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TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 11—SALES OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

SUBPART A—REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF SURPLUS AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

Subpart A of Part 11 is revised and amended as follows:

Sec.
11.1 Definition of terms.
11.2 General statement.
11.3 Applications.
11.4 Purchase authorizations.
11.5 Sub-authorizations.
11.6 Commodities eligible for financing.
11.7 Methods of financing.
11.8 Letters of commitment to banking institutions.
11.9 Documentation.
11.10 Responsibilities of banking institutions in connection with letters of commitment issued to them.
11.11 Price provisions.
11.12 Ocean transportation.
11.13 Additional responsibilities of importers and suppliers.
11.14 Saving clause.
11.15 CCC Commodity Offices.
11.16 Effective date.

AUTHORITY: §§ 11.1 to 11.16 issued under sec. 102, 68 Stat. 455, as amended, 69 Stat. 44; 7 U. S. C. 1702, E. O. 10560, 19 F. R. 5927, 3 CFR, 1954 Supp. Interpret or apply secs. 2, 101, 68 Stat. 454, 455; 7 U. S. C. 1691, 1701.

§ 11.1 *Definition of terms.* For the purposes of this subpart:

(a) "The act" shall mean title I of the Agricultural Trade Development and Assistance Act of 1954, as amended.

(b) "Purchase Authorization" shall mean FAS Form 480-A, "Authorization to Purchase Surplus Agricultural Commodities with Foreign Currency," or FAS Form 480-A (Ocean Transportation) "Authorization to Procure Ocean Transportation," issued to an importing country pursuant to this subpart.

(c) "FAS" shall mean the Foreign Agricultural Service, U. S. Department of Agriculture.

(d) "CCC" shall mean the Commodity Credit Corporation, U. S. Department of Agriculture.

(e) "AMS" shall mean the Agricultural Marketing Service, U. S. Department of Agriculture.

(f) "CSS" shall mean the Commodity Stabilization Service, U. S. Department of Agriculture.

(g) "CSS Offices" shall mean the CSS Divisions, the CSS Commodity Offices listed in § 11.15 and any other offices or agencies which may succeed to the functions of such offices.

(h) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service or his designee.

(i) "The Controller, CCC" shall mean the Controller, Commodity Credit Corporation, or his designee.

(j) "Importing country" shall mean any nation with which an agreement has been negotiated pursuant to section 101 of the Act.

(k) "Importer" shall mean any person or organization, governmental or otherwise, to which an importing country makes a subauthorization under a purchase authorization.

(l) "Approved applicant" shall mean the foreign bank or other agency named in any letter of commitment issued to a banking institution under this subpart and shall include any agent authorized to act on behalf of such an applicant.

(m) "Supplier" shall mean any person or firm which sells any commodity or furnishes ocean transportation to an importer under the terms of a purchase authorization.

(n) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(o) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the commodity in export channels (e. g. f. o. b. vessel, c. & f., from consigned stocks).

(p) "Letters of credit" shall mean irrevocable commercial letters of credit issued, confirmed or advised by a bank-

(Continued on next page)

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CODIFICATION GUIDE

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

ing institution on behalf of an approved applicant.

§ 11.2 *General statement.* This subpart contains the regulations governing the operation of the program for the sale and exportation of surplus agricultural commodities for foreign currencies under the Act, including the submission of applications to purchase agricultural commodities for foreign currency under the act, the issuance of purchase authorizations, and the financing of the sale and exportation of such commodities through private trade channels. Except in the case of cotton, consigned stocks, i. e., stocks shipped from the United States prior to the date of sale under this program, will not be financed under this program. General information pertaining to the operation of this program and forms prescribed for use thereunder can be obtained upon request to the Director, FAS, Foreign Trade Programs Division, FAS, U. S. Department of Agriculture, Washington 25, D. C.

§ 11.3 *Applications.* An importing country, after the agreement pursuant to section 101 of the Act has been entered into, shall submit applications for purchase authorizations covering each commodity and containing such information as may have been requested by the Administrator. Applications shall be submitted in quadruplicate, addressed to the Administrator, FAS, U. S. Department of Agriculture, Washington 25, D. C. Supplementary information with respect to applications may be required from time to time.

§ 11.4 *Purchase authorizations.* (a) The Administrator shall provide for review of each application submitted pursuant to § 11.3 to determine whether approval of the application would be in accordance with the provisions of the act and the policies of the U. S. Government. If such determination is favorable, the Administrator will issue appropriate purchase authorization(s) as soon as practicable after agreement by the importing country to the terms thereof.

(b) Each purchase authorization will specify the commodity to be purchased or shipped; the maximum dollar amount; the method of financing and the CSS office which will administer the financing operation on behalf of CCC; the periods during which contracts between importers and suppliers may be entered into and during which deliveries may be made; provisions governing the deposit of the foreign currency purchase price; and any other provisions deemed necessary by the Administrator.

(c) In order to be eligible for financing under the applicable purchase authorization, contracts between importers and suppliers must be entered into within the specified contracting period and deliveries must be made within the specified delivery period, unless an extension of such contracting period or delivery period is granted in writing by the Administrator.

(d) Each purchase authorization issued shall be deemed to include the following provisions:

(1) *Modification or revocation.* The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke any purchase authorization (including the termination of deliveries thereunder). CCC shall reimburse suppliers for costs incurred in connection with firm sales contracts, and not otherwise recovered, as the result of such action by the Administrator: *Provided, however,* That such reimbursement shall not be made to a supplier if the Administrator determines that such action was taken by him because of failure by such supplier to comply with the requirements of this program.

(2) *Refund to CCC.* The importing country shall pay in U. S. dollars promptly to CCC upon demand by the Administrator the entire amount financed (or such lesser amount as the Administrator may demand) whenever the Administrator determines that the importing country has violated any undertaking or failed to fulfill any commitment agreed to or made by it in connection with the transaction financed. An equivalent amount (at the agreed exchange rate) of the foreign currency, if deposited for that transaction, will be refunded to the importing country, except to the extent that any currency deposited under this program has been made available to the importing country on a grant basis.

(3) *Discounts.* If a contract provides for one or more discounts, whether expressed as such or "commission" to the importer, only the invoice amount after discount (supplier's gross price less all discounts) will be eligible for financing.

(4) *Purchasing agent's commissions.* No commission paid or to be paid to any agent, broker, or other representative of the importer will be eligible for financing, whether included in the unit price of the commodity or separately stated.

(5) *Adjustment refunds*—(i) *Letter of commitment method of financing.* All claims by importers for breach of contract and for adjustment refund arising out of the terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, amicable allowances, and claims for over-payment of ocean transportation shall be settled by payment in United States dollars and such payment shall be remitted by the supplier, for the account of the importer, to the banking institution to which the supplier presented the documents covering the original transaction. The importing country shall pay to CCC U. S. dollars in the amount paid by suppliers under any such claims. Immediately after receipt of such dollar amount, CCC will provide for payment to the importing country of the foreign currency equivalent of such amount at the exchange rate, specified in the purchase authorization, in effect on the date of such payment of foreign currency, except that if there has been a change in the exchange system or structure of the importing country, such payment shall be made at the exchange rate, specified in the purchase authorization, which was in effect on the date or dates of the dollar disbursements made in financing the respective transactions.

(ii) *Reimbursement method of financing.* Special provisions relating to adjustment refunds will be contained in commodity purchase authorizations under the reimbursement method and in ocean transportation purchase authorizations.

(6) *Insurance payable to or for the account of the importer.* Where the supplier pays for outturn, war risk or other marine insurance payable to or for the account of the importer, the policies of insurance shall provide that all claims shall be paid in U. S. dollars and that the underwriter shall notify the CSS Office named in the purchase authorization at the time a claim thereunder is paid, indicating the purchase authorization number, the names and addresses of the supplier, importer and payee of the claim, the amount paid, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. The importing country shall pay to CCC U. S. dollars in the amount paid by insurance underwriters. Immediately after receipt of such dollar amount, CCC will provide for payment to the importing country of the foreign currency equivalent of such amount at the exchange rate, specified in the purchase authorization, in effect on the date of such payment of foreign currency, except that if there has been a change in the exchange system or structure, of the importing country such payment shall be made at the exchange rate, specified in the purchase authorization, which was in effect on the date or dates of the dollar disbursements made in financing the respective transactions. This subparagraph applies only where the cost of insurance is covered by the unit price of the commodity to be financed by CCC pursuant to specific authorization in the applicable purchase authorization. Unless specifically authorized, the cost of insurance will not be financed by CCC and must not be covered by the unit price or net invoice price.

(7) *Ocean freight financed as part of the commodity price.* All export sales contracts requiring payment of ocean freight by the supplier shall provide that demurrage and dispatch both at point of loading and point of discharge, shall be for the account of the supplier. The contract may provide that the importer shall reimburse the supplier for any amount by which demurrage at the point of discharge exceeds dispatch at that point, but any such amount will not be financed by CCC. Discharge costs on shipments under any such contract may be for the account of the vessel only when in accordance with trade custom. This subparagraph applies only where the cost of ocean freight is covered by the unit price of the commodity pursuant to specific authorization in the applicable purchase authorization. In the absence of such specific authorization the cost of ocean freight must not be covered by the unit price or net invoice price.

(8) *Ocean freight financed separately from commodity price.* Reimbursement will not be made for demurrage incurred in excess of dispatch earnings. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; the balance shall be paid to CCC. Discharge costs may be for the account of the vessel only when in accordance with trade custom. This subparagraph applies only where the cost of ocean freight is financed separately from the commodity price pursuant to a special provision in the applicable purchase authorization.

(9) *Airmail distribution of ocean bills of lading.* The importing country shall instruct importers to advise shippers to airmail at the time of loading two non-negotiable copies (or photostats) of the on-board ocean bill of lading to the Administrator, FAS, U. S. Department of Agriculture, Washington 25, D. C.

(10) *Deposit of foreign currency.* Unless otherwise provided in the applicable purchase authorization, the importing country shall provide, as hereinafter stated, for the deposit of foreign currency equivalent to dollars disbursed by banking institutions or by CCC, except that foreign currency shall not be deposited for the amount of ocean freight differential stated on CCC Form 106

"Advice of Vessel Approval" for the tonnage involved in the shipment. Such deposits shall be at the exchange rate required by the purchase authorization and in effect upon the date of such disbursement. Documentation for each such deposit shall be furnished to the United States Disbursing Officer, and shall show the number of the purchase authorization, the date and amount of the related dollar disbursement, the exchange rate applicable to the deposit, and the amount of foreign currency deposited. The times and circumstances under which deposits shall be effected for the several types of sales are as follows:

(i) For transactions under the letter of commitment method of financing: Where time drafts are accepted under letters of credit, deposits shall be made on the date of maturity of each such draft or on such earlier date that CCC disburses the amount of the draft to the banking institution. In the case of all other payments under letters of credit, deposits shall be made immediately after receipt by the approved applicant of documentation showing the amount of dollar disbursements to suppliers by banking institutions under such letters of credit.

(ii) For transactions under the reimbursement method of financing (including ocean transportation financed separately from the commodity price), deposits shall be made upon receipt by the importing country or its designee of documentation showing the net amount of dollar reimbursement (after deduction of ocean freight differential, if any) by CCC to the importing country, or to its assignee, if the purchase authorization has been assigned.

(e) FAS will make public, with respect to each purchase authorization, information necessary to enable suppliers to initiate negotiations for sales under the program. Such information will be issued daily or as often as necessary in the form of a public release.

§ 11.5 *Sub-authorizations.* The importing country concerned will make sub-authorizations to importers within the terms of each purchase authorization. The importing country, in sub-authorizing, shall instruct importers to use the purchase authorization number in placing orders, and shall specify to importers all of the provisions of the purchase authorization which are applicable to the sub-authorization. Each importer to whom a sub-authorization has been made by his Government must inform his supplier that the transaction is to be financed under the act and must give to his supplier the purchase authorization number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction. The supplier must put the purchase authorization number on all documents pertaining to the transaction.

§ 11.6 *Commodities eligible for financing.* Only those commodities named in the purchase authorizations will be eligible for financing thereunder.

(a) Suppliers will not be required to obtain the commodity or its equivalent from CCC stocks (i. e. stocks owned by, or pledged or mortgaged to CCC). If CCC owned stocks of the commodity are available under this program, announcements containing the terms and conditions under which such stocks may be purchased will be issued by CCC (AMS-CSS) and the public release in connection with the purchase authorization will specify the existing announcement, if any, under which purchase may be made. In some instances the CCC announcement may require that the identical stocks purchased from CCC be exported. In other instances the announcement will permit the export obligation arising thereunder to be satisfied by exportation under this program of stocks equivalent to those purchased from CCC. The announcement, in each such case, will define "equivalent" as used therein in terms of value, quantity and/or quality, and in terms of the unprocessed commodity equivalent of a processed commodity, if applicable. The CCC stocks must be purchased prior to the date of exportation under this program, unless the CCC announcement authorizes the purchase to be made subsequent to such date of exportation. The announcement will also specify the AMS or CSS Offices in Washington or in the field which may be contacted for further details.

(b) Stocks acquired from CCC under any other program which requires exportation will be eligible for financing under this program only if approved by CCC and subject to such terms and conditions as CCC shall require. The exportation under this program of stocks acquired from CCC under any other program which requires exportation will not be considered as fulfilling the purchaser's obligation to export the quantity involved under such other program or as relieving him from any liability arising by reason of his failure to export the quantity involved in accordance with the provisions of such other program. Commodities in connection with which financing is received hereunder shall not be eligible under any other export program of CCC or the U. S. Department of Agriculture, notwithstanding any provision of such other program, unless the applicable purchase authorization specifically provides for such eligibility.

§ 11.7 *Methods of financing*—(a) *Letters of commitment to banking institutions.* Upon request therefor by the importing country, the Administrator will issue purchase authorizations providing for financing under letters of commitment. Upon submission of applications therefor by the importing country, the Controller, CCC, will issue letters of commitment to banking institutions, obligating CCC to make reimbursement for payments, or acceptance of time drafts, for the cost of commodities (including ocean transportation and insurance when covered by the unit price of the commodity), made by them under letters of credit on behalf of an approved applicant. Procedures applicable to this method of financing are set out in § 11.8.

(b) *Reimbursement to importing countries.* (1) Upon request therefor by the importing country, the Administrator will issue purchase authorizations providing that reimbursement for the cost of commodities (including ocean transportation and insurance when covered by the unit price of the commodity) will be made by CCC to the importing country upon submission of the documents required by § 11.9 (a).

(2) Upon request therefor by the importing country, the Administrator will issue purchase authorizations providing that reimbursement for the cost of ocean transportation procured separately from the commodity will be made by CCC to the importing country upon submission of the documents required by §§ 11.9 (b) and 11.12.

(3) The right to receive reimbursement under purchase authorizations for amounts in addition to those initially reimbursed by CCC for the same transactions (including, if authorized by the applicable purchase authorization, payments in final settlement of contracts providing for future price fixation) must be exercised, by submission of the required documents, within 180 days from the date of such initial reimbursement by CCC.

