for which such allotment was issued, because the allotment represents the right to ship during that week. No allotment which has been loaned should again be loaned by the borrower, or by the lender after repayment thereof, because the added flexibility of operation which thus could be provided is not necessary and would lead to confusion. If the borrower has insufficient allotment to repay such loan on the due date, he should repay it as soon as possible.

The committee should be authorized to reduce a borrower's weekly allotment for the week when repayment is required by the amount of the loan and credit the lender's allotment accordingly. If the allotment of a borrowing handler for a particular week is insufficient to repay loans due such week, all subsequent allotments of such handler should be reduced until such loans are repaid. This authority is necessary to assure the repayment of loans. However, for the reasons previously stated with respect to the repayment of overshipments, loans made in a given season should not be required to be repaid from allotments issued during the following season.

The committee should be authorized to facilitate loans of allotments in order to assist individual handlers in obtaining allotment loans. Transactions consummated by the committee should be confirmed immediately by written memorandum addressed to the parties concerned in order clearly to reflect the loan agreement made and to notify the parties.

The marketing agreement and order should provide that each handler who first handles oranges, transported by means other than rail shipment, should, at the time of such handling, issue to the person receiving the shipment an assignment of allotment certificate covering each quantity of oranges so handled. This provision is necessary to assist in the enforcement of compliance with the regulatory provisions of the program. In connection with shipments by rail, shipping manifests are made available by the rail carriers. This is not true with regard to truck shipments, and the assignment of allotment certificates would aid in identifying and tracing shipments of oranges. Each such assignment of allotment certificate should be made in the manner and on the form prescribed by the committee so that information needed in connection with such enforcement can be ascertained.

The marketing agreement and order should provide that, during any week in which a person has the right to handle a quantity of oranges in addition to the quantity represented by the allotment issued to him, and such person handles a quantity of oranges less than the total quantity which such person may handle during such week, the amount of oranges handled should first apply to the allotment issued for such week, or that portion of such allotment that is not loaned or required to repay a loan or offset a previous overshipment. This provision is necessary because, if the quantity handled were first applied to the additional quantity, such as that which might be made available by previous undershipments, or loan repayments, handlers could carry forward or pyramid the unused portion of their allotments and thus defeat the purpose of the program by shipping greatly in excess of the total quantity of oranges fixed for the particular week.

The marketing agreement and order should contain provisions for the issuance of early maturity allotments and short life allotments, to increase further the flexibility of allocations under the program. These allotments are needed to adapt the allotment procedure to unique situations encountered by handlers of oranges which mature earlier, or which have a shorter period during which they may be shipped, than most oranges in the same prorate district. Such provisions are designed to mitigate the rigidity of the program requirements for handlers confronted with such unique situations while maintaining equity between all handlers. These problems should be considered separately, and calculations of the respective allotments should be undertaken separately, because they are unrelated as to their nature and cause.

The marketing agreement and order should provide that the committee shall, prior to the reaching of general maturity, issue early maturity allotments to handlers for the handling of early maturity oranges. Such a provision is necessary because otherwise the shipment of a few oranges from a district which is just beginning to ship would require the issuance of a large quantity of allotments to enable the few handlers who have available oranges meeting maturity requirements to receive sufficient allotments to handle such oranges. Therefore, it is reasonable at the start of the marketing season in a particular prorate district to issue allotments only to those handlers controlling oranges meeting shipping qualifications.

Handlers controlling early maturity oranges should apply to the committee for such allotments and furnish the committee with information necessary to describe such early maturity oranges in order to enable the committee properly to administer this provision.

Each handler who applies for early maturity allotments in accordance with the procedure established by the committee, and who controls oranges possessing the requisite qualifications, should receive early maturity allotments. Conceivably such early maturity allotments could be issued to handlers in more than one prorate district during a particular week. The total quantity of early maturity allotments issued by the committee should be based upon consideration of all factors relating to market opportunities for the fruit and conditions of supplies in the producing area. The total quantity of early maturity allotments issued to applying handlers, therefore, may be less than the total quantity applied for if the committee so decides.

Total early maturity allotments issued by the committee in a particular prorate district should be distributed to each handler who qualifies therefor in the ratio that each such handler's request for such allotment is to the total of such requests of all such qualified handlers. Distribution on the basis of quantity requested is utilized because there are no tangible criteria available with which to measure the quantity of early maturity oranges available. The marketing agreement and order should contain a proviso, however, that such granting of early maturity allotments should not permit a particular handler to handle more than his share of the total quantity estimated in the utilization schedule contained in the marketing policy to be handled by all handlers in the same prorate district. This proviso is necessary to prevent a particular handler from receiving more than his equitable share of the total quantity to be handled in his prorate district as a result of the distribution of early maturity allotments.

The marketing agreement and order should provide that, upon the reaching of general maturity, the early maturity allotments issued to a particular handler should be offset or repaid by reducing such handler's quantity of oranges available for current shipment by the quantity of early maturity allotments issued to him, plus his share of the oranges estimated in the utilization schedule contained in the marketing policy to be used for by-products or elimination in the particular prorate district in relation to the early maturity allotments issued to him. The initial utilization schedule contained in the marketing policy should be used for such computations because revisions of such utilization schedule, if made, probably would result in such minor adjustments as would make a modification of such computations in response thereto impracticable and of little value.

The procedure for the offset of early maturity allotments issued will result in the particular handler receiving total allotments slightly in excess of his proportionate share of the allotments issued to all handlers in the particular prorate district. Were such handler's quantity of oranges available for current shipment reduced, upon the reaching of general maturity, by his proportionate share of exports estimated to be shipped from the prorate district, as well as products and elimination, his share of allotments for the season would be equal to that of all other handlers. It seems reasonable, however, to provide this slight advantage to the handler of early maturity oranges, because there is normally an advantage in the marketing of oranges accruing to handlers who ship fruit ahead of other handlers in a particular district.

The committee should adopt rules and regulation, with the approval of the Secretary, to establish detailed procedures for issuing and allocating early maturity allotments. It is impractical to provide such rules in the marketing agreement and order, because of the flexibility that may be required to administer properly this provision. All early maturity allotments should be computed on a prorate district basis, because equities to individual handlers under the program are established on such a basis.

Because of climatic conditions in some producing localities, oranges are produced which do not possess the keeping quality of other oranges produced in the same prorate district. The shipping life of such oranges, therefore, is shorter than the shipping life of other oranges in the same district. To require handlers of such oranges to market their oranges at the same rate as other handlers would result in a greater loss to such handlers than to other handlers, because the oranges shipped during the latter part of the shipping season would not be capable of being shipped to consuming markets in good condition. It would not be fair, therefore, to require such handlers to ship such oranges at the same rate as all other handlers, and the marketing agreement and order should contain provisions permitting a more rapid rate of movement of such oranges. These provisions should permit the issuance of "short life" allotments to handlers of such fruit.

The testimony shows that oranges which do not possess the same shipping life as other oranges produced in the same district do not always exist in clearly delineated regions. As a consequence, this problem is one which, for the production area as a whole, cannot be met on the basis of isolated areas to be given special treatment. Moreover, there are handlers shipping oranges of both short and normal life, and some of these handlers customarily intermingle their short life and normal life oranges in their operations and thus handle their total supply of oranges without undue difficulty. Therefore, the difficulties experienced by a handler in handling his short life oranges, together with his other oranges, provides the basis for determining his need for accelerated movement of his short life oranges.

The marketing agreement and order should provide that the committee shall withhold from the allotments of all handlers, on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers of short life oranges to handle, during the normal marketing period of such short life oranges, as large a proportion of oranges as the average which will be handled by all handlers in the same prorate district.

A handler of short life oranges is a handler who is unable to handle, during the normal marketing period of the oranges grown in the prorate district, as large a proportion of oranges as the average which will be handled by all handlers in the same prorate district. The committee should determine the extent to which each handler needs short life allotments, and allocate such allotments to each such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of his short life oranges. After a handler of short life oranges has received sufficient short life allotments to make the total allotments issued to him equal proportionately to the average allotment to be issued to all handlers in the same prorate district, the allotments that would have been due to such handler of short life oranges in the absence of accelerated movement should thereafter be allocated to handlers from whom the allotments were withheld. This procedure should be carried out in such a fashion that equities resulting from such computations will be maintained for all handlers in each prorate district. The mechanics of the issuance and pay back of short life allotments under the former orange order, i. e., Order No. 66, as amended, proved satisfactory and should serve as a basis for operation of the short life provision under the proposed marketing agreement and order.

Handlers desirous of receiving short life allotments should apply for such allotments on the basis of forms and in the light of procedures formulated by the committee, with the approval of the Secretary, governing the issuance of short life allotments, as a regular and orderly procedure should be established to carry out these provisions of the program.

(f) There is a tendency for handlers to ship in fresh fruit channels small oranges if they are available for shipment even when greater returns would have been received had they been diverted to other channels. The marketing agreement and order should contain provisions authorizing the recommendation by the committee, and the issu-

ance by the Secretary, of regulations limiting the sizes of oranges that may be handled, thereby improving returns to producers. Such regulations would improve marketing conditions, because the limitation of discounted sizes shipped to consuming markets would improve the size composition of the remaining quantity of oranges shipped to consuming markets, thereby improving the average quality, as measured by market preference for sizes, of all shipments. The discounted sizes also tend to depress prices received for adjacent sizes. In addition, regulation of sizes would prevent shipments of oranges of sizes so heavily discounted that they do not receive prices covering the direct costs of harvesting and marketing such oranges.

The demand for particular sizes of oranges varies depending upon the composition of sizes of oranges shipped to fresh markets, not only from the production area, but from other areas in competition with Valencia oranges. Therefore, the marketing agreement and order should authorize the recommendation of limitation of oranges by sizes, and the fixing of such limitations by the Secretary, during any period for which it is determined that the supply and demand conditions for sizes of oranges warrants such regulation. Such period may be an entire marketing season or any part thereof.

The nature of the demand for sizes of oranges is such, at times, that only a certain quantity of a particular size category of oranges is desired by the various consuming markets. Therefore, the committee should have the authority to recommend, and the Secretary to fix, limitations of a portion of a particular size or sizes or all of a particular size or sizes of oranges that may be shipped to consuming markets. It may be found, for example, that to restrict entirely a particular size would eliminate the shipment of some oranges of that size which, if shipped, would result in higher average prices and, therefore, effectuate the declared purpose of the act.

Recommendations for regulation by size, and issuance of such size regulations, should be made on a prorate district basis, because the composition of sizes of oranges grown in the respective prorate districts usually varies. Therefore, to require the issuance of uniform size regulations for the production area as a whole might result in a substantial limitation in one prorate district with little or no limitation in another. In recommending size regulation to the Secretary, the committee should give careful consideration to each principal factor affecting market conditions, including market prices, availability and composition of supplies, and other related factors, in order to assure that the recommendation is arrived at on a sound economic basis.

Regulation by size should not be dependent upon volume regulation, because each of these types of regulation seeks to attain orderly marketing conditions by a different method. The committee should be authorized to recommend, and the Secretary to issue, regulations limiting a portion or all of a particular size or sizes even though volume regulation is not in effect.

The marketing agreement and order should contain provisions authorizing the committee to issue exemption certificates to any producer who furnishes evidence satisfactory to the committee that, because of a size regulation in effect, he will be prevented from having as large a proportion of his crop of oranges handled as the average proportion which may be handled by all other producers in the same prorate district. Such certificate should permit the shipment of an appropriate quantity of oranges which fail to meet the size requirement of the regulations then in effect so as to enable such producer to have handled as large a proportion of his oranges as the proportion that may be handled for all other producers in the prorate district. Evidence at the hearing indicates that the sizes of the oranges grown in the production area are not capable of being altered by cultural practices. Hence, the size composition of the crop of oranges of a producer is the result of conditions beyond his control. This exemption provision is designed to afford relief to producers from the imposition of inequities which may accrue from size regulation.

The provisions of the marketing agreement and order relating to the issuance of exemption certificates should specify that exemption certificates do not constitute an exemption from regulations limiting the volume of shipments of oranges. Exemption certificates are issued to producers to permit them to ship an equitable portion of their oranges when they otherwise would suffer undue hardship under the effective size regulation. Such oranges, however, should be subject to any limitations on the volume of shipments of oranges the same as the oranges of other producers.

Provision should be made for the transfer of exemption certificates from a producer to the handler of such producer's oranges, because producers customarily do not pack and ship their own oranges. The committee should adopt procedural rules to govern the issuance of exemption certificates. Such rules are necessary in order that all producers may be informed with respect to the requirements for, and the procedure for, the issuance of exemption certificates. It is impractical to set forth detailed rules in the marketing agreement and order, because to do so would destroy the flexibility which is needed to reflect variations in conditions affecting the production of oranges.

(g) Regulation of shipments by internal quality was proposed in the notice of hearing. Testimony was not offered in support of such proposal, however, and accordingly it should not be included in the proposed marketing agreement and order.

(h) There are differences between various producing regions in the production area as to the time of maturity of the oranges produced therein and the length of the period during which such oranges may be shipped in prime condition. These differences are due to differences in climatic conditions. Soil conditions and cultural practices exercise little, if any, influence upon maturity and keeping life of the fruit.

In order to assure the maintenance of equities as between individual handlers, the production area should be separated into prorate districts, with individual producing regions possessing similar marketing periods grouped into the same prorate district. The number of prorate districts should be reduced to a minimum so as not to complicate unduly the administration of the provisions of the marketing agreement and order. Marketing periods and the times of the reaching of maturity of oranges produced in the same prorate district are much more uniform than such factors between prorate districts. Furthermore, such variations of times of maturity and length of shipping periods as exist in the oranges controlled by individual handlers within a particular prorate district may be treated readily by use of the adjustment provisions of the marketing agreement and order, particularly those relating to early maturity and short life.

The evidence at the hearing revealed that oranges produced in Central California—that part of the State between the 35th and 37th Parallels—possessed for the most part common characteristics with respect to maturity and periods of marketing. Shipments of Valencia oranges produced in Central California normally begin during the latter part of April, and the fruit is in prime condition until early June.

The maturity and marketing periods of Valencia oranges produced in Southern California—that part of the State south of the 35th Parallel exclusive of the desert valley area—are roughly comparable. The fruit does not generally reach maturity until May, and is marketed throughout the summer months with shipments continuing until December.

The desert valleys of California and the State of Arizona produce Valencia oranges which reach maturity in February, and are in prime condition during March, April, May, and June.

Testimony at the hearing indicates that if Valencia oranges are planted in the southeastern part of San Bernardino County, California—where lemons have been planted recently—they would possess the characteristics of Valencia oranges produced in the desert valleys of California and in the State of Arizona. Accordingly, the north boundary of the desert valley area of California provided in the notice of hearing should be changed to anticipate this possibility. The area north of such north boundary and south of the 35th Parallel is desert and mountainous in nature and contains no plantings of citrus fruits except lemons. Such area should be included in the desert valley area, because its climatic conditions are similar to those in Arizona and the desert valleys of California. This should be accomplished by incorporating that area of Riverside and San Bernardino Counties, California, east of a line due north and south through the town of White Water, and south of the 35th Parallel, into the desert

valley area of California. It is not necessary to define the boundary through White Water with greater precision because there are no orange groves within several miles of such a line. A corresponding change in the area contained in the southern California district provided in the notice of hearing should be made to conform with the change in the desert valley area of California.

In order to permit the movement of oranges from each of the described areas during their normal marketing periods and during the time that the fruit is in the best shipping condition, it is necessary to establish the separate prorate districts, identified in the marketing agreement and order as Districts 1, 2, and 3.

(i) The marketing agreement and order should provide for the exemption from its provision of such handling of oranges which it is not necessary to regulate in order to effectuate the declared purposes of the act. Such exempted handling should be stated explicitly in the marketing agreement and order so that handlers will have knowledge of such handling as is not subject to the provisions of the program. Such exempted handling for the specified purposes should be made available only to the person directly performing the activity which it is not necessary to regulate since to relate the exemption back to all prior handling could result in the establishment of avenues for circumventing the purposes of the program. For example, one of the activities which it is not necessary to regulate is the handling of oranges for commercial processing into products. The only person who should be permitted so to handle oranges for such purpose is the person who handles the fruit directly to the processor. Conversely, the handling of oranges by one person to another from whom a processor may subsequently acquire the fruit for commercial processing should not be exempted. Similarly, while the exporting of oranges should not be subject to regulation, all prior handling of such oranges should be regulated. Hence, a second or subsequent handler should be required to procure regulated oranges, even though such handler uses them for one of the exempted purposes specified in the provisions of the program.

Oranges which are handled for consumption by charitable institutions or for distribution to relief agencies should not be regulated under the program, because such handling of oranges does not affect the commercial markets to which shipments of oranges are regulated under the marketing agreement and order. The handling of oranges for commercial processing into products, including juice, should be exempted from the provisions of this program, because processed products are either exempt under the provisions of the act or their regulation would encourage replacement of fresh juice by frozen concentrated orange juice. Processed products, such as peel products, pectin, citric acid, and orange oil clearly enter commercial channels different from fresh fruit channels and do not compete directly with fresh oranges. Oranges for canning or freezing are exempted from regulation by the provisions of the act. Juice extracted from Valencia oranges for commercial sale as fresh juice is competitive with sales of processed oranges especially frozen concentrated orange juice. To compel commercial juice extractors to purchase regulated fruit for such purpose would increase their costs of raw products and thus encourage the replacement of fresh Valencia orange juice by processed juice. Commercial processing under this exemption should mean processing for sale at the wholesale level. Therefore, the handling of oranges to commercial juice extractors who sell extracted juice primarily to outlets for resale to distributors or consumers should be considered exempt from the provisions of the marketing agreement and order. Since handlers, who are subject to regulation under the program, generally would not have direct knowledge of the ultimate use of oranges sold or otherwise handled to establishments which are not commercial processors, such exemption should not apply to oranges sold to hotels, restaurants, and similar outlets where juice may be extracted from the oranges and sold direct to consumers.

The exporting of oranges should not be regulated under the program, because, as indicated heretofore, sales in export channels do not compete directly with sales in domestic commercial channels. The handling of oranges by parcel post or by express should be exempt, because such shipments, due to the relatively high transportation charges incurred, usually are shipped as gift packages to consumers. Thus parcel post or express shipments of oranges are relatively small in magnitude, and do not affect significantly conditions in regular commercial channels.

Provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of certain small quantities, or types of shipments, of oranges which it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the committee to exempt such handling which is found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments should be exempted from regulation and the period during which such exemptions should be in effect. The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. It is impractical to set forth specific quantities or types of shipments to be exempted in the marketing agreement and order, because to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of oranges in the production area.

The committee should prescribe, with the approval of the Secretary, rules necessary to prevent oranges handled for any of the exempted purposes from entering into regulated channels of trade and thereby tending to defeat the objective of the program.

(j) Handlers should be required to submit certain reports to the committee so that it will have available information necessary for administering the program. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden.

Each handler should be required to file with the committee each week information with respect to the total quantities of all oranges disposed of by him during the previous week, segregated into the quantities for manufacture into by-products, for export, to persons on relief, parcel post or express, and otherwise disposed of. The quantities diverted to other than regulated channels should show the destination of each such diversion, because such reports are needed to ascertain whether the regulatory measures of the marketing agreement and order are being properly complied with. In addition, such information is of value for use in appraising the marketing picture and in recommending future regulations.

Handlers should be required to furnish to the comittee data indicating the sizes of oranges shipped each day of shipment during the marketing season. This information is necessary to ascertain whether the size regulations issued pursuant to the program are being properly complied with. Prompt reporting of such information is necessary for the efficient administration of size regulations. In the event the size regulation is not in effect, such information is necessary to determine whether or not size regulation should be recommended by the committee to the Secretary.

Upon the request of the committee, approved by the Secretary, handlers should furnish such other reports and information as the committee needs to perform its functions under the marketing agreement and order. It is impossible to anticipate every type of report, or kind of information, which the committee may need in administering the program; but it should have the authority to obtain such reports and information if needed. Reports furnished to the committee should be submitted in such manner and upon such forms as may be designated by the committee. It is impractical to specify such reporting procedures in the marketing agreement and order, because changing conditions may warrant changes in the forms or methods of reporting to the committee.

(k) Except as provided in the marketing agreement and order, no handler should be permitted to handle Valencia oranges grown in the production area, the handling of which is prohibited pursuant to the marketing agreement and order, and no handler should be permitted to handle such oranges except in conformity with the marketing agreement and order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry

measured by the proportion of oranges handled by him, would be demoralizing to other handlers and would tend to impair operation of the program.

(1) The provisions of §§ 922.81 through 922.90, as hereinafter set forth, are, except as indicated below with respect to § 922.83 (c), provisions similar to those which are included in other marketing agreements and orders now operating. The provisions of § 922.91 through § 922.93, as hereinafter set forth, are also included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and are necessary to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and order, identified by both section number and heading, are as follows: § 922.81 *Right of the Secretary;* § 922.82 *Effective time;* § 922.83 *Termination;* § 922.84 *Proceedings after termination;* § 922.85 *Effect of termination or amendment;* § 922.86 *Duration of immunities;* § 922.87 *Agents;* § 922.88 *Derogation;* § 922.89 *Personal liability;* and § 922.90 *Separability.*

Those provisions which are applicable to the proposed marketing agreement only, identified by both section number and heading, are as follows: § 922.91 *Counterparts;* § 922.92 *Additional parties;* and § 922.93 *Order with marketing agreement.*

In addition to the basis for termination of the marketing agreement and order contained in § 922.83 (a), (b), and (d) thereof, termination of the program should be required at the end of any marketing year, whenever the Secretary finds that continuation of the marketing agreement and order is not favored by producers, provided notice is given prior to January 15 of the marketing year. The act contains special provisions with respect to producer approval of the issuance of a marketing order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits. The record indicates that successful operation of this program so as to effectuate the purposes of the act requires the same degree of producer support as that required for the issuance of the program. Accordingly, continuance of the marketing agreement and order after issuance thereof should be determined by the same percentage of producer approval as is required for the initiation of the marketing agreement and order.

In connection with such determination, the Secretary should conduct prior to December 15, 1956, and prior to December 15 of each even-numbered year thereafter, a referendum to ascertain whether continuance of the marketing agreement and order is desired by producers. Such procedure should contribute to the effectiveness of the program, because it would provide producers with a regular opportunity to express approval of the operations of the program, and thereby compel awareness of producer interest in the administration of the provisions of the program by the committee.

As heretofore stated, the seasonal average price to producers of Valencia oranges grown in the production area for the 1952 crop of such oranges has not as yet been determined, but the record shows that it will be considerably below parity. It is anticipated that the seasonal average price to producers for the 1953 crop of Valencia oranges grown in the production area will not exceed the prescribed parity level.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to Valencia oranges grown in the production area by establishing and maintaining such orderly marketing conditions therefor as will tend to establish parity prices to producers thereof and protect the interests of consumers by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumer demand; and (b) by authorizing no action which has for its purpose the maintenance of prices to the producers of such oranges above the level which it is declared in the act to be the policy to establish;

(2) Such marketing agreement and order regulate the handling of Valencia oranges grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of Valencia oranges covered thereby; and

(5) All handling of Valencia oranges, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Rulings on proposed findings and conclusions. December 31, 1953, was set by the Presiding Officer at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No briefs were filed.

Recommended marketing agreement and order. The following proposed marketing agreement and order [1] are recommended as the detailed means by which the aforesaid conclusions may be carried out:

DEFINITIONS

§ 922.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be authorized to exercise the powers and perform the duties of the Secretary of Agriculture of the United States.

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

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

§ 922.4 *Production area.* "Production area" means the State of Arizona and that part of the State of California south of the 37th Parallel.

§ 922.5 *Oranges.* "Oranges" means any and all strains of the Valencia variety of oranges grown in the production area.

§ 922.6 *Fiscal year.* "Fiscal year" means the twelve-month period ending October 31 of each year: *Provided, however,* That the initial fiscal year shall begin with the effective date of this part and end October 31, 1954.

§ 922.7 *Marketing year.* "Marketing year" means the twelve-month period ending January 31 of each year.