(4) The right to receive reimbursement under purchase authorizations may be assigned by the importing country to any bank, trust company or other financing institution in the United States. Unless otherwise provided by the purchase authorization, the right of any such assignee to obtain reimbursement shall not be contingent upon the deposit of currency of the importing country.

(5) The required documents and requests for reimbursement shall be submitted to the CSS Office named in the applicable purchase authorization.

§ 11.8 *Letters of commitment to banking institutions.* (a) Letters of commitment issued by CCC to banking institutions under this program will assure reimbursement to the banking institution, not in excess of a specified amount in dollars and in accordance with the terms of such letters of commitment, for payments made or drafts accepted under letters of credit for the account of an approved applicant, including the payment or acceptance of drafts for additional amounts in connection with transactions where the required documents have been previously submitted to CCC. Drafts submitted by suppliers for such additional amounts shall not be paid or accepted unless provided for in the letter of credit or unless authorized under the letter of credit by the approved applicant. Drafts accepted for such additional amounts shall mature not later than the date of maturity of the draft relating to the original transaction. Reimbursement for any drafts accepted will be made on the date of maturity of such drafts or on an earlier date if arrangements are made by the importer to deposit foreign currency on such earlier date.

(b) Each letter of commitment will name the Federal Reserve Bank to which drafts shall be presented by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit, and will name the CSS Office which will administer the financing operation under the letter of commitment on behalf of CCC.

(c) Payments made or drafts accepted by banking institution in anticipation of a letter of commitment and falling within the scope of payments authorized by such a letter of commitment when issued will be deemed to be payments to be reimbursed thereunder.

(d) Each letter of commitment issued to a banking institution shall be deemed to incorporate the following terms and provisions:

(1) The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised under a letter of commitment to a banking institution, may be in such terms and provisions as the approved applicant and banking institution may agree upon, and the approved applicant and banking institution may agree to any extension of the life of, or any other modification of, or variation from the terms of any such letter of credit: *Provided*, That where letters of credit provide for acceptance of time drafts such letters of credit shall specify that the discount and acceptance fees shall be for the account of the importer: *And provided, further*, That such terms and provisions and any such extension, modification or variance shall be in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment, and in case of any inconsistency or conflict, the terms and provisions of the letter of commitment shall control. In any event every application for a letter of credit shall include the substance of the directions as to documentation required by this subpart.

(2) Immediately after acceptance of time drafts, the banking institution shall forward the documents required by § 11.9 (a) to the CSS Office named in the letter of commitment. Drafts drawn by the banking institution on CCC shall be presented to the Federal Reserve Bank and shall be supported by the documents required by § 11.9 (a) and any additional documents specified in the applicable purchase authorization or in the letter of commitment, or shall be supported by CCC Form 339, "Advice of Receipt of Documents", if such documents were submitted to CCC prior to presentation of the draft.

(3) The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate non-compliance with any provision of this subpart, or of the purchase authorization, or of the letter of commitment, or may be inconsistent with other required documents.

(4) Each letter of credit, modification, or extension shall bear the number of the applicable letter of commitment and purchase authorization. The banking institution shall make available to the CSS Office named in the letter of commitment, upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof; a copy of each application and agreement relating to such letter of credit; a copy of each document in its possession received by it under the letter of credit; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(5) Acceptance by the banking institution of any document in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank, or the CSS Office as required, shall constitute full compliance by the banking institution with any provision of this subpart, the purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a sale at a price in excess of the maximum specified in § 11.11.

(6) The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke a purchase authorization (including termination of deliveries thereunder): *Provided, however*, That no supplement, modification or revocation shall become effective as to the banking institution until the receipt by it from the Controller, CCC, of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any drafts accepted or payments made prior to receipt of such notice, or any irrevocable obligation incurred under a letter of credit issued or confirmed by it, prior to receipt of such notice, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on its part to obtain such repayment). The term "purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) In the event the Administrator shall revoke such purchase authorization or supplement or modify the same in relation to the disposition of any document or documents and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by CCC for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. Such repayment and reimbursement shall be made by CCC upon application therefor filed with the CSS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses and liabilities certified to by an officer of the banking institution. The banking instituion shall have no obligation or liability whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Controller, CCC.

(8) Unless otherwise specifically provided in the letter of commitment, drafts drawn by banking institutions on CCC shall be presented not later than 180 days after expiration of the delivery period specified in the applicable purchase authorization, or any extension thereof granted by the Administrator.

(9) The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

§ 11.9 *Documentation*. Drafts drawn on CCC and requests submitted to CCC for reimbursement shall be supported by the documents required by the appropriate subsection of this section, except when and to the extent such documents have been previously submitted to CCC, or specifically waived in writing by the Controller, CCC. Each document must be identified with the appropriate purchase authorization number.

(a) *Commodity cost (including ocean freight and insurance where covered by the commodity unit price)*. (1) Signed originals of supplier's certificate, with invoice-and-contract abstract on the reverse side (CCC Form 329, set out in paragraph (c) of this section), as follows:

(i) Covering the supplier's net invoice price expressed in dollars, executed by the supplier of the commodity.

(ii) The cost of ocean freight on C & F and CIF transactions, executed by the ocean carrier.

(2) One non-negotiable copy (or photostat) of on-board bill of lading or, in the case of export rail or truck shipment, one copy of Shipper's Export Declaration authenticated by the appropriate U. S. Customs official.

(3) One copy (or photostat) of supplier's detailed invoice showing quantity, description, gross sales price and net sales price expressed in dollars, and basis of delivery (e. g., f. o. b. vessel, c. i. f.) of the commodities, and either marked "paid" by the supplier or endorsed by, or accompanied by a certificate of, an officer of the banking institution indicating that payment has been made or that a time draft has been accepted in the amount shown on the invoice. In arriving at the net sales price there shall be deducted:

(i) Any ocean freight differential included in the gross sales price, in the case of transactions under the letter of commitment method of financing.

(ii) The cost of ocean transportation, when such deduction is required by CCC Form 106, "Advice of Vessel Approval",

(iii) All discounts from the supplier's gross sales price through payments, credits or other allowances made or to be made to the buyer or consignee, and

(iv) All purchasing agent's commissions applicable.

(4) Signed original of CCC Form 106, "Advice of Vessel Approval".

(5) One non-negotiable copy (or photostat) of the insurance certificate or policy where insurance is covered by the unit price of the commodity.

(6) CCC Form 331, "Advice of Payment or Acceptance of Draft" signed by an officer of the banking institution in the case of financing under the letter of commitment method. (This form is not required under the reimbursement method of financing.)

(7) In the case of additional payments (including, if authorized by the applicable purchase authorization, payments in final settlement of contracts providing for future price fixation) in connection with transactions where the required documents have been previously submitted to CCC, the documents required by subparagraphs (1), (3) and (6) of this paragraph and the supplier's invoice, in addition to the information required by subparagraph (3) of this paragraph, must show the date, serial number and amount of the original invoice, and the basis for the additional amount claimed.

(8) Such additional or substitute documentation, if any, as may be required for reimbursement by the purchase authorization or letter of commitment.

(b) *Cost of ocean transportation where financed separately from commodity cost.* (1) Signed original of supplier's certificate, with invoice-and-contract abstract on the reverse side (CCC Form 329, set out in subsection (c) of this section), to be executed by the carrier, covering the dollar cost of ocean transportation.

(2) One non-negotiable copy (or photostat) of on-board ocean bill of lading.

(3) One copy (or photostat) of carrier's detailed invoice marked "Paid".

(4) Signed original of CCC Form 106, "Advice of Vessel Approval".

(5) One copy (or photostat) of the charter party or liner booking contract.

(6) Such additional or substitute documentation, if any, as may be required by the purchase authorization.

(c) The supplier's certificate is as follows:

Commodity Credit
Corporation Form 329
(12-22-55)

SUPPLIER'S CERTIFICATE

The supplier hereby acknowledges notice that the sum indicated on the accompanying invoice as claimed to be due and owing under the terms of the underlying contract, is to be paid out of funds made available by the Commodity Credit Corporation under the Agricultural Trade Development and Assistance Act of 1954, as amended, and further certifies and agrees with CCC as follows:

(1) The supplier is entitled under said contract to the payment of the claimed sum, and he will promptly make appropriate refund to the CSS Office named in the purchase authorization for any breach by him of the terms of this certificate.

(2) Payment of damages for breach of said contract and of adjustment refunds arising out of the terms of the contract or the customs of the trade shall be made in United States dollars, for the account of the party entitled to such payment and, unless otherwise provided in the purchase authorization, shall be remitted to the banking institution to which the supplier presented the documents covering the original transaction.

(3) The supplier is the producer, processor, or exporter of, or a regular dealer in, the commodity, or is the ocean carrier who furnished transportation under said contract, and has not employed any person to obtain said contract under any agreement for a commission, percentage, or contingent fee, except to the extent, if any, of the payment of a commission to a bona fide established commercial or selling agent employed by the supplier as disclosed on the reverse of this form.

(4) The supplier has not given or received and will not give or receive by way of side payment, "kickbacks," or otherwise, any benefit in connection with said contract except as is disclosed on the reverse of this form, or as is the result of the adjustments referred to in paragraph (2) above.

(5) Unless authorized by the applicable purchase authorization, the net invoice price does not contain any amount to cover the cost of ocean freight or insurance.

(6) If the applicable purchase authorization so authorizes and the export sales contract requires payment by the supplier of ocean freight, any net dispatch earnings are for the account of the supplier under such contract and discharge costs are for the account of the vessel only if in accordance with trade customs.

(7) If the applicable purchase authorization so authorizes and the export sales contract requires payment by the supplier of insurance, the policies of insurance contain a provision requiring the underwriter to notify the CSS Office of any claim paid.

(8) If the supplier is the producer, or processor of a commodity, said contract is not a cost plus-a-percentage-of-cost contract.

(9) On the basis of information obtained from such sources as are available to the supplier, and to the best of his information and belief, the commodity was grown in the United States and, if processed, such processing was performed in the United States. (This certification is not required where the commodities exported were the identical commodities purchased from CCC.)

(10) On the basis of information obtained from such sources as are available to the supplier, and to the best of his information and belief, his sales price is no higher than the maximum specified in the applicable regulations of the U. S. Department of Agriculture or in the purchase authorization.

(11) The supplier has complied with the applicable requirements of said regulations, and has allowed all discounts, including discounts for quantity purchases and prompt payment, customarily allowed his other customers similarly situated.

(12) If the supplier is an ocean carrier, he shall not be deemed to certify to paragraph (2) in the case of c. & f. or c. i. f. transactions or to paragraph (5), (6), (7), (8), (9), (10), and (11) but instead certifies that the rate indicated on the reverse of this form for ocean transportation does not exceed the prevailing rate for similar freight contracts or the rate paid to the supplier for similar services by other customers similarly situated; that address commissions have not and will not be paid; that brokerage commissions in excess of 2½ percent of the freight charged have not and will not be paid; and that the names of all parties participating in the brokerage commission are shown on the charter party.

(13) The supplier has filled in the applicable portions of the invoice-and-contract abstract on the reverse hereof, certifies to the correctness of the information shown therein, and will furnish promptly to the CSS Office, upon request, such additional information in such form as the CSS Office may require concerning price or any other details of the contract.

(Date)

(Authorized signature)

(Title)

NOTE: Any amendments, deletions of applicable provisions, or substitutions will invalidate this certificate.

Before executing the supplier's certificate, the supplier shall fill in the invoice-and-contract abstract on the reverse side in accordance with the instructions printed on the form. The information required by the abstract is generally as follows:

(1) Invoice information, including the supplier's name and address, the importer's name and address, and detailed billing and shipping data.

(2) Information relating to agents' commissions paid or to be paid.

(3) Contract and price information expressed in dollars including a reconciliation of the contract and invoice prices applicable.

§ 11.10 *Responsibilities of banking institutions in connection with letters of commitment issued to them.* (a) Documents required to support drafts for reimbursement are enumerated in § 11.9 (a). Such documents are referred to in this section as "required documents".[1] Any additional documents required with respect to any particular transaction will be specified as such in the purchase authorization related to that transaction and to the corresponding letter of commitment, or in the letter of commitment itself. A banking institution holding a letter of commitment is not required by CCC to obtain any documents other than those enumerated in § 11.9 (a) and any additional documents so specified.

(b) A banking institution is not responsible for the truth or accuracy of the statements contained in any of the required documents. A banking institution is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

(c) (1) A banking institution's examination of the required documents must be made in accordance with good commercial practice. A banking institution is responsible for ascertaining that the required documents are consistent with the related purchase authorization and letter of commitment in the following particulars, and no others:

(i) Delivery, to the extent described in paragraph (d) of this section;

(ii) Destination, to the extent described in paragraph (e) of this section;

(iii) Description, to the extent described in paragraph (f) of this section;

[1] In paragraphs (c), (e), (f), and (g) of this section, the phrase "required documents" does not include the invoice-and-contract abstract.

(iv) Discounts and purchasing agents' commissions, to the extent described in paragraph (g) of this section;

(v) Vessel approval, to the extent described in paragraph (h) of this section;

(vi) Deduction for ocean transportation to the extent described in paragraph (i) of this section;

(vii) Deduction for ocean freight differential to the extent described in paragraph (j) of this section;

(viii) If the banking institution is to be responsible for any additional particulars, these will be specified in the purchase authorization or letter of commitment as additional required documents or as additional statements to be contained in the required documents.

(2) The right of reimbursement for payments made or drafts accepted by a banking institution in accordance with good commercial practice will not be affected by the information contained in the invoice-and-contract abstract, nor, except with respect to those particulars listed in subdivisions (i) through (viii) of subparagraph (1) of this paragraph, by the fact that the other documents received by the banking institution or information or notice received from any other source indicate non-compliance with any provisions of this subpart, or of the purchase authorization or the letter of commitment.

(3) The foregoing shall not be construed to limit any rights CCC may have against a supplier by reason of statements contained in the supplier's certificate, nor against an importing country under § 11.4 (d) (2).

(d) Section 11.4 (c) permits delivery under the purchase authorization at any time within the delivery period specified in the purchase authorization. If any of the documents specified in § 11.9 (a) (2) or in the purchase authorization or in the letter of commitment are dated at any time within that period or any extension thereof granted by the Administrator, they are acceptable.

(e) The purchase authorization will show the importing country. If the required documents are consistent, under good commercial practice, with shipment or transshipment to such country, they are acceptable.

(f) The purchase authorization will describe the commodity. In issuing, confirming, or advising letters of credit, a banking institution should see that the commodity description is not inconsistent with the description in the purchase authorization. In making payments or accepting time drafts under letters of credit the banking institution shall act in accordance with good commercial practice, based on the description contained in the required documents.

(g) A banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits or other allowances to the buyer or consignee), or commissions payable to purchasing agents, but should not honor any such items when disclosed by the required documents.

(h) The banking institution shall not, except upon written or telegraphic approval by CCC, make payment or accept time drafts under the letter of credit unless the name of the vessel shown on the CCC Form 106, "Advice of Vessel Approval", is identical with the name of the vessel shown on the bill of lading, and the gross tonnage involved in the shipment(s), as shown on the bill(s) of lading, is not in excess of the weight authorized on the CCC Form 106. The banking institution is not required to verify the signature appearing on the form or to make an independent inquiry as to the correctness of the information shown thereon.

(i) If a deduction for ocean transportation is required by CCC Form 106, the banking institution shall not make payment or accept time drafts under the letter of credit unless such deduction is shown on the supplier's detailed invoice. The banking institution is not required to verify the accuracy of the amount of such deduction.

(j) Where ocean transportation is covered by the unit price of the commodity (c. & f. or c. i. f.) and an amount of ocean freight differential is shown on CCC Form 106, the banking institution shall not make payment or accept time drafts under the letter of credit unless the supplier's detailed invoice contains either (1) a deduction of such differential from the gross sales price, or (2) the following stamped or typed certification executed by the supplier: "The undersigned hereby certifies that the gross sales price shown on this invoice does not include any amount for ocean freight differential payable by CCC pursuant to the Regulations issued under Title I, Public Law 480." The banking institution shall verify the accuracy of any such deduction.

(k) (1) Section 11.4 sets forth certain provisions to be deemed incorporated in each purchase authorization. The documents required by § 11.9 (a) include supplier's certificates showing compliance with some of these provisions. A banking institution is entitled to rely on such certificates, as well as on any special certifications required by this subpart or by a particular purchase authorization or letter of commitment.

(2) Certain other provisions of § 11.4 are included solely for the instruction of suppliers, purchasers and the importing countries themselves, and are not matters for which banks are to assume responsibility. In this category are the provisions of § 11.4 (d) (5), (6), (7), (8), (9) and (10).

(l) Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with the provisions of the following sections:

(1) Section 11.4 (c) with respect to the period within which contracts may be entered into;

(2) Section 11.6 with respect to the purchase and exportation of commodities from CCC stocks;

(3) Section 11.12 with respect to ocean transportation except to the extent stated in paragraphs (h), (i) and (j) of this section.

(m) Section 11.13 contains provisions concerning use of the purchase authorization number, placement of orders, and delivery dates. Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with this section, but shall not finance the transactions unless the documentation bears the appropriate purchase authorization number and evidences delivery within the delivery period specified in the purchase authorization.

(n) Upon demand therefor made by the CSS Office named in the letter of commitment, the banking institution shall promptly reimburse CCC for any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this section.

§ 11.11 *Price provisions.* (a) The supplier's sales price must not exceed the prevailing range of export market prices (or such other maximum price level as may be specified in the purchase authorization) as applied to the terms of sale at the time of sale. "Time of sale" shall mean the day as of which the sales price, or the method for determining the price, is established between the importer and the supplier.

(b) In the event the sales price exceeds the maximum permissible under paragraph (a) of this section, the supplier, in the case of sales financed under letters of commitment, shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. An appropriate refund of foreign currency will be made to the importing country. If not promptly refunded such amount may be set-off by CCC against any monies owed by it to the supplier. The making of any such refund to CCC, or any such set-off by CCC shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

(c) No claim shall be asserted by CCC under this section unless the supplier is notified of such claim and of the amount thereof within 90 days after the date the required documents are received by CCC.

(d) In the case of cotton, the following shall apply in lieu of the provisions of paragraphs (b) and (c) of this section:

(1) The supplier shall, within 5 days from the date of export sale, furnish the Director, CSS Commodity Office, 120 Marais Street, New Orleans 16, Louisiana, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(2) The CSS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with paragraph (a) of this section.

(i) If the CSS Commodity Office determines the sales price is in conformance with paragraph (a) of this section, the supplier will immediately be informed by telegram of the registration number assigned to the sale by CCC.

(ii) Failure by the CSS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sales price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sales price is in conformance with paragraph (a) of this section.

§ 11.12 *Ocean transportation.* (a) Unless otherwise specifically provided in the applicable purchase authorization, the pertinent terms of all charters (whether single voyage charters, consecutive voyage charters or time charters) and the terms of all liner bookings must be submitted to the Director, Transportation and Storage Services Division, CSS, U. S. Department of Agriculture, Washington 25, D. C. (except that in the case of cotton, such terms shall be submitted to the Director, CSS Commodity Office, U. S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana) for review and approval prior to the fixture of vessels. Such submission shall be made on CCC Form 105, "Ocean Shipment Data—Title I, Pub. Law 480" or in the case of cotton, on CCC Form 105 (cotton). Approvals of charters and liner bookings will be given on CCC Form 106, "Advice of Vessel Approval", signed by the Director or the Acting Director of the Transportation and Storage Services Division, or in the case of cotton, on CCC Form 106 (cotton), signed for the Director, CSS Commodity Office, New Orleans, Louisiana. The Form 106 will state whether the shipment on that vessel constitutes dry cargo liner, dry bulk carrier, or tanker tonnage. A copy of each charter party and liner booking contract shall be forwarded immediately after execution to the Director of the Transportation and Storage Services Division, or in the case of cotton, to the Director, CSS Commodity Office, New Orleans, Louisiana, by the party executing the CCC Form 105.

(b) If the purchase authorization requires that a part of the commodity be shipped on privately owned United States-flag commercial vessels, suppliers or shippers must obtain from the Director or Acting Director of the Transportation and Storage Services Division, or in the case of cotton from the Director or Acting Director of the CSS Commodity Office, New Orleans, Louisiana, a determination as to the quantity of the commodity, under each sale, which must be shipped on United States-flag vessels. Where it is required that the commodity be shipped on a United States-flag vessel, CCC Form 106 will set forth the amount of the ocean freight differential, if any, which CCC will recognize as existing between the prevailing foreign-flag vessel rate and the United States-flag vessel rate.

(c) CCC will not finance the cost of ocean transportation on flag vessels of the importing country either as a part of the commodity cost (i. e., c. i. f., c. & f.) or separate therefrom, except that where the purchase of consignment stocks is authorized, the full sales price will be financed even though such stocks may have been transported on flag vessels of the importing country. The cost of ocean transportation will be financed by CCC on flag vessels of other than the importing country only when specifically provided for in the applicable purchase authorization. Where the financing of ocean transportation is so provided for, the following shall apply:

(1) Where ocean transportation is covered by the commodity unit price, and is to be financed under the letter of commitment procedure, CCC will pay the amount of the ocean freight differential, if any, stated on CCC Form 106, for the tonnage involved, directly to the supplier of the commodity. Such payment will be made by the CSS Office named in the purchase authorization upon presentation of proper invoice. The ocean freight differential, therefore, must not be included in the net amount of the supplier's detailed invoice.

(2) Where ocean transportation is procured separately from the commodity, reimbursement will be made by CCC subject to the following conditions:

(i) The rate charged by the supplier of ocean transportation shall not exceed the prevailing rate for similar freight contracts.

(ii) Reimbursement will be made for the cost of shipment from points of loading to points of discharge at rates established in the applicable charter party or ocean booking contract, but not to exceed, in the case of dry cargo liner shipments, the conference rate for such service, if any.

(iii) Where the charter party or liner booking contract provides for dispatch earnings, reimbursement will be made of 90 percent of the cost of the shipment on presentation of documents covering at least 90 percent of the cost of the shipment, and the balance, if any, supported by the vessel's laytime statement(s) signed by the ship's master, owner or agent, and consignee, will be paid after final settlement of dispatch/demurrage claims.

(iv) Loading, trimming, and other related shipping expenses will not be financed by CCC as items separate from ocean freight. Discharge costs may be covered by the ocean freight financed by CCC only when in accordance with trade customs. The cost of dead freight will not be financed by CCC.

(d) Where ocean transportation is covered by the commodity unit price and the applicable purchase authorization contains a provision to the effect that ocean transportation on certain vessels will not be financed by CCC, the CCC Form 106 will require that a deduction for ocean transportation be shown on the supplier's detailed invoice covering the commodity shipped on such vessels.

(e) CCC will not finance brokerage commissions in excess of 2½ percent of the freight charged nor will address commissions be financed. The names of all parties participating in the brokerage commission must be shown on the charter party.

(f) CCC will not finance ships' dollar disbursements.

(g) The definitions of dry bulk carrier, dry cargo liner, and tanker, as used in connection with this program are as follows:

(1) Dry bulk carriers are irregularly scheduled vessels commonly referred to as "tramps." They go where full cargoes offer. Rates are negotiated by charter arrangements covering the movement of a specific commodity, a specific quantity, at a specific time from specific port or ports to specific destination port or ports. Cargoes under this category generally include grain, coal, fertilizers, lumber, pitch, salt, sugar, etc.

(2) Dry cargo liners: Liner cargo is cargo carried on vessels more or less regularly scheduled in specific trade routes. Any cargo can be shipped in this service including part-cargoes (parcels) of such bulk items as grain, coal, etc.; however, normal practice usually limits such bulk shipments on liners to parcels not exceeding 4,500 tons. Petroleum, vegetable oils, and similar bulk liquids carried in deep tanks of dry cargo liner vessels are classified as liner cargoes.

(3) Tankers generally carry full cargoes of a single bulk liquid commodity such as crude oil, specialty crude oils (such as bunkers), gasoline, kerosene, vegetable oils, and molasses. Some tankers are equipped by compartmentation to carry various combinations of the above in separate compartments.

§ 11.13 *Additional responsibilities of importers and suppliers.* (a) Each importer to whom a sub-authorization has been made by his Government must inform his supplier that the transaction is to be financed under the act and must give to his supplier the purchase authorization number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

(b) The supplier must put the purchase authorization number on all documents required by § 11.9 (a).

(c) An importer must comply with the contract and delivery dates specified in his sub-authorization by the importing country. A supplier must not accept orders identified by a purchase authorization unless he expects to comply with the contract and delivery dates specified.

(d) It is the responsibility of the supplier to assure that he does not make shipments or deliveries of commodities prior to the issuance, confirmation, or advice by a banking institution in the United States of an irrevocable commercial letter of credit in his favor.

(e) The rate of exchange and the deposit to the account of the United States of the foreign currency purchase price of the commodity will be arranged between the Governments of the United States and the importing country. The supplier will not be responsible for assuring that the foreign currency is so deposited.

§ 11.14 *Saving clause.* The Administrator, if he deems such action desirable in order to accomplish the purposes of the act, may waive, withdraw, or amend at any time, or from time to time any or all of the provisions of this subpart.

§ 11.15 *CSS Commodity Offices.* The addresses of the CSS Commodity Offices are as follows:

CSS Commodity Office, U. S. Department of Agriculture, 623 South Wabash Avenue, Chicago 5, Illinois.
CSS Commodity Office, U. S. Department of Agriculture, 500 South Ervay Street, Dallas 1, Texas.
CSS Commodity Office, U. S. Department of Agriculture, Fidelity Building, 911 Walnut Street, Kansas City 6, Missouri.
CSS Commodity Office, U. S. Department of Agriculture, 1006 West Lake Street, Minneapolis 8, Minnesota.
CSS Commodity Office, U. S. Department of Agriculture, 1218 Southwest Washington Street, Portland 5, Oregon.
CSS Commodity Office, U. S. Department of Agriculture, 1010 Broadway, Cincinnati 2, Ohio.
CSS Commodity Office, U. S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana.

§ 11.16 *Effective date.* This revision of this subpart shall become effective upon publication in the FEDERAL REGISTER as to purchase authorizations originally issued on and after the date of such publication. Purchase authorizations originally issued prior to such date of publication shall continue to be subject to the provisions of this subpart applicable thereto prior to this revision unless made subject to this revision by amendment or modification of such purchase authorizations.

Done at Washington, D. C., this 29th day of February 1956. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

[F. R. Doc. 56-1696; Filed, Mar. 5, 1956; 8:47 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 730—RICE

SUBPART—1956-57 MARKETING YEAR

PROCLAMATION OF RESULTS OF MARKETING QUOTA REFERENDUM

Section 730.709 is issued to announce the results of the rice marketing quota referendum for the marketing year August 1, 1956 through July 31, 1957, under the provisions of the Agricultural Adjustment Act of 1938, as amended. The Secretary proclaimed a marketing quota for rice for the 1956-57 marketing year (21 F. R. 71 and 72). The Secretary announced (21 F. R. 85 and 86) that a referendum would be held on January 27, 1956 to determine whether rice producers were in favor of or opposed to marketing quotas for the marketing year August 1, 1956, through July 31, 1957. Since the only purpose of this proclamation is to announce results of the referendum, it is found and determined that with respect to this proclamation application of the notice and procedure provisions of the Administrative Procedure Act is unnecessary.

§ 730.709 *Proclamation of the results of the rice marketing quota referendum for the marketing year 1956-57.* In a referendum of farmers engaged in the production of rice for the 1956 crop held on January 27, 1956, 10,645 farmers voted. Of those voting 9,008 or 84.6 percent favored quotas for the marketing year beginning August 1, 1956. Therefore, rice marketing quotas will be in effect for the 1956-57 marketing year.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375)

Issued this 1st day of March 1956.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 56-1714; Filed, Mar. 5, 1956; 8:51 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 988—MILK IN KNOXVILLE, TENN., MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act", and of the order, as amended (7 CFR Part 900), regulating the handling of milk in the Knoxville, Tennessee, marketing area, hereinafter referred to as the "order", it is hereby found and determined that:

1. The following provisions of § 988.93 will not tend to effectuate the declared policy of the act for the months of March and April, 1956:

(a) For the months of March through July, subtract the Class II price, adjusted for Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential.

(b) For the months of August through February * * *.

2. Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof, are found to be impracticable, unnecessary, and contrary to the public interest in that:

(a) The information upon which this action is based did not become available in sufficient time for such compliance;

(b) This suspension order will relieve handler(s) who operate nonpool plant(s), distributing less than 15 percent of receipts of milk in the marketing area, of making payments for such milk distributed in the marketing area. Petitioner's producers are intermingled with producers supplying regulated handlers under this order. Petitioner has made payments required under § 988.93 (b) during the past several months and these payments have been sufficient during this period to maintain an orderly marketing situation. To increase such payments as required by § 988.93 (a) at this time would be disruptive of orderly marketing conditions;

(c) This suspension order is necessary to reflect current marketing conditions and to facilitate, promote, and maintain orderly marketing conditions in such marketing area; and

(d) This suspension order does not require of persons affected substantial or extensive preparation prior to its effective date.

Therefore, good cause exists for making this order effective for the period March and April, 1956.

It is therefore ordered, That the following provisions of § 988.93 of the order be and hereby are suspended for March and April, 1956:

(a) For the months of March through July, subtract the Class II price, adjusted for Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential.

(b) For the months of August through February * * *.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Done at Washington, D. C., this 2d day of March 1956, to be effective on and after March 1, 1956.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

[F. R. Doc. 56-1744; Filed, Mar. 5, 1956; 8:56 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 152]

PART 608—RESTRICTED AREAS

MISCELLANEOUS AMENDMENTS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date, provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.13, the Camp Chaffee, Arkansas, area (R-215 formerly D-215), amended on January 19, 1951 in 16 F. R. 496, is further amended by changing the "Designated Altitude" column to read: "Surface to 26,000 feet MSL."