§ 922.8 *Committee.* "Committee" means the Valencia Orange Administrative Committee established pursuant to § 922.20.

§ 922.9 *Grower.* "Grower" and "producer" are synonymous and mean any person who produces oranges for market.

§ 922.10 *Handler.* "Handler" means any person who handles oranges.

§ 922.11 *Handle.* "Handle" means to buy, sell, consign, transport, or ship oranges (except as a common or contract carrier of oranges owned by another person), or in any other way to place oranges in the current of commerce, between the State of California and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of Arizona. The term "handle" does not include (a) the sale of oranges on the tree; (b) the transportation of oranges to a packinghouse for the purpose of having such oranges prepared for market and such preparation for market; (c) the transportation of oranges for storage within

[1] The provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed order.

the production area under such rules and regulations as the committee, with the approval of the Secretary, may prescribe; or (d) the sale of oranges at retail by a person in his capacity as such retailer.

§ 922.12 *Oranges available for current shipment.* "Oranges available for current shipment" means all oranges as measured by the tree crop.

§ 922.13 *Tree crop.* "Tree crop" means the total quantity of oranges on the trees as determined by the committee.

§ 922.14 *Early maturity oranges.* "Early maturity oranges" means any oranges that have reached maturity, as measured by applicable State laws, in advance of general maturity in the same prorate district.

§ 922.15 *General maturity.* "General maturity" shall have been reached in any prorate district at such time as the committee determines that allotment shall be distributed to all handlers in such prorate district.

§ 922.16 *Box.* "Box" means a standard two-compartment orange box, as defined in section 828.83 of the Agricultural Code of California, of a capacity of approximately 77 pounds of oranges, or such other container and weight as may be established by the committee with the approval of the Secretary, or the equivalent thereof.

§ 922.17 *Central marketing organization.* "Central marketing organization" means any organization which markets oranges for more than one handler pursuant to a written contract between such organization and each such handler.

§ 922.18 *Carload.* "Carload" means a quantity of oranges equivalent to 462 boxes of oranges or such other quantity of oranges as may be established by the committee with the approval of the Secretary.

§ 922.19 *Export.* "Export" means to ship oranges to points outside the continental United States, Canada, and Alaska.

ADMINISTRATIVE BODY

§ 922.20 *Establishment and membership.* There is hereby established a Valencia Orange Administrative Committee consisting of eleven members; for each of whom there shall be an alternate member who shall have the same qualifications as the member for whom each is an alternate. Six of the members and their respective alternates shall be growers who shall not be handlers, or employees of handlers, or employees of central marketing organizations. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and the alternate of such member shall be persons possessing the qualifications provided in paragraph (f) of § 922.22. The six members of the committee who shall be growers and who shall not be handlers, or employees of handlers, or employees of central marketing organizations are hereinafter referred to as "grower" members of the committee and the four members who shall be handlers, or employees of handlers, or employees of central marketing organizations are hereinafter referred to as "handler" members of the committee.

§ 922.21 *Term of office.* The term of office of each initial member and alternate member of the committee shall begin with the effective date of this part and shall terminate on January 31, 1956. The term of office of each subsequent member and alternate member of the committee shall be for a period of two marketing years, and such terms shall begin on February 1 of each even-numbered year: *Provided*, That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified.

§ 922.22 *Nominations.* (a) The time and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of oranges handled during the marketing year in which nominations for members and alternate members of the committee are submitted (except that the marketing year for initial nominations shall be the year beginning February 1, 1953 and ending January 31, 1954), shall nominate three grower members, three alternate grower members, two handler members, and two alternate handler members.

(c) All cooperative marketing organizations which market oranges and which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, one handler member, and one alternate handler member.

(d) All growers who are not affiliated with a cooperative marketing organization which markets oranges shall nominate one grower member, one alternate grower member, one handler member, and one alternate handler member.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of himself, his agents, subsidiaries, affiliates, and representatives. The votes of cooperative marketing organizations voting pursuant to paragraph (c) of this section shall be weighted in accordance with the volume of oranges handled during the marketing year in which such nominations are made, except that the marketing year for initial nominations shall be the year beginning February 1, 1953, and ending January 31, 1954.

(f) The members of the committee selected by the Secretary pursuant to § 922.23 shall meet on a date designated by the Secretary and, by a concurring vote of at least six members, shall nominate a member and an alternate member of the committee, which persons shall not be growers or handlers, or employees, agents, or representatives of a grower or handler (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization.

§ 922.23 *Selection.* From the nominations made pursuant to § 922.22 (b) or from other qualified growers and handlers the Secretary shall select three grower members of the committee and an alternate to each of such grower members; also two handler members of the committee and an alternate to each of such handler members. From the nominations made pursuant to § 922.22 (c) or from other qualified growers and handlers the Secretary shall select two grower members of the committee and an alternate to each of such grower members; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 922.22 (d) or from other qualified growers and handlers the Secretary shall select one grower member of the committee and an alternate to such grower member; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 922.22 (f) or from other qualified persons the Secretary shall select one member of the committee and an alternate to such member.

§ 922.24 *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 922.22 (a), the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 922.23.

§ 922.25 *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 922.26 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify or in the event of death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor to the unexpired term of such member or alternate member of the committee shall be selected by the Secretary from nominations made in the manner specified in § 922.22 or from other qualified persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within fifteen days after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 922.23.

§ 922.27 *Alternate members.* An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member: *Provided*, That a member may designate an alternate member other than his own alternate member to serve in the place and stead of such member, if the alternate member so designated was selected from the same group which

was authorized to nominate the member. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

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

(a) To administer the provisions of this part in accordance with its terms;

(b) To make and adopt rules and regulations to effectuate the terms and provisions of this part;

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

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

§ 922.29 *Duties.* The committee shall have the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a monthly statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a certified public accountant at least once each fiscal year, and at such other times as the Secretary may request;

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

(h) To provide an adequate system for determining the total quantity of oranges available for current shipment, and to make such determinations, including determinations by grade, size, and maturity conditions, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(i) To investigate the growing, handling, and marketing conditions with respect to oranges, and to assemble data in connection therewith;

(j) To submit to the Secretary such available information, including verified reports, as he may request;

(k) To notify producers and handlers of meetings of the committee to consider recommendations for regulation;

(l) To consult with such representatives of growers or groups of growers as may be deemed necessary and to pay the travel expenses incurred by such representatives in attending committee meetings at the request of the committee: *Provided*, That the committee shall not pay the travel expenses of more than three such representatives in connection with any one meeting of the committee:

(m) To investigate compliance with the provisions of this part; and

(n) With the approval of the Secretary, to reapportion the number of grower members or handler members on the Valencia Orange Administrative Committee who are nominated pursuant to paragraphs (c) and (d) of § 922.22. Any such changes shall be based, insofar as practicable, upon the proportionate amount of Valencia oranges handled by the respective types of marketing organizations, provided that each of the grower groups described in paragraphs (c) and (d) of § 922.22 shall be entitled to nominate at least one grower and one handler member together with their respective alternates.

§ 922.30 *Procedure.* (a) A majority of the committee shall constitute a quorum; and any action of the committee shall require at least six concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication; and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

§ 922.31 *Expenses and compensation.* The members of the committee, and their respective alternates when acting as members, shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties under this part and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $10 per day or portion thereof spent in performing such duties.

§ 922.32 *Annual review and meeting.* The committee shall, prior to December 15 of each marketing year, prepare and mail an annual report to the Secretary and to each handler and grower of record. This annual report shall contain at least: (a) A complete review, by prorate districts, of the regulatory operations during the marketing year, as conducted under the marketing policy established pursuant to § 922.50 (a); (b) an appraisal of the effect of such regulatory operations upon the competitive status of the Valencia orange industry; (c) recommendations for changes in the program; and (d) notice of the time and place of an open meeting, to be held prior to January 31, to review the whole record of the operations of this part.

EXPENSES AND ASSESSMENTS

§ 922.40 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds may be necessary to enable the committee to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ 922.41 *Assessments.* (a) Each person who first handles oranges shall, with respect to the oranges so handled by him, pay to the committee, upon demand, such person's pro rata share of the expenses which the Secretary finds are necessary during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of such oranges handled by him as the first handler thereof during the applicable fiscal year, and the total quantity of such oranges so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all oranges handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance, and may borrow money in any amount not to exceed 10 percent of the estimated expenses set forth in its budget for the then current fiscal year.

(c) The committee may, with the approval of the Secretary, maintain a suit in its own name, or in the names of its members, to enforce the payment of assessments levied under this section.

§ 922.42 *Accounting.* (a) If, at the end of a fiscal year, the assessments collected are in excess of the expenses incurred, each person entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year. Any handler may demand payment of such a refund, and the refund shall be paid to him: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part, and shall be accounted for in the manner provided in this part. The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

REGULATION

§ 922.50 *Marketing policy.* (a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) available

supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers. The committee shall give notice to growers by publication of notice of such meetings in such newspapers as they deem appropriate and shall advise all handlers by mail of such meetings.

(c) The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 922.51 *Recommendations for volume regulation.* (a) The committee may recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district. If, for any reason, the committee recommends the issuance of volume regulation but fails to recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district, reports representing the respective views of the committee members with respect to its failure to act shall be submitted to the Secretary.

(b) In making its recommendations, the committee shall give due consideration to the following factors: (1) Market prices for oranges, including market prices by grades and sizes; (2) supply of oranges on track at, and en route to, the principal markets; (3) supply, maturity, and condition of oranges in the area of production, including the grade and size composition thereof; (4) market prices and supplies of citrus fruits from California, Arizona, and competitive producing areas, and supplies of other competitive fruits; (5) trend and level in consumer income; and (6) other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 922.52, has fixed the quantity of oranges which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary.

§ 922.52 *Issuance of volume regulation.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled in each prorate district during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity. The quantity so fixed may be increased by the Secretary at any time during such week.

§ 922.53 *Prorate bases.* (a) Each person who has oranges available for current shipment and who desires to handle such oranges, shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this part.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least (1) the name and address of the producer or duly authorized agent, if any, for each grove or portion thereof, the fruit of which is included in the quantity of oranges available for current shipment by the applicant; (2) an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein; and (3) an estimate of the total quantity of oranges available for current shipment by the applicant in terms of the unit of measure designated by the committee.

(c) Such application shall include only such oranges available for current shipment which the applicant controls (1) by a bona fide written contract giving the applicant authority to handle such oranges, or (2) by having legal title or possession thereof, or (3) by having executed a bona fide written agreement to purchase such oranges. If an applicant controls oranges pursuant to subparagraphs (1) or (3) of this paragraph, he shall submit a copy of each type of such contract or agreement to the committee, together with a statement that no other types of contracts or agreements are used, and shall maintain a file of all original contracts evidencing such control which shall be subject to examination by the committee.

(d) If the quantity of oranges available for current shipment by any person is increased or decreased by the acquisition or loss of the control required by paragraph (c) of this section, such person shall submit promptly a report thereon to the committee upon forms made available by it, which report shall be verified in such manner as the committee may require.

(e) If any person gains or loses the control of oranges required by paragraph (c) of this section, there shall be a corresponding increase or decrease in the quantity of oranges available for current shipment by such person. If it is determined by the committee that any person who has lost the control of oranges required by paragraph (c) of this section has handled a quantity of such oranges less than the quantity that could have been handled under the allotments issued thereon, the quantity of oranges available for current shipment by such person shall be adjusted by deducting therefrom, over such period as may be determined by the committee, a quantity of oranges equivalent to the quantity upon which allotments were issued but which were not utilized thereon.

(f) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of oranges available for current shipment than that to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, or inaccuracy.

(g) Each week during the marketing season when volume regulation is likely to be recommended the committee shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments. On the basis of such computation, the committee shall fix a prorate base for each person who is entitled thereto. Such prorate base shall represent the ratio between the total quantity of oranges available for current shipment in the particular prorate district by such applicant and the total quantity of oranges available for current shipment in such district by all such applicants. The committee shall notify the Secretary of the prorate base fixed for each person and shall notify each such person of the prorate base fixed for him.