2. In § 608.51, the Midland, Texas, area (R-218 formerly D-218), amended on November 28, 1951 in 16 F. R. 11954 is rescinded.

3. In § 608.51, the Matagorda Island, Texas, area (R-224 formerly D-224), amended on May 25, 1955 in 20 F. R. 3651 is rescinded.

4. In § 608.51, the Del Rio, Texas, area (R-446 formerly D-446), established on October 6, 1953 in 18 F. R. 6354 is rescinded.

5. In § 608.51, the Matagorda Island, Texas, area (R-226) amended on August 2, 1955 in 20 F. R. 5481 is redesignated as follows:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Matagorda Island (R-226) (San Antonio).	Latitude 28°16'00", longitude 96°27'00"; latitude 28°18'55", longitude 96°27'45"; latitude 28°20'55", longitude 96°29'15"; latitude 28°12'00", longitude 96°46'00"; latitude 28°07'00", longitude 96°42'00"; thence parallel to and 3 nautical miles from the shoreline to the point of beginning.	Surface to 60,000 feet mean sea level.	Continuous...	Second Air Force, Barksdale, La.

(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)

This amendment shall become effective on March 22, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

[F. R. Doc. 56-1682; Filed, Mar. 5, 1956; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

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

Subchapter B—Food and Food Products

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS; AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

ORDER ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR SAMSOE CHEESE

In the matter of establishing a definition and standard of identity for samsoe cheese:

On March 10, 1955, a notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 1454) setting forth a proposal to adopt a definition and standard of identity for samsoe cheese. The notice allowed 30 days for interested persons to submit in writing their views regarding the proposal.

Upon consideration of the views presented and other relevant information, it is concluded that honesty and fair dealing in the interest of consumers will be promoted by adoption of the definition and standard of identity for samsoe cheese, but that the proposed standard published as heretofore noted should be modified with respect to curing the cheese. Therefore, pursuant to authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 401, 52 Stat. 1046, 68 Stat. 54; 21 U. S. C. 341) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1996): *It is ordered*, That Part 19 be amended by adding thereto the following new section:

§ 19.544 *Samsoe cheese; identity.* (a) Samsoe cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. The shape of the cheese is flat cylindrical. Its weight is approximately 30 pounds (14 kilograms); its diameter is approximately 17 inches (44 centimeters); and its height is approximately 4 inches (10 centimeters). It has a small amount of eye formation of approximately uniform size of about 5/16-inch (8 millimeters). It contains not more than 46 percent of moisture, and its solids contain not less than 45 percent of milk fat, as determined by the methods prescribed in § 19.500 (c). The cheese so made is cured at a temperature of not less than 35° F. for not less than 60 days. The surface may be covered with plain or colored paraffin or other tightly adhering coating.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately 3/8-inch (1 centimeter). The mass is stirred and heated to about 102° F., and so handled by further stirring, heating, dilution with water, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage, the curd is pressed. After drainage, the curd is removed from the forms and is further salted by immersing in a concentrated salt solution for about 3 days. The curd is then cured at a temperature of from 60° to 70° F. for 3 to 5 weeks to obtain the desired eye formation. Further curing is conducted at a lower temperature.

(c) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto cream or skim milk.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing on the provisions of the order to which objections are made. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 60 days after its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 401, 52 Stat. 1046, 68 Stat. 54; 21 U. S. C. 341)

Dated: February 29, 1956.

[SEAL] JOHN L. HARVEY,
Acting Commissioner of Food and Drugs.

[F. R. Doc. 56-1683; Filed, Mar. 5, 1956; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

On December 6, 1955, a notice of proposed rule making with respect to regulations designated as Part 200 of Title 26 (1954) of the Code of Federal Regulations was published in the FEDERAL REGISTER (20 F. R. 8954). The purposes of the proposals were to adopt Part 200 of Subchapter C of Title 26 of the 1939 Code of Federal Regulations as Part 200 of Subchapter E of Title 26 of the 1954 Code of Federal Regulations, and to amend such adopted regulations (a) to incorporate certain of the recommendations of the President's Conference on Administrative Procedure, (b) to further specify details of procedure with respect to permits under chapter 52, of the Internal Revenue Code, and to clarify procedures applicable to the various types of permits under the Internal Revenue Code by including specific references to tobacco and liquor bottle permits, and (c) to provide minor editorial amendments. No data, views, or arguments pertaining thereto having been received within the period of 30 days from the date of publication of said notice, the regulations so published are hereby adopted subject to the changes set forth below:

PARAGRAPH 1. The "Preamble" is amended by adding a new third paragraph.

PAR. 2. Subpart B is amended by revising the last sentence of § 200.17.

PAR. 3. Subpart I is amended by revising the second sentence of § 200.115.

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: February 28, 1956.

DAN THROOP SMITH,
Special Assistant to the Secretary, In Charge of Tax Policy.

Preamble. 1. The regulations in this part shall supersede Regulations 123 (26 CFR (1939) Part 200; 19 F. R. 8502).

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced, before the effective date of these regulations.

3. The regulations in this part shall be effective on the 30th day after publication in the FEDERAL REGISTER.

AUTHORITY: §§ 200.1 to 200.129 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

SUBPART A—SCOPE AND CONSTRUCTION OF REGULATIONS

§ 200.1 *Scope of part.* The rules in this part govern the procedure and practice in connection with the disapproval of applications for basic permits, and for the suspension, revocation and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U. S. C. 201 et seq.) and disapproval, suspension, and revocation of basic permits under the Internal Revenue Code (26 U. S. C.). The rules in this part shall also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record, after opportunity for hearing, under laws administered by the Alcohol and Tobacco Tax Division, Internal Revenue Service.

§ 200.2 *Liberal construction.* The rules in this part shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Rules of Civil Procedure for the District Courts of the United States, where applicable, shall be a guide in any situation not provided for or controlled by this part, but shall be liberally construed, or relaxed when necessary.

§ 200.3 *Forms prescribed.* The Director, Alcohol and Tobacco Tax Division, is authorized to prescribe all forms required by this part. Information called for shall be furnished in accordance with the instructions on the form or issued in respect thereto.

SUBPART B—DEFINITIONS

§ 200.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 200.6 *Applicant.* "Applicant" shall mean any person who has filed an initial application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code.

§ 200.7 *Application.* "Application" shall mean any application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code. The term "initial application" shall mean an application for an original permit for operations not covered by an existing permit. The term "renewal application" shall mean an application timely filed for the renewal of an existing permit.

§ 200.8 *Assistant regional commissioner.* "Assistant regional commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under the direction and supervision of the regional commissioner.

§ 200.9 *Attorney for the government.* The attorney for the Government shall mean the attorney in the office of the chief counsel (assigned to the National or regional office) authorized to represent the assistant regional commissioner in the proceeding.

§ 200.10 *Citation.* "Citation" shall include any notice contemplating the disapproval of an application (whether initial or renewal) or any order to show cause why a permit should not be suspended, revoked or annulled.

§ 200.11 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 200.12 *Director, Alcohol and Tobacco Tax Division.* "Director, Alcohol and Tobacco Tax Division" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D. C.

§ 200.13 *Examiner.* "Examiner" shall mean the examiner appointed pursuant to section 11 of the Administrative Procedure Act, designated to preside over any administrative proceeding under this part.

§ 200.14 *Initial decision.* "Initial decision" shall mean the decision (order) of the assistant regional commissioner in any proceeding on an initial application for a permit, and the decision of the examiner in any proceeding on the suspension, revocation or annulment of a permit or on the disapproval of a renewal application.

§ 200.15 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 200.16 *Other terms.* Any other term defined in the Federal Alcohol Administration Act (27 U. S. C. 201), the Internal Revenue Code (26 U. S. C.) or the Administrative Procedure Act (5 U. S. C. 1001) where used in the regulations in this part shall have the meaning assigned to it therein.

§ 200.17 *Permit.* "Permit" shall mean a formal document issued under the Federal Alcohol Administration Act or the Internal Revenue Code, authorizing the person named therein to engage in the activities described. "FAA permit" shall mean a basic permit under the provisions of the Federal Alcohol Administration Act. "Alcohol permit" shall mean a basic permit under the provisions of the Internal Revenue Code relating to alcohol, whether industrial, taxfree, or denatured. "Container permit" shall mean a permit under the provisions of the Internal Revenue Code relating to the regulation of the traffic in containers of distilled spirits. "Tobacco permit" shall mean a permit under the provisions of the Internal Revenue Code relating to tobacco materials, manufactured tobacco, cigars, cigarettes, and cigarette papers and tubes.

§ 200.18 *Permittee.* "Permittee" shall mean any person holding a basic permit under the Federal Alcohol Administration Act or the Internal Revenue Code, as aforesaid.

§ 200.19 *Person.* "Person" shall mean an individual, partnership, joint stock company, business trust, association, corporation or other form of business enterprise including receivers, trustees, or liquidating agents.

§ 200.20 *Recommended decision.* "Recommended decision" shall mean the advisory decision of the examiner in any proceeding on an initial application for a permit.

§ 200.21 *Regional Commissioner.* "Regional Commissioner" shall mean the Regional Commissioner of Internal Revenue of an internal revenue region.

§ 200.22 *Respondent.* "Respondent" shall mean any person holding a permit against which an order has been issued to show cause why such permit should not be suspended, revoked or annulled, or against the renewal of which a notice of contemplated disapproval has been issued.

SUBPART C—GENERAL

§ 200.25 *Communications and pleadings.* All communications to the Government regarding the procedures set forth in this part and all pleadings, such as answers, motions, requests, or other papers or documents required or permitted to be filed under this part, relating to a proceeding pending before an examiner, shall be addressed to the examiner at his post of duty or to the examiner in care of the assistant regional commissioner of the region in which the business of the applicant or respondent is operated or proposed to be operated to be forwarded to the examiner. Communications concerning proceedings not pending before an examiner should be addressed to the Assistant Regional Commissioner or Director, Alcohol and Tobacco Tax Division, as the case may be. All pleadings should be filed in quadruplicate.

§ 200.26 *Service on applicant or respondent.* All orders, notices, citations, motions and other formal documents, except subpoenas, required to be served under the regulations in this part may be served by mailing a signed duplicate original copy thereof to the permittee or applicant by registered mail, with request for return receipt card, at the address stated in his permit or application or at his last known address, or by delivery of such original copy to the permittee or applicant personally, or in the case of a corporation, partnership, or other unincorporated association, by delivering the same to an officer, or manager, or general agent thereof, or to its attorney of record. Such personal service may be made by any employee of the Internal Revenue Service or by any employee of the Treasury Department designated by the Secretary. A certificate of mailing and the return receipt card, or certificate of service signed by the person making such service, shall be filed as a part of the record.

§ 200.27 *Service on the assistant regional commissioner or Director.* Pleadings, motions, notices, and other formal documents, except subpoenas, may be served, by registered mail or personally, on the assistant regional commissioner (or upon the attorney for the Government on behalf of the assistant regional commissioner), or on the Director, Alcohol and Tobacco Tax Division if the proceeding is before him for review on appeal.

TIME

§ 200.28 *Computation.* In computing any period of time prescribed or allowed by this part, the day of the act, event or default after which the designated period of time is to run, is not to be included. The last day of the period to be computed is to be included, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the next day which is neither a Saturday, Sunday or legal holiday. Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the appropriate office within the time limits, if any, for such filing.

§ 200.29 *Continuances and extensions.* For good cause shown, the Commissioner, Director, Alcohol and Tobacco Tax Division, Assistant Regional Commissioner, or the examiner, as the case may be, may grant continuances and as to all matters pending before him extend any time limit prescribed by the rules in this part (except where the time limit is statutory).

REPRESENTATION AT HEARINGS

§ 200.30 *Personal representation.* Any individual or member of a partnership may after adequate identification, appear for himself, or such partnership, and a corporation or association may be represented by a bona fide officer of such corporation or association, upon showing of adequate authorization.

§ 200.31 *Attorneys.* A respondent or applicant may be represented by an attorney: *Provided,* That such attorney is duly enrolled to practice before the Treasury Department under the provisions of 31 CFR Part 10 (Treasury Department Circular No. 230),[1] and files in the proceeding a duly executed power of attorney to represent the applicant or respondent. See Conference and Practice Requirements, Internal Revenue Service, §§ 601.501–601.511 of this chapter. The assistant regional commissioner shall be represented in proceedings under this part by the attorney for the Government who is authorized to execute and file motions, briefs and other papers in the proceeding, on behalf of the assistant regional commissioner, in his own name as "Attorney for the Government".

§ 200.32 *Authority of Commissioner.* The Commissioner shall have all the authority granted by this part to examiners, assistant regional commissioners, and the Director, Alcohol and Tobacco Tax Division, and may exercise any of the functions prescribed in this part.

SUBPART D—COMPLIANCE AND SETTLEMENT

§ 200.35 *Opportunity for compliance.* Except in proceedings involving willful-

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[1] See also 31 CFR Part 14.

ness or those in which the public interest requires otherwise, and the assistant regional commissioner so alleges in his citation, stating his reasons therefor, no permit shall be suspended, revoked or annulled, or application for renewal disapproved, unless, prior to the institution of proceedings, facts or conduct warranting such action shall have been called to the attention of the permittee, or applicant for renewal, by the assistant regional commissioner, in writing, and the permittee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements, as set forth in section 9 (b) of the Administrative Procedure Act. If the permittee fails to meet the requirements of the law and regulations within such reasonable time as may be specified by the assistant regional commissioner, proceedings for suspension, revocation or annulment of the permit, or disapproval of the renewal application, shall be initiated.

INFORMAL SETTLEMENT

§ 200.36 *General.* In all proceedings in which a permittee is cited to show cause why his permit should not be suspended, revoked or annulled, or his application for renewal disapproved, he shall be afforded opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, where time, the nature of the proceeding, and the public interest permit, in accordance with section 5 (b) of the Administrative Procedure Act. Such submittals should be made to the assistant regional commissioner, but may be made through the attorney for the Government. Where necessary, the date of the hearing may be postponed, pending consideration of such proposals, when they are made in good faith and not for the purpose of delay. If proposals of settlement are submitted, and they are considered unsatisfactory, the assistant regional commissioner may reject the proposals and may, either directly or through the attorney for the Government, inform the permittee of any conditions on which the alleged violations may be settled. If the proposals of settlement are considered satisfactory to the assistant regional commissioner, he shall notify the permittee thereof and the attorney for the Government shall move the dismissal of the proceedings, unless such proposals of settlement include a monetary offer in compromise, in which event he shall advise the hearing examiner that the offer has been made and is under consideration and the hearing examiner may, in his discretion, continue the proceeding pending final action on such monetary offer in compromise or he may proceed with the hearing and his consideration of the matter pending final action, but in no event shall he render his decision until final action on such offer in compromise.