§ 922.54 *Allotments.* Whenever the Secretary has fixed the quantity of oranges which may be handled during any week in a prorate district, the committee shall calculate the quantity of oranges which may be handled by each person during such week. The said quantity shall be the allotment of such person and shall be in an amount equivalent to the product of the prorate base for such person and the total quantity of oranges grown in such prorate district and fixed by the Secretary as the total quantity of oranges which may be handled during such week. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this part.

§ 922.55 *Overshipments.* During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment and is not required to reduce the quantity of oranges which he may handle during such week, as provided in this section, or whose total allotment is not required for the repayment of an allotment loan, may handle in addition to his allotment an amount of such oranges equivalent to 10 percent of his allotment or one carload of oranges, whichever is greater. The quantity of oranges so handled in excess of such person's allotment (but not exceeding an

amount equivalent to the excess shipments permitted under this section) shall be deducted from such person's allotment for the next week. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That no overshipment incurred during a marketing year shall be deducted from allotments issued during the following marketing year.

§ 922.56 *Undershipments.* If any person handles during any week a quantity of oranges, covered by a regulation issued pursuant to § 922.52, in an amount less than his allotment of oranges for such week, he may handle, in addition to his allotment for the next week only, a quantity of such oranges equivalent to such undershipment.

§ 922.57 *Allotment loans.* (a) A person to whom allotments have been issued, whether under the provisions of early maturity, short life, or general maturity, may lend such allotments to other persons within the same prorate district to whom allotments have also been issued: *Provided*, That allotments issued under the short life provisions of this part may be loaned only to other persons to whom such allotments have also been issued. Such loans shall be confirmed to the committee by both parties thereto within 48 hours after any such agreement has been entered into, and such agreements shall include a date for the repayment of such allotments to the lender during the then current marketing year. If, on the date of repayment specified in the loan agreement, the borrower has insufficient allotment to repay such loan, he shall repay such loan as soon after the repayment date as he has allotments available to him for that purpose: *Provided*, That no loans made during a marketing year shall be required to be repaid from allotments issued during the following marketing year.

(b) The committee may act on behalf of persons desiring to arrange allotment loans. In each case, the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to a confirmation of the loan agreement to the committee.

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section for use only during the week for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the week in which the repayment is made.

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after the repayment thereof.

§ 922.58 *Assignment of allotment certificates.* In connection with all handling of oranges other than shipments by rail car, each handler who first handles oranges shall at the time of handling issue to the consignee thereof, or his agent, an assignment of allotment certificate covering each quantity of oranges so handled. Such assignment of allotment certificate shall be on such forms and shall be issued in such manner as prescribed by the committee and shall contain such information as the committee may require.

§ 922.59 *Priority of allotments.* During any week in which a person receives an allotment, and has the right to handle a quantity of oranges in addition to the quantity represented by his allotment, by reason of (a) an undershipment of an allotment, pursuant to § 922.56; or (b) the repayment of a loaned allotment, pursuant to § 922.57; or (c) a borrowed allotment, pursuant to § 922.57; and such person handles a quantity of oranges which is less than the total quantity of such oranges which such person may handle during such week, the amount of such oranges handled shall first apply to such person's current weekly allotment (or to that portion which is not used pursuant to § 922.55 or § 922.57). The remainder, if any, shall be applied in the following order; second, to any undershipment of allotments, pursuant to § 922.56; third, to any allotment repaid to him, pursuant to § 922.57; fourth, to any allotment borrowed, pursuant to § 922.57.

§ 922.60 *Early maturity allotments.* Notwithstanding the provisions of § 922.54 the committee shall, prior to the reaching of general maturity, issue special allotments for the handling of early maturity oranges. Handlers controlling early maturity oranges may apply to the committee for such allotments on forms prescribed by the committee and shall furnish to the committee such information as it may require. On the basis of all available information and after consideration of all of the factors enumerated in § 922.51 (b), the committee shall determine the extent to which early maturity allotment shall be granted. Total early maturity allotments approved by the committee for each prorate district shall be distributed to all handlers who qualify therefor in proportion to the quantity requested by each handler in his application: *Provided, however*, That early maturity allotments issued to any handler prior to the reaching of general maturity shall not permit the handling of a larger share of the oranges available for current shipment controlled by such handler than the share of oranges available for current shipment in the prorate district estimated to be allotted to all handlers in the utilization schedule established by the committee at the beginning of the season. Early maturity allotments may be loaned only to handlers to whom early maturity allotments have been granted. Upon the reaching of general maturity, allotments issued for early maturity oranges shall be offset or repaid by reducing the oranges available for current shipment of each handler who has received early maturity allotments by the quantity of oranges for which early maturity allotments were issued him, plus his proportionate share of the quantity of oranges that will be used for by-products and elimination in his prorate district. Such proportionate share shall be based upon the utilization schedule established by the committee at the beginning of the season. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Allotments issued and allocated under this section shall be on a prorate district basis.

§ 922.61 *Short life allotments.* Notwithstanding the provisions of § 922.54 the committee shall withhold from the allotment of handlers on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers controlling oranges of short life to handle during the normal marketing period of such short life oranges as large a proportion of oranges as the average which will be handled by all handlers. Handlers controlling oranges of short life may apply for such withheld allotment, and such application shall be made on forms supplied by the committee and shall be accompanied by information necessary to permit the committee to determine the validity of such applicant's claim to allotment. The committee shall determine, on the basis of all available information, the extent to which a handler needs allotment under the provisions of this section and pursuant to such determination shall allocate such allotment to such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of his short life oranges. Such determination and allotment issued pursuant thereto shall not permit a handler to receive more allotment proportionately than the average allotment to be issued to all handlers of oranges. After a handler of short life oranges has received allotment sufficient to make the total allotment issued to him equal proportionately to the average allotment to be issued to all handlers of oranges, allotment thereafter due such handler of short life oranges shall be allocated to handlers from whom allotment has been withheld. Short life allotments may be used only in the handling of short life oranges. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Allotments issued and allocated under this section shall be on a prorate district basis.

§ 922.62 *Information to central marketing organizations.* The committee shall give any central marketing organization, upon its request, the same notice with respect to prorate bases and allotments applicable to each handler for whom it markets oranges as is given to such handler.

§ 922.63 *Recommendations for size regulation.* (a) Whenever the committee finds that the supply and demand conditions for sizes of oranges make it advisable to regulate the handling of sizes of oranges during any period, it shall recommend to the Secretary the sizes of oranges grown in each prorate district which it deems advisable to be handled during said period. The com-

mittee shall promptly submit such findings and recommendations, together with supporting information to the Secretary.

(b) In making its recommendations the committee shall give due consideration to the factors referred to in § 922.51 (b).

§ 922.64 *Issuance of size regulation.* Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of oranges grown in any prorate district or districts by sizes would tend to effectuate the declared policy of the act, he shall fix the sizes of oranges grown in each such prorate district which may be handled during the specified period. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers.

§ 922.65 *Exemptions from size regulation.* In the event the handling of oranges is limited pursuant to § 922.64, the committee shall issue one or more exemption certificates to any producer who furnishes evidence satisfactory to the committee that he will be prevented by reason of such regulation from having as large a proportion of his oranges handled as the average proportion of oranges which may be handled by all other producers in the same prorate district. Such exemption certificate shall permit the respective producer to whom the certificate is issued to handle or have handled a percentage of his oranges equal to the percentage determined as aforesaid. Shipments of oranges under exemption certificates issued pursuant to this section shall be subject to and limited by such regulations as may be effective under § 922.52 at the time of the respective shipment. The committee shall adopt, with the approval of the Secretary, procedural rules by which such exemption certificates will be issued to producers. Such exemption certificates may be transferred to handlers when accompanied by oranges covered by such certificates.

§ 922.66 *Prorate districts.* For purposes of administration of this part and in recognition of the fact that there are general differences in maturity and keeping quality of oranges between certain geographical sections of the production area, the production area shall be divided in three prorate districts as follows:

(a) District 1 shall include that portion of the State of California which is north of the 35th Parallel and south of the 37th Parallel.

(b) District 2 shall include that portion of the State of California which is south of the 35th Parallel, but shall exclude Imperial County and that area in Riverside and San Bernardino counties situated east of a line due north and south through White Water, California.

(c) District 3 shall include the State of Arizona, Imperial County, California, and that area in Riverside and San Bernardino Counties, California, situated south of the 35th Parallel and east of a line due north and south through White Water, California.

§ 922.67 *Oranges not subject to regulation.* Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of any person to: (a) Handle oranges to charitable institutions for consumption by such institutions or for distribution by relief agencies; (b) handle oranges to commercial processors for processing into products, including juice; (c) export oranges; (d) handle oranges by parcel post or by express; or (e) handle oranges in such minimum quantities or types of shipments as the committee may, with the approval of the Secretary, prescribe. No assessment shall be levied pursuant to § 922.41 on oranges disposed of for any of the purposes specified in this section. The committee shall prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as it may deem necessary to prevent oranges disposed of under the provisions of this section from entering into commercial channels of trade contrary to or in violation of this part.

REPORTS

§ 922.70 *Weekly report.* On or before such day of each week as may be designated by the committee, each handler shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to the total of all oranges disposed of by each such handler during the immediately preceding week: (a) The total quantity handled; (b) the total quantity disposed of for manufacture into by-products, showing the identity of each by-product processor involved and the quantity of each; (c) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (d) the total quantity shipped for disposition to persons on relief, including quantities donated for charitable purposes; (e) the total quantity shipped by parcel post or express, showing the destination and quantity of each such shipment; and (f) the total quantity disposed of otherwise, showing the manner and quantity of each such disposition.

§ 922.71 *Manifest report.* Each handler shall furnish to the committee information regarding the size of oranges in each box handled by such handler and shall mail or deliver such information to said committee or its duly authorized representative within 24 hours after shipment is made in such manner as the committee shall prescribe and upon forms prepared by it.

§ 922.72 *Other reports.* Upon request of the committee, made with the approval of the Secretary, every person subject to regulation under this part shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as will enable the committee to perform its duties under this part.

MISCELLANEOUS PROVISIONS

§ 922.80 *Compliance.* Except as provided in this part, no person shall handle oranges during any week in which a regulation issued by the Secretary pursuant to § 922.52 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

§ 922.81 *Right of the Secretary.* The members of the committee (including successors and alternates), and all agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary. If the committee, for any reason, fails to perform its duties or exercise its powers under this part, the Secretary may designate another agency to perform such duties and exercise such powers.

§ 922.82 *Effective time.* The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 922.83.

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

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) (1) The Secretary shall terminate the provisions of this part at the end of any marketing year, whenever he finds that continuance is not favored by producers; but such termination shall be effective only if announced on or before January 15 of the then current marketing year.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged, within the production area in the production of Valencia oranges for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of Valencia oranges produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determina-

tion, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of Valencia oranges produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(3) The Secretary shall, prior to December 15, 1956, conduct a referendum to ascertain whether continuance of this part is favored by the producers. The Secretary shall conduct such a referendum prior to December 15 of each even-numbered year thereafter.

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

§ 922.84 *Proceedings after termination.* (a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and (3) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 922.85 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

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

§ 922.87 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency 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 part.

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

§ 922.89 *Personal liability.* No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

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

§ 922.91 *Counterparts.* This agreement may be executed in multiple counterparts, and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 922.92 *Additional parties.* After the effective date hereof, any handler may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 922.93 *Order with marketing agreement.* Each contracting handler hereby requests the Secretary to issue, pursuant to the act, an order regulating the handling of oranges by all handlers in the same manner as is provided herein.*

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 2d day of February 1954.

[SEAL] ROY W. LENNARTSON, *Deputy Administrator.*

[F. R. Doc. 54-841; Filed, Feb. 4, 1954; 8:56 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 141, 187]

[No. 31450]

FREIGHT SCHEDULES AND FREIGHT RATE TARIFFS, SCHEDULES AND CLASSIFICATIONS

RULES AND CHARGES FOR ACCESSORIAL SERVICES BY RAIL AND MOTOR CARRIERS

In the matter of regulations governing the separation of charges for protection against the weather, such as heating, icing, and refrigeration, from the line-haul rates or charges.

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 22d day of January A. D. 1954.