§ 200.37 *Notice of contemplated action.* Where the assistant regional commissioner believes that the matter may be settled informally, i. e., without formal administrative proceedings, he shall, in accordance with section 5 (b) of the Administrative Procedure Act, prior to the issuance of a citation, inform the permittee of the contemplated issuance of an order to show cause why his permit should not be suspended, revoked or annulled, or his application for renewal thereof be disapproved, and that he is being given an opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment. The notice should inform the permittee of the charges on which the citation would be based, if issued, and afford him a period of 10 days from the date of the notice, or such longer period as the assistant regional commissioner deems necessary, in which to submit proposals of settlement to the assistant regional commissioner. Where informal settlement is not reached promptly because of the inaction of the permittee, or proposals are made for the purpose of delay, citation shall issue in accordance with §§ 200.55 and 200.56, and the hearing shall be held in accordance with the rules in this part.

§ 200.38 *Limitation on informal settlement.* Where the evidence is conclusive and the nature of the violation is such as to preclude any settlement short of suspension, revocation or annulment, or disapproval of renewal application, or the violation is of a continuing character that necessitates immediate action to protect the public interest, or where the assistant regional commissioner believes that any informal settlement of the alleged violation will not insure future compliance with the laws and regulations, or in any similar case where the circumstances are such as to clearly preclude informal settlement, and the assistant regional commissioner so finds and states his reasons therefor as provided in § 200.35, he may restrict settlement to that provided in § 200.71.

SUBPART E—GROUNDS FOR CITATION

§ 200.45 *FAA permits.* Whenever the assistant regional commissioner has reason to believe that any person has willfully violated any of the conditions of his FAA permit, or has not in fact or in good faith engaged in the operations authorized by such permit for a period of more than two years, or that such permit was procured through fraud, misrepresentation or concealment of material facts, he shall issue a citation for the suspension, revocation or annulment of such permit, as the case may be.

§ 200.46 *Tobacco permits.* Whenever the assistant regional commissioner has reason to believe that any person has not in good faith complied with any of the provisions of Chapter 52 or regulations issued thereunder, or has not complied with any provision of the Internal Revenue Code which involves intent to defraud, or has violated any of the conditions of his permit, or has failed to disclose any material information required, or has made any materially false statement, in the application for his permit, or has failed to maintain his premises in such manner as to protect the revenue, the assistant regional commissioner shall issue a citation for the revocation or suspension of such permit.

§ 200.47 *Container permits.* Whenever the assistant regional commissioner has reason to believe that the permittee has violated any of the provisions of the Internal Revenue Code regulating the traffic in containers of distilled spirits, the regulations thereunder, or any of the terms or conditions of his permit, the assistant regional commissioner shall issue a citation for the revocation or suspension of such permit.

§ 200.48 *Alcohol permits.* If at any time there shall be filed with the assistant regional commissioner a complaint under oath setting forth facts showing, or if the assistant regional commissioner has reason to believe, that any person who has an alcohol permit is not in good faith conforming to the provisions of law applicable to such permit or has violated the terms of such permit, or has made any false statement in the application therefor, or has willfully failed to disclose any information required by regulation to be furnished, or has violated any law of the United States, or any State or any Territory or possession of the United States or of the District of Columbia relating to intoxicating liquor, he shall issue a citation for the revocation of such permit.

§ 200.49 *Applications.* If, upon examination of any application (including a renewal application) for a permit, the assistant regional commissioner has reason to believe that the applicant is not entitled to such permit he shall issue a citation for the contemplated disapproval of the application.

§ 200.50 *Expiration of permit.* In any case where a permittee has, in accordance with the law and regulations, made timely and sufficient application for a renewal of its permit, such permit shall not expire until such application shall have been finally determined.

SUBPART F—HEARING PROCEDURE

CITATIONS

§ 200.55 *Content.* Citations for the suspension, revocation or annulment of a permit shall be issued by the assistant regional commissioner and shall set forth (a) the sections of law and regulations relied upon for authority and jurisdiction of the hearing, (b) in separate paragraphs, the matters of fact constituting the violations specified, dates, places, sections of law and regulations violated, and (c) the time (in alcohol permit proceedings not more than 30 and not less than 15 days from date of service of citation) and place and nature of the hearing. Citations for the disapproval of an application for an initial or renewal permit shall set forth (1) the sections of law and regulations relied upon for authority and jurisdiction, (2) in separate paragraphs, the matters of fact and law relied upon for the contemplated disapproval of the application, and (3) that the application will be disapproved unless within 15 days a hearing thereon is requested.

§ 200.56 *Form.* Citations shall be issued on the following forms:

(a) Form 1430, "Order To Show Cause Why Permit Should Not Be Revoked," shall be used where citations are issued against alcohol permittees on complaint, under oath, of persons other than the assistant regional commissioner, and there shall be attached thereto a copy of the complaint.

(b) Form 1430-A, "Order To Show Cause," shall be used for all other citations for the suspension, revocation, or annulment, as the case may be, of permits under the Internal Revenue Code or the Federal Alcohol Administration Act.

(c) Form 1430-C, "Notice of Contemplated Disapproval of Application For Basic Permit," shall be used to issue notice of contemplated disapproval of applications for permit, whether initial or renewal.

§ 200.57 *Execution and disposition.* Forms 1430, 1430-A and 1430-C shall be executed in quintuplicate. A signed duplicate original shall be served on the permittee, one copy shall be sent to the examiner designated to conduct the hearing, the original copy, containing the certificate of service, shall be placed in the official record of the proceeding, and the remaining copies shall be retained for the assistant regional commissioner's office.

§ 200.58 *Designated place of hearing.* The designated place of hearing, (a) in the case of alcohol permits, shall be within the same Federal judicial district and within fifty miles of the place wherein the acts constituting the violations are alleged to have occurred unless the parties agree on a different place; and (b) in the case of all other permits, shall be such as meets the convenience or necessity of the parties.

REQUEST FOR HEARING

§ 200.59 *Application cases.* If the applicant for an initial or renewal permit desires a hearing, he shall file a request therefor, in writing, with the assistant regional commissioner within fifteen days after receipt of notice of the contemplated disapproval, in whole or in part, of his application.

§ 200.60 *Suspension, revocation or annulment cases.* No request for a hearing is necessary on citations for suspension, revocation or annulment, since the order to show cause sets forth on its face the date the respondent is to appear to show cause why his permit should not be suspended, revoked or annulled.

§ 200.61 *Notice of hearing.* In case a request for a hearing is filed by the applicant within the required time, the assistant regional commissioner shall refer the matter to the examiner and the examiner shall set a time and place for a hearing and shall serve notice thereof upon the parties at least ten days in advance of the hearing date.

NON-REQUEST FOR HEARING

§ 200.62 *Initial application.* In the case of an initial application, if the applicant does not request a hearing within the time specified in § 200.59, or within such further time as the assistant regional commissioner may in his discretion allow, the assistant regional commissioner will by order, stating the findings upon which it is based, disapprove the application, and will serve signed duplicate original of such order on the applicant.

§ 200.63 *Renewal application.* In the case of a renewal application, if the applicant does not request a hearing within the time specified in § 200.59, the assistant regional commissioner shall immediately refer the matter to the examiner who shall set it down for hearing as if such hearing had been requested.

ANSWERS

§ 200.64 *When required.* After service of a citation upon the respondent, ordering him to appear and show cause why his permit shall not be suspended, revoked or annulled, if he desires to contest the proceedings he shall, within 15 days from service of the order to show cause, file with the examiner and serve on the assistant regional commissioner an answer, in writing, to the allegations set forth therein. Such answer shall contain a concise statement of the facts that constitute his grounds of defense. Evidence to be introduced upon such hearing may be limited to the issues contained in the order to show cause and answers filed thereto: *Provided, however,* That where justice demands, the examiner shall waive any of the requirements of this section. Answers need not be filed ni application proceedings.
be filed in application proceedings.

§ 200.65 *Answer admitting facts.* If the respondent desires to waive the hearing on the allegations of fact set forth in the order to show cause, and does not contest the facts, the answer may consist of a statement that the respondent admits all material allegations of fact charged in the citation to be true. The examiner shall thereupon base his findings on the citation and such answer: *Provided, however,* That nothing herein contained shall affect the respondent's right to submit proposed findings and conclusions of fact or law and his right of appeal.

§ 200.66 *Prehearing conferences.* In any proceeding the hearing examiner may, upon his own motion or upon the motion of one of the parties or their qualified representatives, in his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

(a) The simplifications of the issues;
(b) The necessity of amendments to the pleadings;
(c) The possibility of obtaining stipulations, admissions of facts and of documents;
(d) The limitation of the number of expert witnesses; and
(e) Such other matters as may aid in the disposition of the proceeding.

As soon as practicable after such conference, the hearing examiner shall issue an order which recites the action taken thereat, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admission or agreement; and such order shall control the subsequent course of the proceedings, unless modified for good cause by a subsequent order.

FAILURE TO APPEAR

§ 200.67 *Initial applications.* Where the applicant on an initial application for a permit has requested a hearing and does not appear at the appointed time and place, and evidence has not been offered to refute or explain the grounds upon which disapproval of the application is contemplated, this shall be construed as a waiver of the hearing, a default will be entered and the examiner shall recommend disapproval of said application.

§ 200.68 *Renewal applications.* Where the applicant on an application for a renewal permit has requested a hearing, or hearing has been set as provided in § 200.63, and no evidence is offered as stated, the attorney for the Government will proceed ex parte as set forth in § 200.69.

§ 200.69 *Suspension, revocation or annulment.* If on the date set for the hearing respondent does not appear and no evidence has been offered, the attorney for the Government will proceed ex parte and offer for the record sufficient evidence to make a prima facie case. At such hearing, documents, statements and affidavits may be submitted in lieu of testimony of witnesses.

WAIVER OF HEARING

§ 200.70 *Application proceedings.* At any time prior to final action thereon the applicant may, by filing written notice with the assistant regional commissioner, withdraw his application. If such a notice is filed after referral to the hearing examiner of a proceeding on an application for an initial or renewal permit and prior to issuance of his recommended decision or decision thereon, the assistant regional commissioner shall move the examiner to dismiss the proceedings as moot. If such a notice is filed while the proceeding is before the assistant regional commissioner and prior to final action thereon, that is, either (a) after issuance of a notice of contemplated disapproval and before referral of the proceeding to the hearing examiner or (b) after issuance by the hearing examiner of his recommended decision and prior to the assistant regional commissioner's order disapproving the application, the assistant regional commissioner shall, by order, dismiss the proceeding.

§ 200.71 *Suspension, revocation or annulment proceedings.* After the service of a citation for the suspension, revocation or annulment of a basic permit, the permittee may, if he so desires, waive the taking of evidence, but such waiver shall be accepted only if he stipulates that the examiner may enter an appropriate decision sustaining the charges and suspending, revoking or annulling the permit.

SURRENDER OF PERMIT

§ 200.72 *Before citation.* If a respondent surrenders his permit before citation, the assistant regional commissioner may accept the surrender. But if the evidence, in the opinion of the assistant regional commissioner, warrants citation for suspension, revocation or annulment, he shall refuse to accept such surrender and shall issue the citation notifying the permittee at the same time that he may file a formal waiver as provided in § 200.71. Should such waiver not be filed after notice, the examiner will proceed with the hearing on the citation.

§ 200.73 *After citation.* If a respondent surrenders his permit after citation and prior to the decision of the examiner, the assistant regional commissioner may accept the surrender of the permit and move the examiner to dismiss the proceeding as moot. If, however, in the opinion of the assistant regional commissioner the evidence is such as to warrant suspension, revocation or annulment, as the case may be, he shall refuse to accept the surrender of the permit and shall notify the respondent that he may file a formal waiver as provided in § 200.71. Should such formal waiver not be filed after notice, the examiner will proceed with the hearing on the citation.

MOTIONS

§ 200.74 *General.* All motions shall be made and addressed to the officer before whom the proceeding is pending, and copies of all motion papers shall be served upon the other party or parties. Such officer may dispose of any motion without oral argument, but he may, if he so desires, set it down for hearing and request argument. He may dispose of such motion prior to the hearing on the merits or he may postpone the disposition until the hearing on the merits. No appeal may be taken from any ruling on a motion until the whole record is certified for review. Examples of typical motions may be found in the Rules of Civil Procedure referred to in § 200.2.

§ 200.75 *Prior to hearing.* All motions which should be made prior to the hearing, such as motions directed to the sufficiency of the pleadings or of preliminary orders, shall be filed in writing with the assistant regional commissioner issuing the citation or the examiner if the matter has been referred to him, and shall briefly state the order or relief applied for and the grounds for such motion, and shall be filed within 15 days after service of the citation.

§ 200.76 *At hearing.* Motions at the hearing may be made in writing to the examiner, or stated orally on the record.

HEARING

§ 200.77 *General.* Unless the hearing is waived by the applicant or permittee, or postponed, or transferred to another place, by a written agreement signed by the applicant or permittee, or his attorney, and the attorney for the Government and approved and filed with the examiner, or unless the hearing is postponed, or transferred (subject to statutory limitations) by order of the examiner for good cause shown by either party, it shall be held at the time and place stated in the citation, by the examiner named in the citation, or in the notice of hearing as the case may be, or any other duly designated and appointed examiner assigned to hold such hearing.

§ 200.78 *Initial applications.* The examiner who presides at the hearing on initial applications shall recommend a decision to the assistant regional commissioner who shall make the initial decision as provided in § 200.107. The applicant may be directed by the assistant regional commissioner to produce such records as may be deemed necessary for examination. All hearings on initial applications shall be open to the public subject to such restrictions and limitations as may be consistent with orderly procedure.

§ 200.79 *Suspension, revocation, annulment or renewal.* The examiner who presides at the hearing in proceedings on applications for renewal permits and in proceedings for the suspension, revocation and annulment of permits shall make the initial decision.

BURDEN OF PROOF

§ 200.80 *Initial applications.* In hearings on the contemplated disapproval of initial applications there may be incorporated in the record sufficient testimony, reports, affidavits and other documents to be considered only for the limited purpose of establishing probable cause for the issuance of the notice of contemplated disapproval by showing that the assistant regional commissioner had reason to believe that the applicant is not entitled to a permit. The burden of proof shall be upon the applicant to produce evidence to show he is entitled to a permit. The assistant regional commissioner may, instead of following the aforementioned procedure, assume the burden of going forward.

§ 200.81 *Suspension, revocation, annulment or renewal.* In hearings on the contemplated disapproval of renewal applications, or on the suspension, revocation or annulment of permits, the burden of proof is on the Government.