It appearing, that there is a need for revision of the regulations governing special services contained in Rule 10 of Tariff Circular No. 20 (49 CFR 141.10); Rule 8 of Tariff Circular MF No. 2 (49 CFR 187.8); and Rule 11 of Tariff Circular MF No. 3 (49 CFR 187.35), which were prescribed under sections 6, 217, and 218 of the Interstate Commerce Act, and good cause appearing:

It is ordered, That pursuant to section 4 (a) of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1003), notice is hereby given of the proposed revision of the tariff rules and regulations §§ 141.10, 187.8, and 187.35, so as to read as follows:

1. Proposed amendment to Rule 10 (a) of Tariff Circular No. 20:

§ 141.10 *Terminal and special services; distance and mileage rates*—(a) *Terminal and special services.* (1) Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear, plain, and specific form and terms all the rules governing and rates and charges for demurrage, switching, floating, lighterage, wharfage, and other terminal services, storage, transfer and drayage, weighing, diversion, reconsignment, icing, refrigeration, heat elevation, feeding, grazing, and other transit services, absorptions, allowances, and all other services which are not part of line-haul transportation and for which compensation is not included in line-haul rates. Tariffs authorizing such services, or providing charges therefor or for the absorption of such charges, must clearly show their application in connection with traffic moving under less-than-carload or any quantity rates.

(2) *Protective service.* Rates, charges, rules, and regulations, covering protective service against the weather such as heating, icing, and refrigeration shall be stated separately and apart from line-haul charges.

NOTE: This paragraph shall not be construed as exempting charges for other accessorial or special services from the requirement of being published separately from the line-haul rates.

2. Proposed amendment to Rule 8 of Tariff Circular MF No. 2: Paragraph

(p) (8) reading as follows is added thereto:

§ 187.8 *Form and contents of schedules.* * * *

(p) *Tables of minimum rates or charges.* * * *

(8) Minimum rates and charges, and rules and regulations covering protective service against the weather such as heating, icing, and refrigeration shall be stated separately and apart from line-haul charges.

NOTE: This paragraph shall not be construed as exempting charges for other accessorial or special services from the requirement of being published separately from the line-haul rates.

3. Proposed amendment to Rule 11 (a) of Tariff Circular MF No. 3:

§ 187.35 *Terminal and special services*—(a) *Terminal and special services.* (1) Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear and explicit terms all of the rates and charges for and rules governing detention of vehicles, storage, weighing, diversion, reconsignment, icing, refrigeration, heat, C. O. D. services, transit services, absorptions, allowances, and other terminal services, and all other services which are not part of line-haul transportation and for which compensation is not included in line-haul rates. Tariffs authorizing such services, or providing charges therefor, shall clearly show their application.

(2) *Protective service.* Rates, charges, rules, and regulations covering protective service against the weather such as heating, icing, and refrigeration shall be stated separately and apart from line-haul charges.

NOTE: This paragraph shall not be construed as exempting charges for other accessorial or special services from the requirement of being published separately from the line-haul rates.

It is further ordered, That the respondents herein and other interested parties may file, on or before April 12, 1954, with this Commission, written statements containing data, views, or arguments concerning the proposed revised rules covering said protective service against the weather, such as heating, icing, and refrigeration.

It is further ordered, That any written statements filed as provided in the next preceding paragraph shall conform to the specifications provided in Rule 15 of this Commission's general rules of practice and that an original signed copy and 5 additional copies shall be furnished for the use of the Commission.

It is further ordered, That no oral hearing be held with respect to the proposed regulations, but that, if deemed necessary or advisable, the matter may be assigned for informal conference at which those interested may discuss the proposed revised rules with designated officials of this Commission, and if deemed necessary or advisable assigned for oral argument before this Division.

It is further ordered, That all carriers subject to section 6 and all motor common and contract carriers of property subject to sections 217 or 218 of the Interstate Commerce Act be, and they are hereby, made respondents to this proceeding.

And it is further ordered, That notice to the respondents and to the general public shall be given by depositing a copy in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Division of the Federal Register.

By the Commission, Division 2.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-831; Filed, Feb. 4, 1954; 8:53 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53426]

CERTAIN FISH

TARIFF-RATE QUOTA

JANUARY 27, 1954.

The tariff-rate quota for the calendar year 1954 on certain fish dutiable under paragraph 717 (b), Tariff Act of 1930, as modified pursuant to the General Agreement on Tariffs and Trade (T. D. 51802).

In accordance with the proviso to item 717 (b) of Part I, Schedule XX, of the General Agreement on Tariffs and Trade (T. D. 51802), it has been ascertained that the average aggregate apparent annual consumption in the United States of fish, fresh or frozen (whether or not packed in ice), filleted, skinned, boned, sliced, or divided into portions, not specially provided for: Cod, haddock, hake, pollock, cusk, and rosefish, in the three years preceding 1954, calculated in the manner provided for in the cited agreement, was 226,335,907 pounds. The quantity of such fish that may be imported for consumption during the calendar year 1954 at the reduced rate of duty established pursuant to that agreement is, therefore, 33,950,386 pounds. (343.3)

[SEAL] D. B. STRUBINGER, *Acting Commissioner of Customs.*

[F. R. Doc. 54-835; Filed, Feb. 4, 1954; 8:54 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.168, as amended June 2, 1952, 17 F. R. 3818).

B. & F. Manufacturing Co., Inc., Mocksville, N. C., effective 2-16-54 to 2-15-55; 10 learners for normal labor turnover purposes (sport shirts).

Barnesville Manufacturing Co., Inc., 315-319 South Gardner Street, Barnesville, Ohio, effective 1-25-54 to 1-24-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (ladies' pajamas).

Barry Bob Sportswear Co., 144 East Blaine Street, McAdoo, Pa., effective 1-21-54 to 1-20-55; 5 learners for normal labor turnover purposes. (Learners are not authorized to be employed at subminimum wage rates in the production of skirts.) (Ladies' shorts and peddlepushers.)

Bobanok Corp., 111 Garrison Avenue, Fort Smith, Ark., effective 1-22-54 to 1-21-55; 10 learners for normal labor turnover purposes (misses' and ladies' blouses and dresses, etc.).

Cal-Crest Outerwear, Inc., 17 North Fourteenth Street, Murphysboro, Ill., effective 1-23-54 to 1-22-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' jackets).

Campus Shirt Co., Barnesville, Ohio, effective 1-23-54 to 1-22-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts).

Candy Frocks, 945 South Main Street, Old Forge, Pa., effective 1-22-54 to 1-21-55; 5 learners for normal labor turnover purposes (dresses).

City Shirt Co., 19-21 West Vine Street, Mahanoy City, Pa., effective 1-25-54 to 1-24-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts, blouses, etc.).

Clairmont, Inc., 2114 Peachtree Road NW., Atlanta, Ga., effective 1-20-54 to 1-19-55; 10 learners for normal labor turnover purposes (slips and gowns).

Don Juan Manufacturing Co., Hertford, N. C., effective 1-22-54 to 1-21-55; 10 learners for normal labor turnover purposes (sport shirts).

Evergreen Garment Co., Inc., 306 Martin Street, Evergreen, Ala., effective 1-22-54 to 1-21-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts).

Eastwill Sportswear Co., Inc., Greenwood, S. C., effective 2-2-54 to 2-1-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts).

Hartsville Garment Corp., Gallatin Road, Hartsville, Tenn., effective 1-22-54 to 1-21-55; 10 learners or 10 percent of the total number of factory production workers, whichever is greater (sport shirts).

Joseph Horowitz & Sons, Inc., 43 Liberty Street, Batavia, N. Y., effective 1-19-54 to 1-18-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (work shirts).

J. B. C. Co. of Madera, Madera, Pa., effective 1-26-54 to 7-25-54; 20 learners for expansion purposes (trousers).

J. B. C. Co. of Madera, Madera, Pa., effective 1-26-54 to 1-25-55; 10 learners for normal labor turnover purposes (trousers).

Jersey Shore Manufacturing Corp., 148 South Main Street, Jersey Shore, Pa., effective 1-26-54 to 1-25-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's pajamas, sport shirts, etc.).

Karman Manufacturing Co., Demorest, Ga., effective 1-22-54 to 1-21-55; 10 learners for normal labor turnover purposes (men's shirts).

Karman Manufacturing Co., Demorest, Ga., effective 1-22-54 to 7-21-54; 10 learners for plant expansion purposes (men's shirts).

Lafayette Pants Corp., 401 Lafayette Boulevard, Fredericksburg, Va., effective 2-5-54 to 2-4-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (trousers).

Lenoir Shirt Co., 501 East Caswell Street, Kinston, N. C., effective 1-22-54 to 1-21-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts).

Major Shirt Corp., 1106 Cunnius Street, Freeland, Pa., effective 1-18-54 to 1-17-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport jackets).

Mount Airy Pants Factory, Mount Airy, Md., effective 1-23-54 to 1-22-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (work pants).

The Mountain-Top Co., 220 South Church Street, Hendersonville, N. C., effective 1-21-54 to 1-20-55; 10 learners for normal labor turnover purposes (misses' and children's playwear).

Oshkosh B'Gosh Inc., Celina Division, Celina, Tenn., effective 2-1-54 to 7-30-54; 75 learners for expansion purposes (work pants and shirts).

Ottenheimer Bros. Manufacturing Co., Inc., Victory at Second Streets, Little Rock, Ark., effective 2-12-54 to 2-11-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (dresses, uniforms, aprons, etc.).

Phillips-Jones Factory, Brinkley, Ark., effective 1-25-54 to 7-24-54; 70 learners for expansion purposes (dress shirts).

Pleasant Hill Garment Co., Pleasant Hill, Ill., effective 1-20-54 to 1-19-55; 10 learners for normal labor turnover purposes (boys' and girls' sportswear).

Rival Dress Co., Inc., 110 West Blaine Street, McAdoo, Pa., effective 1-26-54 to 1-25-55; 10 learners for normal labor turnover purposes (dresses).

Rocket Manufacturing Co., Inc., 1000 Spring Street, Little Rock, Ark., effective 2-12-54 to 2-11-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (women's and misses' blouses and jackets).

Snelbaker Manufacturing Co., 17-19 East Simpson Street, Mechanicsburg, Pa., effective 2-11-54 to 2-10-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (work shirts and pants).

Ben Weisberg & Co., 54-56 North Main Street, Carbondale, Pa., effective 1-20-54 to 1-19-55; 10 percent of the total number of factory production workers for normal labor turnover purposes (children's dresses).

Wright Garment Co., Bowman, Ga., effective 1-20-54 to 1-19-55; 10 percent of the total number of production workers for normal labor turnover purposes (work pants).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as amended November 19, 1951, 16 F. R. 10733).

Acme Hosiery Dye Works, Inc., Pulaski, Va., effective 1-25-54 to 1-24-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Archer Mills, Inc., Columbus, Ga., effective 2-6-54 to 2-5-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Athens Hosiery Mills, Inc., Athens, Tenn., effective 1-25-54 to 1-24-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Crewe Hosiery Co., Inc., Crewe, Va., effective 1-25-54 to 1-24-55; 5 learners for normal labor turnover purposes.

Fieldcrest Hosiery Mill, Fieldale, Va., effective 1-25-54 to 1-24-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Virginia Maid Hosiery Mills, Inc., Pulaski, Va., effective 1-25-54 to 1-24-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Walnut Hosiery Mills, Inc., Fifth and Walnut Streets, Shamokin, Pa., effective 2-18-54 to 2-17-55; 5 learners for normal labor turnover purposes.

Wilkes Hosiery Mills Co., 401 F Street, North Wilkesboro, N. C., effective 1-25-54 to 1-24-55; 5 percent of the total number of factory production workers for normal labor turnover purposes.

Williamson Hosiery Mills, Inc., Athens, Tenn., effective 1-25-54 to 1-24-55; 5 learners for normal labor turnover purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

See-Gal Manufacturing Co., 220 Franklin Street, Johnstown, Pa., effective 2-1-54 to 1-31-55; 5 learners for normal labor turnover purposes. Machine operators (except cutting), 320 hours at 65 cents an hour (ladies' belts, covered buckles and covered buttons).

The following special learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning period and the learner wage rates are indicated, respectively.

Walden Hosiery Mills of Puerto Rico, Inc., Cindra, P. R., effective 1-15-54 to 7-14-54; 10 learners; inspecting, 240 hours at 30 cents an hour; mending, 240 hours at 30 cents an hour, 240 hours at 35 cents an hour; looping, knitting (transfer top); each 480 hours at 30 cents an hour, 480 hours at 35 cents an hour (infants' hosiery).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be canceled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 25th day of January 1954.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 54-824; Filed, Feb. 4, 1954; 8:52 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEVADA

SMALL TRACT CLASSIFICATION ORDER NO. 67, AMENDED

JANUARY 26, 1954.

Pursuant to the authority delegated to me by the Regional Administrator, Region II, Bureau of Land Management, by Order No. 1, Amendment No. 2, dated January 29, 1953 (18 F. R. 23), I hereby amend Small Tract Classification Order Nevada No. 67, issued February 16, 1951, to provide for sale of the tracts to lessees for homesite purposes, in accordance with the provisions of 43 CFR 257.13, as to the following-described lands at the appraised price of $10.00 per acre:

T. 23 S., R. 63 E., M. D. M.,
Sec. 26, W½NE¼NW¼, S½NW¼NW¼, E½SE¼NW¼.

E. I. ROWLAND,
Regional Chief, Division of Lands.

[F. R. Doc. 54-805; Filed, Feb. 4, 1954; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

ASSISTANT ADMINISTRATOR FOR LOAN OPERATIONS

DELEGATION AND ASSIGNMENT OF AUTHORITIES, POWERS, FUNCTIONS AND DUTIES RELATING TO LOAN OPERATIONS

Pursuant to authority contained in section 116 in Title 9 of the Administrative Regulations of the Department of Agriculture and in section 116 in the order of the Acting Secretary of Agriculture dated December 24, 1953 (19 F. R. 74), there are hereby delegated and assigned to the position of Assistant Administrator for Loan Operations, subject to the general direction and supervision of the Administrator, all authorities, powers, functions and duties that have been, and that hereafter may be, vested in the Secretary of Agriculture and delegated and assigned to the Administrator, with respect to the administration of the loan making and loan servicing functions of the following programs:

1. The farm ownership program (7 U. S. C. 1001).

2. The production and subsistence loan program (7 U. S. C. 1007).

3. The water facilities loan program (16 U. S. C. 590r-z).

4. The production disaster and economic disaster loan programs (12 U. S. C. 1148a).

5. The special livestock loan program (P. L. 115, 83d Congress).

6. The fur loan program (12 U. S. C. 1148a; P. L. 255, 83d Congress).

7. The orchard loan program (12 U. S. C. 1148a).

8. The farm housing program of loans and grants (42 U. S. C. 1471).

9. Liquidation and collection functions under the Farmers Home Administration Act of 1946, and under the act of April 6, 1949, abolishing the Regional Agricultural Credit Corporation of Wash Agricultural Credit Corporation of Washington, D. C., and servicing and collection functions with respect to loans made under the item "Loans to Farmers, 1948 Flood Damage", in the Second Deficiency Appropriation Act, 1948, and under the item "Loans to Farmers, Property Damage", in the First Deficiency Appropriation Act, 1949.

10. The exercise of such compromise, adjustment and cancellation authorities, functions, powers and duties vested in the Secretary of Agriculture under the act of December 20, 1944 (12 U. S. C. 1150), as may have applicability to the programs enumerated herein.

11. The disposal of such surplus real property under the jurisdiction of the Farmers Home Administration as the Secretary may be authorized to dispose of by the Administrator of the General Services Administration.

This order supersedes and revokes the order of the Administrator of the Farmers Home Administration dated August 31, 1953 (18 F. R. 5556).

Done at Washington, D. C., this 2d day of February 1954.

[SEAL] R. B. McLEAISH,
Administrator,
Farmers Home Administration.

[F. R. Doc. 54-842; Filed, Feb. 4, 1954; 8:56 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2222, G-2235, G-2243, G-2244, G-2271]

ALABAMA-TENNESSEE NATURAL GAS CO. ET AL.

NOTICE OF ORDER DISMISSING APPLICATION

FEBRUARY 1, 1954.

In the matters of Alabama-Tennessee Natural Gas Company, Docket No. G-2222; The Waterworks and Gas Board of the Town of Cherokee, Alabama, Docket No. G-2235; City of Russellville, Alabama, Docket No. G-2243; The Lawrence-Colbert Counties Gas District, Docket No. G-2244; Tennessee Gas Transmission Company, Docket No. G-2271.

Notice is hereby given that on January 29, 1954, the Federal Power Commission issued its order adopted January 27, 1954, in the above-entitled matters, dismissing application of The Waterworks and Gas Board of the Town of Cherokee, Alabama, Docket No. G-2235.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-806; Filed, Feb. 4, 1954; 8:48 a. m.]

[Docket No. G-2291]

PACIFIC GAS AND ELECTRIC CO.

ORDER FIXING DATE OF HEARING

This proceeding is a proper one for disposition under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure, Applicant having requested that its application, filed October 23 and supplemented December 28, 1953, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity to construct and operate certain facilities as described in said application, be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application including publication in the FEDERAL REGISTER on November 17, 1953 (18 F. R. 7283).

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on February 16, 1954, at 9:30 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the application: *Provided, however,* That the Commission may, after a noncontested hearing, forthwith dispose of the proceedings pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) 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.

Adopted: February 1, 1954.

Issued: February 1, 1954.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-823; Filed, Feb. 4, 1954; 8:52 a. m.]

[Docket No. G-2344]

EL PASO NATURAL GAS CO.

NOTICE OF APPLICATION

FEBRUARY 1, 1954.

Take notice that on December 28, 1953, El Paso Natural Gas Company, Applicant, a Delaware corporation, having its principal place of business at El Paso, Texas, filed 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 certain natural-gas facilities, namely, a main line tap and high pressure regulator, to be located on Applicant's 30-inch San Juan crossover line in Mohave County, Arizona. Such facilities will be operated in conjunction with Applicant's existing facilities for the purpose of making deliveries of natural gas to Southern Union Gas Company for resale by the latter to District School No. 12, located at Topock, Arizona.

The Applicant requests that its application be heard under the shortened procedure pursuant to § 1.32 (b) of the Commission's rules of practice and procedure.

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 19th day of February 1954. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-819; Filed, Feb. 4, 1954; 8:51 a. m.]

[Docket No. G-2351]

EL PASO NATURAL GAS CO. AND NEVADA NATURAL GAS PIPE LINE CO.

NOTICE OF APPLICATION

FEBRUARY 1, 1954.

Take notice that on January 14, 1954, El Paso Natural Gas Company (El Paso), a Delaware corporation having its principal place of business at El Paso, Texas, and the Nevada Natural Gas Pipe Line Co. (Nevada), a Nevada corporation with its principal place of business at Las Vegas, Nevada, filed a joint application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act authorizing the leasing and operation of certain natural gas facilities as hereinafter described.

Nevada requests permission and authority to lease to El Paso approximately 14 miles of a 10¾-inch O. D. pipeline proposed and now being constructed by Nevada within the State of Arizona. The construction of said pipeline was authorized in the amended certificate of public convenience and necessity in Docket No. G-1888 and is to extend from a point near El Paso's existing Topock meter station in a northwesterly direction to a point on the Arizona-California boundary known as "Pebble Beach."

El Paso requests permission and authority to lease and operate and maintain the pipe line referred to above.

Nevada and El Paso have entered into a lease agreement dated December 15, 1953, providing for the leasing by Nevada to El Paso of the pipe line described. The lease is for a term of 15 years and thereafter from month to month, as long as the Service Agreement entered into between El Paso and Nevada, dated December 15, 1953, continues in effect, all as more fully set forth in the joint application in the above-entitled matter.

El Paso and Nevada request that their application be heard under the shortened procedure, pursuant to § 1.32 (b) of the Commission's rules of practice and procedure.

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 19th day of February 1954. The application is on file with the Commission for public inspection.

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

[F. R. Doc. 54-820; Filed, Feb. 4, 1954; 8:51 a. m.]

[Docket Nos. G-2352, G-2353]

TENNESSEE GAS TRANSMISSION CO. AND NORTHEASTERN GAS TRANSMISSION CO.

NOTICE OF APPLICATION

FEBRUARY 1, 1954.

Take notice that Tennessee Gas Transmission Company (Tennessee), a Delaware corporation having its principal place of business in Houston, Texas, on January 14, 1954, filed an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing Tennessee to acquire and operate the facilities of its wholly owned subsidiary, Northeastern Gas Transmission Company (Northeastern).

Tennessee proposes to acquire and operate all the facilities now operated by Northeastern subject to the Commission's jurisdiction and to acquire, construct and operate any facilities which Northeastern may have under construction pursuant to authorization granted by the Commission. Tennessee also seeks authority to succeed to all other rights and obligations of Northeastern over which this Commission has jurisdiction.

The facilities to be acquired by Tennessee consist of a transmission system extending from a point on the New York-Massachusetts State line near Pittsfield, Massachusetts, in an easterly direction across the State of Massachusetts to the northeastern corner of the State, thence northerly to Concord, New Hampshire; also with a main transmission line extending from a point near Springfield, Massachusetts, in a southwesterly direction through the State of Connecticut to a point near Greenwich, Connecticut.

Tennessee represents that it will acquire Northeastern's facilities by a merger, with Tennessee continuing in existence. Tennessee will cancel Northeastern's capital stock in the amount of $9,000,000 all owned by Tennessee and will also cancel demand notes of Northeastern held by Tennessee in the amount of $8,915,700. The outstanding bonded indebtedness and all outstanding obligations of Northeastern will be assumed by Tennessee.

Tennessee states that upon consummation of the proposed acquisition, it will continue to operate the facilities and to provide the service now rendered by Northeastern without change other than in the rate schedules and similar technical changes required to effect the acquisition. Tennessee further represents that upon acquisition of the facilities Northeastern's tariff will be cancelled and initial service will be rendered under Tennessee's tariff at the rates presently in effect under Northeastern's tariff.

Concurrently, Northeastern Gas Transmission Company, a Delaware corporation having its principal place of business in Springfield, Massachusetts, on January 14, 1954, filed an application pursuant to section 7 (b) of the Natural Gas Act for permission and approval to abandon the service rendered through its facilities, which facilities it proposes to transfer to Tennessee and for which Tennessee filed application for a certificate of public convenience and necessity in Docket No. G-2352.

Protests or petitions to intervene may be filed with the Federal Power Commission, 441 G Street NW., Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 19th day of February 1954. The application is on file with the Commission for public inspection.

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

[F. R. Doc. 54-821; Filed, Feb. 4, 1954; 8:51 a. m.]

[Docket No. G-2354]

TEXAS ILLINOIS NATURAL GAS PIPELINE CO.

NOTICE OF APPLICATION

FEBRUARY 1, 1954.

Take notice that Texas Illinois Natural Gas Pipeline Company (Applicant), a Delaware corporation having its principal place of business in Chicago, Illinois, on January 14, 1954, filed an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity for authority to increase the daily contract quantity of natural gas it is presently authorized to sell and deliver to the City of Sullivan, Illinois.

In the same application, Applicant seeks authority, pursuant to section 7 (b) of the Natural Gas Act, to abandon service by decreasing the daily contract quantity of natural gas which it is now authorized to sell and deliver to Southeastern Illinois Gas Company (Southeastern).

Applicant represents that it is presently authorized to sell and deliver up to 1800 Mcf of natural gas per day to Southeastern for a twenty year period ending November 1, 1971. Applicant states that Southeastern has requested a change in the contract quantities to provide for the following schedule of deliveries:

By such a change Southeastern would permanently relinquish 400 Mcf of the maximum daily contract quantity allocated to it.

Applicant further represents that at the present time it has 70 Mcf per day of unallocated delivery or sales capacity previously authorized of which no disposition has been made.

Applicant states that the City of Sullivan, Illinois, desires an additional daily contract quantity of 470 Mcf of gas, effective November 1, 1954.

Applicant states that no new physical facilities or change in facilities now authorized will be required to effect the authorizations requested.