GENERAL

§ 200.82 *Stipulations at hearing.* If there has been no prehearing conference under § 200.66, the examiner shall at the beginning of the hearing, require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of fact concerning which there is no substantial dispute. The examiner should take similar action, where it appears appropriate, throughout the hearing and should call and conduct any conferences which he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

§ 200.83 *Evidence.* Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible: *Provided,* That the examiner may relax such rules in any hearing when in his judgment such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Except as provided in § 200.81, the proponent of an order shall have the burden of proof. Every party shall have the right to present his case or defense by oral or documentary evidence, depositions, duly authenticated copies of records and documents, to submit rebuttal evidence, and to conduct such reasonable cross-examination as may be required for a full and true disclosure of the facts. The examiner shall have the right in his discretion to limit the number of witnesses whose testimony may be merely cumulative and shall, as a matter of policy, not only exclude irrelevant, immaterial, or unduly repetitious evidence but shall also limit the cross-examination of witnesses to reasonable bounds so as not to unnecessarily prolong the hearing and unduly burden the record. Material and relevant evidence shall not be excluded, because it is not the best evidence, unless its authenticity is challenged, in which case reasonable time shall be given to establish its authenticity. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document should be made available for examination and for use by opposing counsel for purposes of cross-examination. Compilations, charts, summaries of data and photostatic copies of documents may be admitted in evidence if the proceedings will thereby be expedited, and if the material upon which they are based is available for examination by the parties. Objections to the evidence shall be in short form, stating the grounds relied upon. The transcript shall not include argument or debate on objections, except as ordered by the examiner, but shall include the rulings thereon.

§ 200.84 *Closing of hearing; arguments, briefs and proposed findings.* Before closing a hearing, the examiner shall inquire of each party whether he has any further evidence to offer, which inquiry and the response thereto shall be shown in the record. The examiner may hear arguments of counsel and may limit the time of such arguments at his discretion, and may, in his discretion, allow briefs to be filed on behalf of either party but shall closely limit the time within which the briefs for both parties shall be filed, so as to avoid unreasonable delay. The examiner shall also ascertain whether the parties desire to submit proposed findings and conclusions, together with supporting reasons, and if so a period of not more than 15 days (unless extended by the examiner)—after the close of the hearing or receipt of a copy of the record, if one is requested—will be allowed for such purpose.

§ 200.85 *Reopening of the hearing.* The Commissioner, the Director, Alcohol and Tobacco Tax Division, the assistant regional commissioner or the examiner, as the case may be, may, as to all matters pending before him, in his discretion reopen the hearing (a) in case of default where applicant failed to request a hearing or to appear after one was set, upon petition setting forth reasonable grounds for such failure, and (b) in case any party desires leave to adduce additional evidence upon petition summarizing such evidence, establishing its materiality and stating reasonable grounds why such party with due diligence was unable to produce such evidence at the hearing.

RECORD OF TESTIMONY

§ 200.86 *Stenographic record.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact (but not arguments of counsel unless otherwise ordered by the examiner) in all proceedings. A transcript of the evidence and proceedings at the hearing shall be made in all cases.

§ 200.87 *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the examiner, to be filed in the record of the case, that he will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his ability.

SUBPART G—HEARING EXAMINERS

§ 200.95 *Responsibilities of examiners.* Examiners shall be under the administrative control of the Commissioner. They shall be responsible for the conduct of hearings and shall render their decisions as soon as is reasonably possible after the hearing is closed. Examiners shall also be responsible for the preparation, certification and forwarding of reports of hearings, and the administrative work relating thereto, and, by arrangement with assistant regional commissioners and representatives of the Chief Counsel, shall have access to facilities and temporary use of personnel at such times and places as are needed in the prompt dispatch of official business.

§ 200.96 *Disqualification.* An examiner shall, at any time, withdraw from any proceeding if he deems himself disqualified; and upon the filing in good faith by the applicant or respondent, or by the attorney for the Government, of a timely and sufficient affidavit of facts showing personal bias or otherwise warranting the disqualification of any examiner, the Director, Alcohol and Tobacco Tax Division, shall upon appeal as provided in § 200.115, if the examiner fails to disqualify himself, determine the matter as a part of the record and decision in the proceeding. If he decides the examiner should have declared himself disqualified, he will remand the record for hearing de novo before another examiner. If the Director, Alcohol and Tobacco Tax Division, should decide against the disqualification of the examiner, the proceeding will be reviewed on its merits.

§ 200.97 *Powers.* Examiners shall have authority to (a) administer oaths and affirmations; (b) issue subpoenas authorized by law; (c) rule upon offers of proof and receive relevant evidence; (d) take or cause depositions to be taken whenever the ends of justice would be served thereby; (e) regulate the course of the hearing; (f) hold conferences for the settlement or simplification of the issues by consent of the parties; (g) dispose of procedural requests or similar matters; (h) render recommended decisions in proceedings on initial applications for permits, and initial decisions in renewal applications for permits and in suspension, revocation, or annulment proceedings against permits; (i) call, examine and cross-examine witnesses, including hostile or adverse witnesses when he deems such action to be necessary to a just disposition of the cause, and introduce into the record documentary or other evidence; and (j) take any other action authorized by rule of the Internal Revenue Service consistent with the Administrative Procedure Act.

§ 200.98 *Separation of functions.* Examiners shall perform no duties inconsistent with their duties and responsibilities as such. Examiners may be assigned duties not inconsistent with the performance of their functions as examiners. Save to the extent required for the disposition of ex parte matters as required by law, no examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate. The functions of the examiner shall be entirely separated from the general investigative functions of the agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any proceeding shall, in that or a factually related proceeding, participate or advise in the examiner's or Commissioner's decision, or in the agency review on appeal, except as a witness or counsel in the proceedings. The examiner may not informally obtain advice or opinions from the parties or their counsel, or from any officer or employee of the Internal Revenue Service, as to the facts or the weight or interpretation to be given to the evidence. He may, however, informally obtain advice on matters of law from officers or employees who were not engaged in the performance of investigative or prosecuting functions in that or a factually related proceeding. This limitation does not apply to the Commissioner, and the examiner may, at any time, consult with and obtain instructions from him on questions of law and policy.

§ 200.99 *Conduct of hearing.* The examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with dignity. In the event that counsel or any person or witness in any proceeding shall refuse to obey the orders of the examiner, or be guilty of disorderly or contemptuous language or conduct in connection with any hearing, the examiner may, for good cause stated in the record, suspend the hearing, and, in the case of an attorney, recommend that the Commissioner report the matter to the Director of Practice for disciplinary action. The refusal of a witness to answer any question which has been ruled to be proper shall be considered by the examiner in determining the weight to be given all the testimony of that witness.

§ 200.100 *Unavailability of examiner.* In the event that the examiner designated to conduct a hearing becomes unavailable before the filing of his findings and decision or recommended decision, the Commissioner may assign the case to another examiner for the continuance of the proceeding, in accordance with the regulations in this part in the same manner as if he had been designated examiner at the commencement of the proceeding.

SUBPART H—DECISIONS

§ 200.105 *Examiner's finding and decision or recommended decision.* Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the examiner shall render his decision or recommended decision, as the case may be. All decisions shall become a part of the record and, if proposed findings and conclusions have been filed, shall show the examiner's ruling upon each of such proposed findings and conclusions. Decisions shall consist of (a) a brief statement of the issues of fact involved in the proceeding; (b) the examiner's findings and conclusions, as well as the reasons or basis therefor with record references, upon all the material issues of fact, law or discretion presented on the record (including, when appropriate, comment as to the credibility and demeanor of the witnesses); and (c) the examiner's determination or recommended determination on the record. Where the examiner determines that the imposition of a period of suspension of the permit is appropriate, his decision shall state the length of such period of suspension, to commence at such time as the assistant regional commissioner shall specify.

§ 200.106 *Certification and transmittal of record and decision.* After reaching his decision, the examiner shall certify to the complete record of the proceeding before him and (a), in proceedings on initial application, shall immediately forward the complete certified record together with four copies of his recommended decision to the assistant regional commissioner for initial decision, or (b), in proceedings on renewal applications and revocation, suspension or annulment proceedings, shall immediately forward the complete certified record, together with two copies of his decision, to the assistant regional commissioner, serve one copy of his decision on the respondent or his counsel and transmit a copy of his decision to the attorney for the Government.

ACTION BY ASSISTANT REGIONAL COMMISSIONER

§ 200.107 *Initial application proceedings.* If, upon receipt of the record and the recommended decision of the examiner, the assistant regional commissioner decides that the permit should be issued, he shall thereupon approve the application briefly stating, for the record, his reasons therefor, but if he contemplates the disapproval of the application he shall serve a copy of the examiner's recommended decision on the applicant, informing the applicant of his contemplated action and affording the applicant not more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with reasons in support thereof. If the assistant regional commissioner, after consideration of the record of the hearing and of any proposed findings, conclusions or exceptions filed with him by the applicant, approves the findings, conclusions and recommended decision of the examiner, he shall by order approve or disapprove of the application in accordance therewith. If, after such consideration, he disapproves of the findings, conclusions and recommended decision of the examiner, in whole or in part, he shall by order make such findings and conclusions as in his opinion are warranted by the law and facts in the record. Any decision of the assistant regional commissioner ordering the disapproval of an initial application for a permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion and exception to the examiner's recommended decision, together with a statement of his findings and conclusions, and reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record. A signed duplicate original of the decision shall be served upon the applicant and the original copy containing certificate of service shall be placed in the official record of the proceeding.

§ 200.108 *Suspension, revocation, annulment or renewal application proceedings.* Upon receipt of the complete certified record of the hearing the assistant regional commissioner shall enter an order suspending, revoking or annulling the permit (on Form 1430-B) disapproving the application or dismissing the proceedings in accordance with the examiner's findings and decision, unless he disagrees with such findings and decision and files a petition with the Director, Alcohol and Tobacco Tax Division, for review thereof, as provided in § 200.115. If the assistant regional commissioner files such petition, he shall withhold issuance of the order, pending the decision of the Director, Alcohol and Tobacco Tax Division, upon receipt of which he shall issue the order in accordance therewith. A signed duplicate original of the order of the assistant regional commissioner shall be served upon the respondent and the original copy containing certificate of service shall be placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the assistant regional commissioner's order shall state the time when the suspension period set forth in the examiner's decision shall commence and terminate.

§ 200.109 *Notice to Director, Alcohol and Tobacco Tax Division.* When the assistant regional commissioner makes an order suspending, revoking or annulling a permit or disapproving a renewal application, he will furnish a copy of the order and of the decision on which it is based to the Director, Alcohol and Tobacco Tax Division. Should such order be subsequently set aside on review by the courts, the assistant regional commissioner will so advise the Director, Alcohol and Tobacco Tax Division.

§ 200.110 *Proceedings involving violations not within region of issuance of permit.* In the event that a citation covers violations which occurred at a place not within the region of issuance of the permit involved, the assistant regional commissioner of such region may (and, in the case of alcohol permits, shall) set the matter for hearing. In all such cases the hearing examiner shall forward the complete and duly certified transcript of the entire record of such proceeding and a copy of his decision to the assistant regional commissioner of the region in which the basic permit was issued who shall take appropriate action in accordance with § 200.108.

SUBPART I—REVIEW

§ 200.115 *Appeal on petition to the Director, Alcohol and Tobacco Tax Division.* An appeal is not required prior to application to the Federal Courts for review. An appeal may be taken by the applicant or respondent to the Director, Alcohol and Tobacco Tax Division, from an examiner's decision suspending, revoking or annulling a permit or disapproving a renewal application, and from an order of the assistant regional commissioner disapproving an initial application for a permit. Similarly, an appeal may be taken by the assistant regional commissioner from an examiner's decision. Such appeal shall be taken by filing a petition for review on appeal with the Director, Alcohol and Tobacco Tax Division, within 15 days of the service of the order or examiner's decision. The petition must set forth facts tending to show (a) action of an arbitrary nature, (b) action without reasonable warrant in fact, or (c) action contrary to law and regulations. A copy of the petition shall be filed with the assistant regional commissioner or served on the respondent, as the case may be. In the event of such appeal, the assistant regional commissioner shall immediately forward the complete original record, by registered mail, to the Director, Alcohol and Tobacco Tax Division, for his consideration and review.

§ 200.116 *Review by Director, Alcohol and Tobacco Tax Division.* The Director, Alcohol and Tobacco Tax Division, on appeal on petition for review, shall afford a reasonable opportunity for the submission of proposed findings, conclusions or exceptions with reasons in support thereof and an opportunity for oral argument. He may alter or modify any finding of the examiner (or of the assistant regional commissioner in initial application proceedings) and may affirm, reverse, or modify the decision of the examiner (or of the assistant regional commissioner in initial application proceedings), or he may remand the case for further hearing, but he shall not consider evidence which is not a part of the record. Appeals and petitions for review shall not be decided by the Director, Alcohol and Tobacco Tax Division, in any proceeding in which he has engaged in investigation or prosecution, and in such event he shall so state his disqualification in writing and refer the record to the Commissioner for appropriate action. The Commissioner may designate an Assistant Commissioner or one of his principal aides to consider any proceeding instead of the Director, Alcohol and Tobacco Tax Division. The original copy of the decision on review shall be placed in the official record of the proceeding, a signed duplicate original shall be served upon the applicant or respondent and a copy shall be transmitted to the assistant regional commissioner. When, on appeal, the Director, Alcohol and Tobacco Tax Division, affirms the decision of the assistant regional commissioner or the examiner, as the case may be, disapproving an application or suspending, revoking or annulling a permit, such action shall not supersede the decision of the assistant regional commissioner or the examiner and such decision shall be final.

§ 200.117 *Permit privileges, exceptions.* Pending final determination of any timely appeal in revocation, suspension, annulment or renewal application proceedings to the Director, Alcohol and Tobacco Tax Division, the permit involved shall continue in force and effect except that, in the case of alcohol permits, any time after a citation has been issued withdrawals of alcohol or specially denatured alcohol by such permittee may, in the discretion of the assistant regional commissioner or Director, Alcohol and Tobacco Tax Division, be restricted to the quantity which, together with the quantity then on hand, is necessary to carry on legitimate operations under such permit. The assistant regional commissioner may, in restricting the permittee to his legitimate needs, refuse to issue any purchase or withdrawal permit.

§ 200.118 *Court review; permits under the Internal Revenue Code.* If an applicant or respondent desires to have a decision of the examiner, or a final order of the assistant regional commissioner or of the Director, Alcohol and Tobacco Tax Division, reviewed on appeal by the Federal court, the assistant regional commissioner or the Director, Alcohol and Tobacco Tax Division, upon notification that such an appeal has been taken shall have prepared in triplicate a complete transcript of the record of the proceeding. The assistant regional commissioner or the Director, Alcohol and Tobacco Tax Division, as the case may be, will certify to the correctness of such transcript of the record, forward one copy to the attorney for the Government in the review of the case, and file the original record of the proceedings with the original certificate in the district court.

§ 200.119 *Court review; FAA permits.* If an applicant or respondent desires to have a decision of the examiner or a final order of the assistant regional commissioner, or the Director, Alcohol and Tobacco Tax Division, reviewed on appeal by the United States Circuit Court of Appeals, as provided by law, the Director, Alcohol and Tobacco Tax Division, upon notification of the filing of the petition for review, shall have prepared, in triplicate, a complete transcript of the record of the proceeding. The assistant regional commissioner or Director, Alcohol and Tobacco Tax Division, as the case may be, will certify to the correctness of the record and file the original certificate with the original record in the Circuit Court of Appeals.

SUBPART J—MISCELLANEOUS

§ 200.125 *Depositions.* The examiner may take or order the taking of depositions by either party to the proceeding at such time and place as he may designate before a person having the power to administer oaths, upon application therefor and notice to the parties to the action. The testimony shall be reduced to writing by the person taking the deposition, or under his direction, and the deposition shall be subscribed by the deponent unless subscribing thereof is waived in writing by the parties. Any person may be subpoenaed to appear and depose and to produce documentary evidence in the same manner as witnesses at hearings.

§ 200.126 *Subpoenas.* Where authorized by law, upon written application by a party to a proceeding, the attendance and testimony of any person, or the production of documentary evidence in proceedings instituted under this part may be required by personal subpoena (Form 1644) or by subpoena duces tecum (Form 1645). Application should be addressed to, and subpoenas should be issued by, the examiner before whom the proceedings are pending, but may be issued by the assistant regional commissioner or by the Director, Alcohol and Tobacco Tax Division, if the examiner is unavailable. Both the application and the subpoena shall set forth the title of the proceedings, the name and address of the person whose attendance is required, the date and place of his attendance and, if documents are to be produced, a description thereof; and the application must have reasonable scope and specify as exactly as possible the documents required, if any, and show their general relevance. Subpoenas shall be served in person. When issued on behalf of the United States, service shall be made by an officer, employee, or agent of the Treasury Department; when issued on behalf of a permittee or applicant, service shall be made by any person who is not a party to the proceeding and is not less than 18 years of age.

§ 200.127 *Witnesses and fees.* Witnesses summoned before the examiner may be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

RECORD

§ 200.128 *What constitutes record.* The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding, together with all findings, decisions and orders, shall constitute the exclusive record. Where the decision rests on official notice of material fact not appearing in the record, the examiner shall so state in his findings and any party shall, on timely request, be afforded an opportunity to show facts to the contrary.

§ 200.129 *Availability.* A copy of the record shall be available for inspection by the parties to the proceedings during business hours at the office of the examiner or the assistant regional commissioner or, pending administrative review, at the office of the Director, Alcohol and Tobacco Tax Division. Copies of the record desired by the respondent or applicant may be purchased from the contract reporter, or, if the hearing was reported by a Government employee, a charge will be made for the copies at the lowest prevailing rates charged by public reporters in the region where the hearing is held, and in the case of photostats or copies of other documents in accordance with the provisions of Com-Mim. A. T. No. 719, dated January 3, 1952.

[F. R. Doc. 56-1700; Filed, Mar. 5, 1956; 8:48 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 548—AUTHORIZATION OF ESTABLISHED BASIC RATES FOR COMPUTING OVERTIME PAY

SUBPART B—INTERPRETATIONS

EXCLUDING CERTAIN ADDITIONS TO WAGES

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat., as amended; 29 U. S. C. 201 et seq.), § 548.305 (g) of Subpart B, Part 548, Title 29, Code of Federal Regulations, is amended to read as follows:

(g) Section 548.3 (e) is not applicable to employees employed at subminimum wage rates under learner certificates, or special certificates for handicapped workers, or in the case of employees in Puerto Rico or the Virgin Islands employed at less than $1.00 an hour.

This amendment shall become effective March 6, 1956.

(52 Stat. 1060, as amended; 29 U. S. C. 201-219)

Signed at Washington, D. C., this 1st day of March 1956.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-1705; Filed, Mar. 5, 1956; 8:49 a. m.]

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

MISCELLANEOUS AMENDMENTS

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and General Order No. 45-A (15 F. R. 3290), Part 776, Title 29, Code of Federal Regulations, is amended as follows:

1. Footnote 1 to § 776.0 (a) is amended to read:

[1] Pub. No. 718, 75th Cong., 3d sess. (52 Stat. 1060), as amended by the Act of June 26, 1940 (Pub. Res. No. 88, 76th Cong., 3d sess., 54 Stat. 616); by Reorganization Plan No. 2 (60 Stat. 1095), effective July 16, 1946; by the Portal-to-Portal Act of 1947, approved May 14, 1947 (61 Stat. 84); and by the Fair Labor Standards Amendments of 1949, approved October 26, 1949 (Public Law 393, 81st Cong., 1st sess., 63 Stat. 910); by Reorganization Plan No. 6 of 1950 (15 F. R. 3174), effective May 24, 1950; and by the Fair Labor Standards Amendments of 1955, approved August 12, 1955 (Public Law 381, 84th Cong., 1st sess., C. 867, 69 Stat. 711).

2. Footnote 2 to § 776.0 (a) is amended to read:

[2] The requirement of section 6 as to minimum wages is: "Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates—" (not less than $1.00 an hour, except in Puerto Rico and the Virgin Islands to which special provisions apply).

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

3. The date "January 25, 1950" in the second sentence of § 776.5 is deleted and the date "March 1, 1956" is inserted in its place, and the figure and words "75 cents" in the second sentence of § 776.5 is deleted and the symbols and figures "$1.00" is inserted in place thereof.

4. The title of Part 776 is amended to read as set forth above.

5. The first sentence of § 776.0 (a) is amended to read: "The Fair Labor Standards Act of 1938[1] (hereinafter referred to as the act), brings within the general coverage of its wage and hours provisions every employee who is 'engaged in commerce or in the production of goods for commerce.'[2]"

(52 Stat. 1060, as amended; 29 U. S. C. 201-219)

These amendments shall become effective March 6, 1956.

Signed at Washington, D. C., this 29th day of February 1956.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-1708; Filed, Mar. 5, 1956; 8:50 a. m.]

PART 777—GENERAL STATEMENT AS TO THE METHODS OF PAYMENT UNDER THE FAIR LABOR STANDARDS ACT AND THE APPLICATION OF SECTION 3 (m) THERETO

MISCELLANEOUS AMENDMENTS

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and General Order No. 45-A (15 F. R. 3290), Part 777, Subchapter B, Title 29, Code of Federal Regulations, is amended as follows:

1. The first paragraph of Footnote 4 to § 777.2 (a) is amended to read:

Section 6 requires the payment of a minimum wage rate of not less than $1.00 per hour, except in certain industries in Puerto Rico and the Virgin Islands. Section 7 requires the payment of overtime compensation at not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in a work week. The general wage and hours provisions of the law are subject to qualifications contained in secs. 7 (b)-(g), 13, and 14. See Parts 779 through 784, 786 through 788 of this title.

2. Section 777.9, 33d line, delete the word "at" and insert the word "on".

3. Section 777.11 (a) and (b) is amended to read:

(a) When no overtime is worked by the employee, section 3 (m) and Part 531 of this chapter are applicable only to the minimum wage of $1 per hour for all hours worked. To illustrate, where an employee works 40 hours a week at a cash wage rate of $1 an hour and is paid $40 in cash free and clear at the end of the workweek, and in addition is furnished facilities valued at $4, no consideration need be given to the question of whether such facilities meet the requirements of section 3 (m) and the regulations, since the employee has received in cash the statutory minimum wage of $1 for all hours worked. Similarly, where an employee is employed at a rate of $1.20 an hour and during a particular workweek works 40 hours for which he is paid $40 in cash, the employer having deducted $8 from his wages for facilities furnished, whether such deduction meets the requirements of section 3 (m) and Part 531 of this chapter need not be considered, since the employee is still receiving, after the deduction has been made, a cash wage of $1 per hour. Deductions for board, lodging, or other facilities may be made in nonovertime workweeks even if they reduce the cash wage below the minimum, provided the prices charged do not exceed the reasonable cost of such facilities. When such items are furnished the employee at a profit, the deductions from wages in weeks in which no overtime is worked are considered to be illegal only to the extent that the profit reduces the wage (which includes the reasonable cost of the facilities) below the required minimum. Accordingly, if an employee employed at a rate of $1.20 an hour works 40 hours in a workweek and is paid only $36 in cash, $12 having been deducted for facilities furnished to him, such facilities must be measured by the requirements of section 3 (m) and Part 531 of this chapter to determine if the employee has received the minimum of $40 (40 hours x $1) in cash or in facilities which may be legitimately included in "wages" payable under the act. The same would be true where an employee is furnished the facilities *in addition* to a cash wage of $36 for 40 hours of work. In either case, if the "reasonable cost" to the employer of legitimate facilities equals at least $4, the requirements of the act are met.[8]

(b) Deductions for articles such as tools, miners' lamps, dynamite caps, and other items which do not constitute "board, lodging, or other facilities" may likewise be made in nonovertime workweeks if the employee nevertheless received the required minimum wage in cash free and clear; but to the extent that they reduce the wages of the employee in any such workweek below the minimum required by the act, they are illegal.

4. Section 777.12 is amended to read:

§ 777.12 *Overtime workweeks.* (a) Section 7 requires that the employee receive compensation for overtime hours at "a rate not less than one and one-half time the regular rate at which he is employed." When overtime is worked by an employee who receives the whole or part of his wage in facilities and it becomes necessary to determine the portion of his wages represented by facilities, all such facilities must be measured by the requirements of section 3 (m) and Part 531 of this chapter. It is the Administrator's opinion that deductions may be made, however, on the same basis in an overtime workweek as in nonovertime workweeks (see § 777.11), if their purpose and effect are not to evade the overtime requirements of the act or other law, providing the amount deducted does not exceed the amount which could be deducted if the employee had only worked 40 hours during the workweek. For example, if an employee is employed at a rate of $1.20 an hour (20 cents in excess of the minimum wage) the maximum amount which may be deducted from his wages in a 40-hour workweek for items such as tools, dynamite caps, miners' lamps, or other articles which are not "facilities" within the meaning of the act, is 40 times 20 cents or $8 (see § 777.11). Deductions in excess of this amount for such articles are illegal in overtime workweeks as well as in nonovertime workweeks. There is no limit on the amount which may be deducted for "board, lodging, or other facilities" in overtime workweeks (as in workweeks when no overtime is worked), provided that these deductions are made only for the reasonable cost of the items furnished. When such items are furnished at a profit, the amount of the profit (plus the full amount of any deductions for articles which are not facilities) may not exceed $8 in the above example. The principles stated above assume a situation where bona fide deductions are made for particular items in accordance with the agreement or understanding of the parties. If the situation is solely one of refusal or failure to pay the full amount of wages required by section 7, these principles have no application. Deductions made only in overtime workweeks, or increases in the prices charged for articles or services during overtime workweeks will be scrutinized to determine whether they are manipulations to evade the overtime requirements of the act.

(b) Where deductions are made for board, lodging, or other facilities, the regular rate of pay is arrived at on the basis of the stipulated wage before any deductions have been made. Where such facilities are customarily furnished as additions to a cash wage, the reasonable cost of the facilities to the employer must be considered as part of the employee's regular rate of pay.[9] Thus, suppose an employee, employed at a cash rate of $1.20 an hour, works 48 hours during a particular workweek. If, in addition, he is furnished board, lodging, or other facilities valued at $18, but whose "reasonable cost" is $14.40, the $14.40 must be added to his cash straight-time pay of $57.60 ($1.20×48 hours) in determining the regular rate of pay on which his overtime compensation is to be calculated. The regular rate then becomes $1.50 an hour ([$57.60+$14.40=$72]÷[48 hours]=$1.50 an hour). The employee is thus entitled to receive a total of $78 for the week. ([40 hours×$1.50=$60]+[8 hours×$2.25=$18].) In addition to the straight-time pay of $57.60 in cash and $14.40 in facilities, extra compensation of $6 in cash for the eight overtime hours must, therefore, be paid by the employer, to meet the requirements of the act.

(52 Stat. 1060, as amended; 29 U. S. C. 201-219)

These amendments shall become effective March 6, 1956.

Signed at Washington, D. C., this 29th day of February 1956.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-1706; Filed, Mar. 5, 1956; 8:49 a. m.]

PART 779—RETAIL AND SERVICE ESTABLISHMENTS AND RELATED EXEMPTIONS

INTRODUCTORY STATEMENT

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and General Order No. 45-A (15 F. R. 3290), Part 779, Subchapter B, Title 29, Code of Federal Regulations, is amended as follows:

1. Footnote 1 to § 779.0 (a) is amended to read:

[1] Pub. No. 718, 75th Cong., 3d sess., (52 Stat. 1060), as amended by the Act of June 26, 1940 (Pub. Res. No. 88, 76th Cong., 3d sess.) (54 Stat. 611); by Reorganization Plan No. 2 (60 Stat. 1095) effective July 16, 1946; by the Portal-to-Portal Act of 1947, approved May

14, 1947 (61 Stat. 84): by the Fair Labor Standards Amendments of 1949, approved October 26, 1949 (Public Law 393, 81st Cong., 1st sess., c. 736, 63 Stat. 910); by Reorganization Plan No. 6 of 1950 (15 F. R. 3174) effective May 24, 1950; and by the Fair Labor Standards Amendments of 1955, approved August 12, 1955 (Public Law 381, 84th Cong., 1st sess., c. 867, 69 Stat. 711).

2. The first sentence of § 779.0 (a) is amended to read: "The Fair Labor Standards Act of 1938[1] (hereinafter referred to as the act), requires an employer to pay each of his employees who engaged in commerce or in the production of goods for commerce a minimum wage of not less than $1.00 per hour and overtime compensation of not less than time and one-half the employee's regular rate of pay for all hours worked in excess of 40 in a workweek in which he is so engaged."

(52 Stat. 1060, as amended; 29 U. S. C. 201–219)

These amendments shall become effective March 6, 1956.

Signed at Washington, D. C., this 29th day of February 1956.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-1707; Filed, Mar. 5, 1956; 8:49 a. m.]

PART 789—GENERAL STATEMENT ON THE PROVISIONS OF SECTION 12 (a) AND SECTION 15 (a) (1) OF THE FAIR LABOR STANDARDS ACT OF 1938, RELATING TO WRITTEN ASSURANCES

MISCELLANEOUS AMENDMENTS

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and General Order No. 45–A (15 F. R. 3290), Part 789, Subchapter B, Title 29, Code of Federal Regulations, is amended as follows:

1. Footnote 1 to § 789.0 (a) is amended to read:

[1] Pub. No. 718, 75th Cong., 3d sess. (52 Stat. 1060), as amended by the Act of June 26, 1940 (Pub. Res. No. 88, 76th Cong., 3d sess., 54 Stat. 616); by Reorganization Plan No. 2 (60 Stat. 1095), effective July 16, 1946; by the Portal-to-Portal Act of 1947, approved May 14, 1947 (61 Stat. 84); by the Fair Labor Standards Amendments of 1949, approved October 26, 1949 (Public Law 393, 81st Cong., 1st sess., 63 Stat. 910); by Reorganization Plan No. 6 of 1950 (15 F. R. 3174), effective May 24, 1950; and by the Fair Labor Standards Amendments of 1955, approved August 12, 1955 (Public Law 381, 84th Cong., 1st sess., C. 867, 69 Stat. 711).