Protests or petitions to intervene may be filed with the Federal Power Commission, 441 G Street NW., Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 19th day of February 1954. The application is on file with the Commission for public inspection.

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

[F. R. Doc. 54-822; Filed, Feb. 4, 1954; 8:52 a. m.]

[Docket No. ID-1095]

CHARLES H. TENNEY II

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

FEBRUARY 1, 1954.

Notice is hereby given that on January 29, 1954, the Federal Power Commission issued its order adopted January 27, 1954, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

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

[F. R. Doc. 54-807; Filed, Feb. 4, 1954; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-97, 59-73, 59-38]

UNITED PUBLIC UTILITIES CORP. ET AL.

SUPPLEMENTAL ORDER APPROVING PAYMENT OF FEES AND EXPENSES

JANUARY 29, 1954.

In the matter of United Public Utilities Corporation, applicant, File No. 54-97; United Public Utilities Corporation and its subsidiary companies, respondents, File No. 59-73; United Public Utilities Corporation and its subsidiary companies, respondents, File No. 59-38.

The Commission having on October 10, 1946, February 20, 1948, July 27, 1948, and May 27, 1949 approved plans filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 by United Public Utilities Corporation;

Each of said plans having provided that fees and expenses in connection therewith be subject to approval of the Commission and the Commission in its said orders having reserved jurisdiction over the payment of certain of such fees and expenses and the Commission by orders dated December 7, 1948, May 27, 1949, and May 13, 1952 having continued the reservation of jurisdiction over such

fees and expenses except to the extent that payment thereof had been approved;

Applications and amendments thereto for allowances of fees and expenses having been filed; and

The Commission having considered such applications and the amounts requested and having concluded that the allowances requested as hereinafter itemized are reasonable:

It is ordered, That payment of the fees and expenses relating to the plans approved by the Commission's orders dated October 10, 1946, February 20, 1948, and July 27, 1948, set forth below be, and the same hereby is, approved:

Evans, Bayard & Frick, counsel:	
Fees	$35,000.00
Expenses	3,173.76
Printing and mailing	16,009.58
Publication of notices	6,527.71
Paying agent	9,820.19
Miscellaneous	4,892.42
Total	75,423.66

It is further ordered, That payment of fees and expenses for 1953, relating to the plan approved by the Commission's order dated May 27, 1949, in amounts not exceeding those set forth below, be, and the same hereby is, approved:

Trustee's salary	$6,000.00
Office and clerical	3,100.00
Paying agent	640.00
Tracer's fees	500.00
Miscellaneous	910.00
Total	11,150.00

It is further ordered, That the reservation of jurisdiction over fees and expenses contained or continued in the aforementioned orders of the Commission be, and it hereby is, released with respect to the fees and expenses allowed herein.

By the Commission.

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

[F. R. Doc. 54-813; Filed, Feb. 4, 1954; 8:50 a. m.]

[File No. 70-3086]

COLUMBIA GAS SYSTEM, INC., AND KEYSTONE GAS CO., INC.

ORDER AUTHORIZING ISSUE AND SALE OF INSTALLMENT NOTES BY SUBSIDIARY TO PARENT

FEBRUARY 1, 1954.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and the Keystone Gas Company, Inc. ("Keystone"), a wholly owned public-utility subsidiary of Columbia, having filed with this Commission a joint application-declaration and two amendments thereto pursuant to sections 7, 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following proposed transactions:

Keystone proposes to issue and sell from time to time not later than March 31, 1954, and Columbia proposes to purchase at face value, $100,000 principal amount of Keystone's installment notes. The notes will be payable in twenty-five equal annual installments on February 15 of each of the years 1955 to 1979, inclusive, with interest payable semi-annually on the unpaid principal balance at the rate of 4 percent per annum. If Columbia's next sale of debentures results in a cost of money to Columbia lower than 4 percent per annum by ⅛ of 1 percent or more, Columbia will surrender the installment notes to Keystone in exchange for a like principal amount of notes of the same maturity and having the same terms except that such notes shall bear interest at the lowest rate, being a multiple of ⅛ of 1 percent, which is not less than the cost of money to Columbia in respect of its next sale of debentures.

Keystone proposes to use the funds accruing from the sale of said notes in financing its current construction program.

Due notice having been given of the filing of said joint application-declaration, 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 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-declaration as amended be granted and permitted to become effective forthwith:

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

By the Commission.

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

[F. R. Doc. 54-818; Filed, Feb. 4, 1954; 8:51 a. m.]

[File No. 70-3089]

COLUMBIA GAS SYSTEM, INC., AND BINGHAMTON GAS WORKS

ORDER AUTHORIZING ISSUE AND SALE OF COMMON STOCK AND INSTALLMENT NOTES BY SUBSIDIARY TO PARENT

FEBRUARY 1, 1954.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and Binghamton Gas Works ("Binghamton"), a wholly owned public-utility subsidiary of Columbia, having filed with this Commission a joint application-declaration and two amendments thereto pursuant to sections 7, 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following proposed transactions:

Binghamton proposes to issue and sell from time to time as funds are required but not later than March 31, 1954, and Columbia proposes to purchase at par or face value, (a) not to exceed 8,000 shares of Binghamton's common stock, $25 par value, and (b) upon completion of the purchase of said stock, not to exceed $125,000 principal amount of Binghamton's installment notes. The notes will be payable in twenty-five equal annual installments on February 15 of each of the years 1955 to 1979, inclusive, with interest payable semi-annually on the unpaid balance at the rate of 4 percent per annum. If Columbia's next sale of debentures results in a cost of money to Columbia lower than 4 percent per annum by ⅛ of 1 percent or more, Columbia will surrender the installment notes to Binghamton in exchange for a like principal amount of notes of the same maturity and having the same terms except that such notes shall bear interest at the lowest rate, being a multiple of ⅛ of 1 percent, which is not less than the cost of money to Columbia in respect of its next sale of debentures.

Binghamton proposes to use the funds accruing from the sale of said securities in financing its current construction program.

Due notice having been given of the filing of said joint application-declaration, 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 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-declaration as amended be granted and made effective forthwith:

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

By the Commission.

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

[F. R. Doc. 54-817; Filed, Feb. 4, 1954; 8:51 a. m.]

[File No. 70-3163]

ELECTRIC BOND AND SHARE CO.

ORDER RELEASING JURISDICTION WITH RESPECT TO LEGAL FEE

FEBRUARY 1, 1954.

The Commission having heretofore granted the application and permitted the declaration to become effective of Electric Bond and Share Company concerning the sale through private negotiation of 10,000 shares of common stock of its gas utility subsidiary, United Gas Corporation; the Commission having reserved jurisdiction over fees and expenses incurred in connection with said transaction; the record having been completed with respect to the fee of $750 proposed to be paid to the law firm of Simpson Thacher & Bartlett, and the Commission finding that said fee is not unreasonable:

It is ordered, That jurisdiction heretofore reserved with respect to the fees and expenses incurred in connection with these transactions be, and the same hereby is, released insofar as it relates

to the fee of Simpson Thacher & Bartlett.

By the Commission.

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

[F. R. Doc. 54-816; Filed, Feb. 4, 1954; 8:50 a. m.]

[File No. 70-3172]

MYSTIC VALLEY GAS CO.

ORDER AUTHORIZING SALE OF PRINCIPAL AMOUNT OF FIRST MORTGAGE BONDS AT COMPETITIVE BIDDING

FEBRUARY 1, 1954.

Mystic Valley Gas Company ("Mystic"), a public-utility subsidiary of New England Electric System ("NEES"), a registered holding company, having filed an application, pursuant to the public Utility Holding Company Act of 1935 ("act"), in which it designates section 6 (b) of the act and Rules U-42 (b) (2) and U-50 thereunder as applicable to the following proposed transactions:

Mystic proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, $5,500,000 principal amount of its First Mortgage Bonds, Series A, due 1974. The price of the bonds which shall be not less than the principal amount nor more than 102¾ percent thereof and the interest rate which shall be a multiple of ⅛ of 1 percent and not in excess of 4½ percent will be determined by competitive bidding.

The proceeds (exclusive of accrued interest) derived from the sale of the bonds will be used by Mystic to pay an equal principal amount of its promissory notes. Mystic presently has outstanding $5,500,000 principal amount of 3¼ percent notes maturing March 1, 1954.

Mystic is organized and doing business in The Commonwealth of Massachusetts and the issue and sale of its bonds have been expressly authorized by the Department of Public Utilities of that State.

The fees and expenses to be incurred in connection with the issue and sale of the bonds, except underwriting discounts and commissions, are estimated by Mystic as follows:

Registration fee—S. E. C.	$572
Federal original issue tax	6,050
New England Power Service Co.	20,000
Printing	16,000
Lybrand, Ross Bros. & Montgomery, accountants	3,200
Choate, Hall & Stewart, counsel for Underwriters (to be paid by the underwriters)	5,300
Trustee under indenture	5,500
Miscellaneous	4,878
Total	61,500

Mystic requests that the Commission's order become effective upon issuance.

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 rules promulgated thereunder are satisfied, and it appearing to the Commission that the estimated fees and expenses are not unreasonable, provided they do not exceed the amounts estimated, and that the application should be granted:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that said application be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rules U-24 and U-50.

By the Commission.

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

[F. R. Doc. 54-814; Filed, Feb. 4, 1954; 8:50 a. m.]

[File No. 70-3176]

GENERAL PUBLIC UTILITIES CORP.

NOTICE OF FILING OF DECLARATION REGARDING CAPITAL CONTRIBUTIONS BY REGISTERED HOLDING COMPANY TO SUBSIDIARY COMPANIES

JANUARY 29, 1954.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, has filed a declaration with the Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") regarding certain capital contributions proposed to be made by GPU to its subsidiaries, Associated Electric Company ("Aelec"), a registered holding company, and New Jersey Power & Light Company ("NJP&L"), a public-utility company. Declarant has designated section 12 (b) of the act and Rule U-45 promulgated thereunder as applicable to the proposed transactions, which are summarized as follows:

GPU proposes to make cash capital contributions in the aggregate amount of $200,000 to its subsidiary, Aelec, and in the aggregate amount of $175,000 to its subsidiary NJP&L. Each such contribution will be initially credited by the recipient thereof to its capital surplus account and, in the case of NJP&L, an amount equal to such contribution will promptly thereafter be transferred from capital surplus to the stated capital applicable to its no par value common stock. The amounts to be thus invested by GPU in Aelec and NJP&L include amounts equal to GPU's prior receipts of $321,535.96 and undetermined prospective receipts from the sale (pursuant to prior orders of the Commission as being necessary or appropriate to effectuate the provisions of section 11 (b) of the act) of (1) shares of common stock of South Carolina Electric & Gas Company (a former subsidiary of GPU) received by GPU as a result of the termination of exchanges under the Plan of Reorganization of Associated Gas and Electric Company and Associated Gas and Electric Corporation, predecessors of GPU, and (2) shares of 5 percent preferred stock of South Carolina Electric & Gas Company and shares of common stock of Florida Power Corporation received by GPU as a result of the termination of exchanges under the Plan of Divestment of General Gas & Electric Corporation, a former registered holding company and subsidiary of Associated Gas and Electric Corporation.

GPU has requested that the order of the Commission permitting the declaration to become effective recite, in accordance with the requirements of Supplement R of the Internal Revenue Code, that the investment by GPU in Aelec and in NJP&L of the sums received or to be received from the sale as aforesaid of the shares of preferred and common stock of South Carolina Electric & Gas Company and the shares of common stock of Florida Power Corporation is necessary or appropriate to the integration or simplification of the holding company system of GPU.

GPU has requested that the Commission's order herein issue as early as possible and that such order become effective upon issuance.

Notice is further given that any interested person may not later than February 15, 1954 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matters, 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 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 February 15, 1954, said declaration, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

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

[F. R. Doc. 54-812; Filed, Feb. 4, 1954; 8:50 a. m.]

[File No. 70-3179]

MIDDLE SOUTH UTILITIES, INC.

NOTICE OF FILING REGARDING RECLASSIFICATION OF COMMON STOCK

FEBRUARY 1, 1954.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 ("act") and has designated sections 6 (a) (2) and 7 thereof as being applicable to the proposed transactions which are summarized below:

Middle South proposes that the 12,000,000 shares of its authorized Common Stock without par value, including the outstanding 7,125,000 shares of such stock, be reclassified into 12,000,000 shares of Common Stock having a par value of $10 each, whereby the Capital

Stock account of Middle South will be stated at $71,250,000, and whereby the sum of $56,345,800 will be transferred from Capital Stock to Capital Surplus (Paid-In Surplus). The proposal will be submitted to the Company's stockholders for their approval.

It is stated that no State or Federal Commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 12, 1954, 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 filing which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after February 12, 1954, such declaration, as filed or as amended, may be granted, or 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 transaction as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

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

[F. R. Doc. 54-815; Filed, Feb. 4, 1954; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10889]

W. GORDON ALLEN

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of W. Gordon Allen, Springfield, Oregon, File No. BP-8910, Docket No. 10889; for construction permit.

1. The Commission has under consideration a joint protest filed on January 14, 1954, pursuant to section 309 (c) of the Communications Act of 1934, as amended, by KUGN, Inc., licensee of Station KUGN, Eugene, Oregon; Radio Airway, Inc., licensee of Station KASH, Eugene, Oregon and Lane Broadcasting Company, licensee of Station KORE, Eugene, Oregon, requesting the Commission to reconsider its action of December 17, 1953, granting the above-entitled application for a construction permit which authorized the construction of a new standard broadcast station (KRGA) at Springfield, Oregon, and designate same for hearing to determine whether or not under the provisions of § 3.35 of the Commission's rules and regulations, the public interest, convenience and necessity would be served by a grant of such application.

2. On June 22, 1953, W. Gordon Allen filed an application requesting a construction permit for a new station at Springfield, Oregon, to operate on 1240 kc, 250 w, unlimited time on a site to be determined basis. On November 2, 1953, the application was amended changing frequency to 1050 kc, power to 1 kw and time of operation to daytime only. The application as amended, was granted by the Commission on December 17, 1953, subject to the condition, among others, that a transmitter site be selected which meets with the approval of the Commission. At the present time, the applicant has not applied for a modification of the construction permit specifying a transmitter site; thus, no site has been approved by the Commission.

3. Protestants are the licensees of Station KUGN (590 kc, 1,000 w, unlimited time), KASH (1600 kc, 1,000 w, unlimited time) and KORE (1450 kc, 250 w, unlimited time), all located in Eugene, Oregon. Eugene is three miles west of Springfield. The protestants contend, by way of their joint protest, that the action of the Commission in issuing the grant to W. Gordon Allen was in violation of § 3.35 of the rules and regulations of the Commission regarding multiple ownership of broadcast facilities.

4. Protestants have submitted engineering data in support of their protest and such data shows that a station operating approximately three miles west of Springfield, Oregon, on a frequency of 1050 kc with 1,000 watts of power would provide a 2 mv/m signal over the entire community of Cottage Grove, Oregon. Since W. Gordon Allen owns a 70 percent interest in Station KSGA located in Cottage Grove and also is a grantee of the subject construction permit for Station KRGA in Springfield, Oregon, protestants contend that the operation of Station KRGA in Springfield will provide primary service to Cottage Grove and thus be in conflict with the Commission's rules and regulations regarding multiple ownership. Cottage Grove is 17½ miles south of Springfield and has a population of 3,536.

5. It is clear in this instance that the question of whether the protestants are parties in interest within the meaning of section 309 (c) of the Communications Act is to be decided on the basis of whether or not they will suffer economic injury by the establishment of the station authorized by the Commission. Protestants have alleged that there are four standard broadcast stations in the city of Eugene, Oregon; that additional service is provided to the Eugene-Springfield area by other stations located in nearby communities; that the population of Eugene is 35,879; that of Springfield is 10,807; and that the two cities are approximately three miles apart. In light of such allegations as to protestants' status, the Commission is of the view that there exists sufficient facts to indicate a reasonable possibility of economic injury resulting from the grant in question so as to warrant the finding that protestants are parties in interest. T. E. Allen & Sons, Inc., 9 RR 192; Eugene Television, Inc., 9 RR 601; and Midwest Television, Inc., 9 RR 611.

6. The Commission further finds that the protestants have specified with particularity the facts and matters relied upon as required by section 309 (c) of the Communications Act to warrant the designation of the application herein for hearing on the issue of multiple ownership. In making this finding, the Commission does not determine or imply that the issue, even if the facts with respect thereto are as alleged by protestants, is such that could result in a determination that the grant was improper, contrary to public interest or should be set aside. Accordingly, said issue is not adopted by the Commission.

7. In view of the foregoing: *It is ordered*, That, effective immediately the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission with respect to the joint protest filed herein pursuant to section 309 (c) of the Communications Act of 1934, as amended, and the above-entitled application is designated for hearing at the offices of the Commission in Washington, D. C., on the 15th day of February 1954 at 10:00 a. m. on the following issue: To determine whether or not under the provisions of § 3.35 of the Commission's rules and regulations, the public interest, convenience and necessity would be served by a grant of such application.

It is further ordered, That KUGN, Inc., licensee of Station KUGN, Eugene, Oregon, Radio Airway, Inc., licensee of Station KASH, Eugene, Oregon, and Lane Broadcasting Company, licensee of Station KORE, Eugene, Oregon, and the Chief of the Broadcast Bureau are made parties to the proceeding herein.

Adopted: January 28, 1954.

Released: February 2, 1954.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] WM. P. MASSING, *Acting Secretary.*

[F. R. Doc. 54-832; Filed, Feb. 4, 1954; 8:54 a. m.]

[Change List 81]

CANADIAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES AND CORRECTIONS IN ASSIGNMENT

JANUARY 18, 1954.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignment of Canadian Broadcast Stations modifying appendix containing assignments of Canadian Broadcast Stations (Mimeograph 47214-3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

[1] Commissioners Sterling and Doerfer not participating; Commissioner Bartley dissenting; and Commissioner Lee abstaining from voting.

CANADA

Call letters	Location	Power (kw.)	Antenna	Schedule	Class	Probable date to commence operation
		580 kilocycles				
CFRA	Ottawa, Ontario	5 kw	DA-1	U	III	N in O with increased power.
		590 kilocycles				
CKRS	Jonquiere, Province of Quebec.	1 kw	DA-1	U	III	N in O.
		740 kilocycles				
CBXA	Edmonton, Alberta	250 w	ND	U	II	N in O. This station is an interim operation leading to eventual operation of 50 kw. at Wetaskiwan, Alberta.
		850 kilocycles				
CKRD	Red Deer, Alberta	1 kw	DA-1	U	II	N in O.
		1090 kilocycles				
CFJB	Brampton, Ontario	250 w	ND	D	II	Assignment of call letters—now in operation.
		1250 kilocycles				
CKRD	Red Deer, Alberta	250 w	ND	U	IV	(Delete assign. vide 850 kc.).
		1240 kilocycles				
CKRS	Jonquiere, Province of Quebec.	250 w	ND	U	IV	(Delete assign. vide 590 kc.).
		1300 kilocycles				
CBAF	Moncton, New Brunswick	5 kw	DA-1	U	III	Assignment of call letters.
		1580 kilocycles				
CKLC	Kingston, Ontario	1 kw	DA-1	U	III	N in O.
		1450 kilocycles				
New	Chicoutimi, Province of Quebec.	250 w	ND	U	IV	Nov. 14, 1954.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 54-833; Filed, Feb. 4, 1954; 8:54 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28871]

CRUDE PUMICE AND VOLCANIC SCORIA, ASH OR SLAG FROM CRATER, COLO., TO IOWA, KANSAS AND NEBRASKA

APPLICATION FOR RELIEF

FEBRUARY 1, 1954.

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: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Pumice, crude or crushed, not ground, and volcanic scoria, ash, or slag, carloads.

From: Crater, Colo.

To: Council Bluffs and Sioux City, Iowa and points in Kansas and Nebraska.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: W. J. Prueter, Agent, ICC No. A-3560, supl. 233.

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.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-758; Filed, Feb. 3, 1954; 8:49 a. m.]

[4th Sec. Application 28872]

ROOFING AND BUILDING MATERIALS BETWEEN POINTS IN SOUTHERN TERRITORY, SOUTHERN TERRITORY AND WASHINGTON, D. C., ST. LOUIS, MO., AND POINTS IN ILLINOIS AND INDIANA

APPLICATION FOR RELIEF

FEBRUARY 1, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Roofing and building materials and related articles as described in item 150 of Agent C. A. Spaninger's tariff ICC No. 1421, also slate roofing, carloads.

Territory: Between points in southern territory, also between points in southern territory, on the one hand, and Washington, D. C., St. Louis, Mo., and points in Illinois and Indiana, on the other.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with motor carriers, to maintain grouping, operation through higher-rated territory, to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC No. 1421.

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.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-759; Filed, Feb. 3, 1954; 8:50 a. m.]

[4th Sec. Application 28873]

TIN PLATE, TERNE PLATE AND TIN MILL BLACK PLATE FROM FAIRFIELD, ALA., TO NEW ORLEANS AND CHALMETTE, LA.

APPLICATION FOR RELIEF

FEBRUARY 1, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Tin plate, terne plate and tin mill black plate, in packages or on platforms, carloads.

From: Fairfield, Ala.

To: New Orleans and Chalmette, La.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with water, or water-rail carriers.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC No. 1258, supl. 60.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-760; Filed, Feb. 3, 1954; 8:50 a. m.]

[No. 31375]

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

MOVEMENT OF HIGHWAY TRAILERS BY RAIL

FEBRUARY 2, 1954.

In the notice of January 6, 1954 (19 F. R. 223), in the above proceeding, interested persons were invited to offer suggestions for formulation of proposed rules respecting the movement of highway trailers by rail. It was stated that Division 3 would receive suggestions filed on or before February 15, 1954.

Upon consideration of representations made by persons desiring to avail themselves of this invitation, but who find it impracticable to submit their views by February 15, it appears advisable to extend this period. Accordingly, the division will receive suggestions for formulation of the proposed rules on or before March 15, 1954.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-830; Filed, Feb. 4, 1954; 8:53 a. m.]

[4th Sec. Application 28875]

CAUSTIC SODA FROM MCINTOSH, ALA., TO CENTRAL AND ILLINOIS TERRITORIES

APPLICATION FOR RELIEF

FEBRUARY 1, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Caustic soda, liquid, in tank-car loads.

From: McIntosh, Ala.

To: Specified points in central and Illinois territories, including Louisville, Ky., and Cincinnati, Ohio.

Grounds for relief: Competition with rail carriers, circuitous routes, market competition, operation through higher-rated territory.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC No. 1351, supl. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-762; Filed, Feb. 3, 1954; 8:50 a. m.]

[4th Sec. Application 28876]

GRAIN FROM ST. LOUIS, MO., DISTRICT TO TEXAS GULF PORTS AND LAKE CHARLES, LA.

APPLICATION FOR RELIEF

FEBRUARY 2, 1954.

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: The St. Louis-San Francisco Railway Company for itself and on behalf of carriers parties to schedule listed below.

Commodities involved: Grain, grain products, and related articles, carloads.

From: East St. Louis, Ill., St. Louis, Mo., and adjacent points in Missouri.

To: Texas gulf ports and Lake Charles, La., for export.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: St. Louis-San Francisco Railway Company, ICC No. A-532, supl. 3.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-825; Filed, Feb. 4, 1954; 8:52 a. m.]

[4th Sec. Application 28878]

VARIOUS COMMODITIES FROM ARKANSAS AND TENNESSEE TO CENTRAL AND NEW ENGLAND TERRITORIES

APPLICATION FOR RELIEF

FEBRUARY 2, 1954.

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 schedules listed in exhibit A of the application pursuant to fourth section order No. 17220.

Commodities involved: Aluminum castings also cottonseed hull shavings pulp and related articles, carloads.

From: Specified points in Arkansas and Tennessee.

To: Specified points in central and New England territories.

Grounds for relief: Competition with rail carriers, circuitous routes.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 54-827; Filed, Feb. 4, 1954; 8:53 a. m.]