2. Section 789.0 (a), first sentence, is amended to read: "Section 12 (a) and section 15 (a) (1) of the Fair Labor Standards Act of 1938[1] (hereinafter referred to as the act) contain certain prohibitions against putting into interstate or foreign commerce any goods ineligible for shipment (commonly called 'hot goods'), in the production of which the child-labor or wage-hour standards of the act were not observed."

3. The title of Part 789 is amended to read as set forth above.

(52 Stat. 1060, as amended; 29 U. S. C. 201–219)

These amendments shall become effective March 6, 1956.

Signed at Washington, D. C., this 29th day of February 1956.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-1709; Filed, Mar. 5, 1956; 8:50 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

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

[NSA Order No. 62 (AGE-7, Amdt. 4)]

AGE-7—AUTHORITY OF GENERAL AGENTS TO PROVIDE FOR AMERICAN MERCHANT MARINE LIBRARY SERVICE

MISCELLANEOUS AMENDMENTS

It is hereby ordered that sections 2, 3 and 4 of AGE-7 [NSA Order No. 62 (AGE-7)] be and are hereby amended as follows:

1. Section 2 *General Agents' authority; form of agreement* is hereby amended as follows:

a. By deleting article 3 and substituting therefor the following new article:

ART. 3. The United States agrees to pay the Association $50.00 per vessel per year for the period of this agreement prior to 1956, and $75.00 per vessel per year for the period after 1955, for each vessel furnished or having on board one or more standard library units during each calendar year, provided such unit is on board the vessel for a period of at least 45 days during such calendar year. The Association agrees to submit vouchers to the General Agent showing the number of standard library units furnished or on board during each calendar year and listing the names of the vessels and the dates of delivery to, and withdrawal from, the vessels.

b. By deleting the first sentence of article 7 thereof and substituting therefor the following new sentence: "The Agreement shall be in effect for the calendar years 1951 through 1956."

2. Section 3 *Rate of compensation* is hereby amended by deleting the section and substituting therefor the following new section:

SEC. 3. *Rate of compensation.* The American Merchant Marine Library Association shall be paid $50.00 per vessel per year for the period of this agreement prior to 1956, and $75.00 per vessel per year for the period after 1955, for each vessel furnished or having on board one or more standard library units during each calendar year, provided such unit is on board the vessel for a period of at least 45 days during such calendar year.

3. Section 4 *Period of the agreement* is hereby amended by deleting the first sentence thereof and substituting therefor the following new sentence: "The Agreement shall be in effect for the calendar years 1951 through 1956."

(Sec. 204, 49 Stat. 1987 as amended; 46 U. S. C. 1114)

Approved: February 28, 1956.

[SEAL] WALTER C. FORD,
Director,
National Shipping Authority.

[F. R. Doc. 56-1698; Filed, Mar. 5, 1956; 8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1269]

[Arizona 07289]

ARIZONA

WITHDRAWING PUBLIC LANDS AS A MATERIAL SITE AND FOR THE CONSTRUCTION OF AN APPROACH ROAD IN CONNECTION WITH WALNUT CANYON NATIONAL MONUMENT

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the hereinafter described public lands in Arizona are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for use of the Department of the Interior for the following purposes:

a. As a source of materials for road construction for the Walnut Canyon National Monument approach road:

GILA AND SALT RIVER MERIDIAN

T. 21 N., R. 8 E.,
Sec. 23, E½SE¼NE¼;
Sec. 24, W½SW¼NW¼.

The tracts described contain 40 acres.

b. For the location of a right-of-way for the proposed Walnut Canyon National Monument approach road:

A strip of land 500 feet on either side of the centerline of the Walnut Canyon National Monument approach road through the following legal sub-divisions:

GILA AND SALT RIVER MERIDIAN

COCONINO NATIONAL FOREST

T. 21 N., R. 8 E.,
Sec. 14, E½NW¼, W½NE¼, SE¼, NE¼SW¼;
Sec. 13, W½SW¼;
Sec. 23, NE¼NE¼;
Sec. 24, SW¼, W½NW¼, SE¼NW¼;
Sec. 25, NW¼.

The areas described aggregate 330 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

FEBRUARY 28, 1956.

[F. R. Doc. 56-1686; Filed, Mar. 5, 1956; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

FRUIT PRESERVES (OR JAMS)

U. S. STANDARDS FOR GRADES [1]

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Fruit Preserves (or Jams), 7 CFR 52.1111–52.1123, pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., 7 U. S. C. 1601 et seq.). The amendment as hereinafter set forth provides for inclusion of "pieces" in cherry preserves which are otherwise U. S. Grade A or U. S. Fancy.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed amendment is as follows: In § 52.1118, amend paragraph (b) (2) in its entirety to read:

(2) Cherry: Whole or almost whole or pieces of pitted cherries or combinations thereof.

(Sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624)

Dated: March 1, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator, Marketing Services.

[F. R. Doc. 56-1711; Filed, Mar. 5, 1956; 8:50 a. m.]

[7 CFR Part 967]

[Docket No. AO-170-A9]

MILK IN SOUTH BEND-LA PORTE, IND., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at South Bend, Indiana, on June 13, 1955, pursuant to notice thereof which was issued on June 7, 1955 (20 F. R. 4038).

[1] Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

The material issues on the record of the hearing were:

1. Modification of the supply-demand adjustment;
2. Class I price differentials;
3. Calculation of producer bases; and
4. Certification of milk utilization by operators of plants which are not approved plants.

Of these, issue No. 1 was dealt with in a recommended decision issued July 12, 1955 (20 F. R. 5100), and a final decision issued July 27, 1955 (20 F. R. 5461).

On December 29, 1955, the Deputy Administrator, Agricultural Marketing Service, issued a recommended decision (21 F. R. 37) on issues No. 2, 3, and 4. This decision deals also with issues No. 2, 3, and 4.

Findings and conclusions. The following findings and conclusions on the material issues are based upon evidence contained in the record of the hearing:

2. *Class I price differentials.* No change should be made in the Class I price differentials.

It was proposed by a producer association that the Class I price differentials should be $1.30 for the months of August through December, and $1.10 in other months. This would be a change from present differentials only with respect to the months of March through July, which presently have differentials of $0.90. In terms of a yearly average, the change would increase the Class I price slightly more than eight cents per hundredweight.

Reasons given for the proposal were: (1) Higher level of utilization in Class I compared to a year earlier; (2) need for maintaining the price relationship with Chicago where a somewhat similar proposal had been made; (3) reduced need for seasonal differentials because of the effect of the base-excess plan; and (4) the desire to lessen market problems associated with frequent changes in the Class I price.

The Class I differentials in the order now have an annual average of $1.10 per hundredweight. The effective level of the differentials is modified, however, by a supply-demand adjustment factor based on receipts and utilization under the Chicago order.

Modification of the supply-demand adjustment factor was an issue on this record, and was dealt with in an amendment to the order effective August 1, 1955 (20 F. R. 5451). On this matter it was stated in the decision issued July 27, 1955, that:

> Testimony was presented to show the relationship of this market to surrounding markets. It was brought out that there is some intermingling of producers for this market with farmers supplying Indianapolis, Fort Wayne, and Cleveland (the latter at Goshen, Indiana). It was testified, however, that the predominant competition for supplies is from handlers in the Chicago market. In this case, the milk purchased by Chicago handlers generally moves directly from the farm to plants in the Chicago marketing area.
>
> Conditions in this market are also affected by direct sales in the marketing area by Chicago handlers. The availability of Chicago pool milk for supplemental supplies also has an important bearing on the price relationships of the two markets. No testimony was given urging a change from present price relationships.
>
> In view of the dominating influence of supply and demand conditions in the Chicago area on conditions in this market, the supply-demand price adjustment for this market is based upon Chicago order data. The supply-demand adjustments under the two orders are, in fact, identical. This similarity serves to coordinate price movements in the two markets. Testimony in the record generally supported continuation of this arrangement, so that orderly relationships between the two markets would be preserved.

Because of the close relationship of this market to the Chicago market, a determination as to need for a price increase would depend in a large part on conditions in the Chicago market. In a recent decision on the Chicago market, it was decided that conditions in that market did not warrant an increase in the level of Class I price differentials. The record of this hearing does not substantiate action on this matter different from that taken with respect to the Chicago market.

In the testimony on Class I differentials, the desirability of reducing the seasonal variation of the differentials was expressed. It was pointed out that a lesser seasonal price change would be consistent with reliance on the base-excess plan for evening out production. A level differential for January–July period was requested, with no change from the $1.30 differential the order now specifies for the August–December period.

In the recommended decision of December 29, 1955, it was recommended that the Class I differential for the January–July period be 96 cents. Producers took exception to this change on the basis that it would be of no material benefit, and that it would not accommodate the market practice of making retail price changes in intervals of one-half cent per quart. In view of the exceptions to changes in the seasonal differentials it is concluded no change should be made on this record.

3. *Producer bases.* The date by which a producer must indicate whether he is taking an optional base should be extended from January 31 to February 15. The opportunity for a producer to take an optional base calculated the same as for a new producer should be retained.

A producer group proposed that the time given producers to decide whether they wish to retain the base they have earned or take an optional base should be extended to February 15. It appears that such an extension would give producers more time to make the decision, and would not interfere with administration of the base plan. This change should be adopted.

Producers also proposed that no optional bases be allowed after 1956, although base allotments to new producers would be continued.

Present provisions of the order serve to allow producers who experience hardship in earning a base, the same opportunity for sharing in the market as a producer entering the market during the base-payment period. The record does not appear to justify removing this opportunity for the producer with an earned base which is available to a new producer.

A proposal was made that degraded milk should not be included in base-making computations. Also, it was proposed that during the base-payment period a producer's base should not apply to days on which his milk was degraded. No change in the order is needed in these matters, since under present order provisions degraded milk would be treated as proposed.

Another proposal with respect to base computation would take account of every other day deliveries. This, also, requires no modification of the order, inasmuch as the number of days used in base computation is the number of days of production of the milk received.

4. *Certification of use by nonhandler.* The requirement of certification of use to be given by the operator of an unapproved plant pursuant to § 967.44 (c) (1) should be discontinued.

A proposal made by the Dairy Division would remove the requirement that an operator of an unapproved plant certify as to the use of producer milk transferred or diverted to his plant. It was testified by the market administrator that such a requirement was unneeded. It was pointed out in his testimony that other provisions of § 967.44 (c) require that the unapproved plant maintain records of utilization, and that the unapproved plant make these records available for audit, if the milk is to be classified other than as Class I. The handler making the transfer (or diversion) is responsible under the order for correctly reporting the utilization thereof.

It appears that there is adequate basis under the order for classification of milk so transferred or diverted without the aforementioned certification from the unapproved plant. Deletion of the required certification would appear to facilitate administration of this part of the order without removing any of the rights of persons regulated. It is concluded that the certification should be deleted.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial commercial activity specified in, a marketing agreement and upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions included in this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions herein are at variance with the exceptions, such exceptions are overruled.

Determination of representative period. The month of November 1955, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the South Bend-LaPorte, Indiana, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the South Bend-La Porte, Indiana, Marketing Area

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended regulating the handling of milk in the South Bend-LaPorte, Indiana, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the South Bend-LaPorte, Indiana, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. In § 967.44 (c) delete subparagraph (1) and substitute the following:

(1) The transferor handler claims Class II classification on the basis of utilization in the unapproved plant in his report submitted to the market administrator pursuant to § 967.30 for the month within which such transaction occurred,

2. In § 967.44 (c) (3) delete the word "statement" and substitute the word "report".

3. In § 967.63 (a) delete the words "January 31" and substitute the words "February 15".

Issued at Washington, D. C., this 1st day of March 1956.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

[F. R. Doc. 56-1713; Filed, Mar. 5, 1956; 8:51 a. m.]

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

[7 CFR Part 1000]

[Docket No. AO-266]

MILK IN CHATTANOOGA, TENN., MARKETING AREA

NOTICE OF EXTENSION OF TIME FOR FILING EXCEPTIONS TO RECOMMENDED DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to proposed marketing agreement and order regulating the handling of milk in the Chattanooga, Tennessee, marketing area, which was issued February 7, 1956 (21 F. R. 956), is hereby extended to March 24, 1956.

Dated: March 1, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-1712; Filed, Mar. 5, 1956; 8:50 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 35]

FLIGHT ENGINEER CERTIFICATES

NOTICE OF INSTITUTION OF RULE MAKING PROCEEDINGS

Notice is hereby given that the Bureau of Safety Regulation is instituting rule making proceedings by circulating Civil Air Regulations Draft Release No. 56-5 to persons on the Bureau's current distribution list. Other interested persons may secure a copy of this draft release upon request made to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C.

This draft release proposes a general revision of Part 35 of the Civil Air Regulations and contains, among other things, modifications of certain of the experience and skill requirements for the issuance of a flight engineer certificate, and a revision of the format and terminology of Part 35 to conform with that of airman parts which have been revised recently. This proposal is being circulated as the first step in the rule making process in the hope that it will serve to narrow or eliminate the areas of substantive difference between interested persons as to the adequacy or the desirability of the proposed rules.

The Bureau desires that all persons who will be affected by the requirements of this proposal be given an opportunity to participate in the consideration of these rules and to submit such comment as they may desire not only in the final rule making stage, but throughout the entire rule making process. Draft Release No. 56-5 requires that comment be sumitted on or before May 15, 1956. If the nature of the comment is such that a discussion between the Board's staff and interested members of the public would be of constructive assistance in the further development of the proposed rules, all interested parties will be invited to participate in such a discussion to be held in Washington, D. C. Notice of the time and place of such a meeting, together with advance documentation, will be circulated to persons who have signified their interest prior to May 15, 1956.

Since it is intended that these rules as finally evolved as a result of the foregoing procedure will be published in their entirety as a notice of proposed rule making, interested persons who do not care to participate in the rule-making proceedings at this stage will have a further opportunity for commenting thereon.

The foregoing procedure is proposed under the authority of section 4 of the Administrative Procedure Act, and Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended, 49 U. S. C. 551-560)

Dated at Washington, D. C., February 28, 1956.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN, *Director.*

[F. R. Doc. 56-1704; Filed, Mar. 5, 1956; 8:49 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Foreign Assets Control

IMPORTATION OF SILK PIECE GOODS, TUSSAH, DIRECTLY FROM ITALY

AVAILABLE CERTIFICATIONS BY THE GOVERNMENT OF ITALY

Notice is hereby given that certificates of origin issued by the Department of Commerce of the Government of Italy under procedures agreed upon between that government and the Foreign Assets Control are now available with respect to the importation into the United States directly, or on a through bill of lading, from Italy of the following commodity:

Silk piece goods, tussah.

[SEAL] ELTING ARNOLD, *Acting Director, Foreign Assets Control.*

[F. R. Doc. 56-1699; Filed, Mar. 5, 1956; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Nevada Small Tract Classification 109]

NEVADA

CLASSIFICATION ORDER

1. Pursuant to the authority delegated to me by the Area Administrator, Area II, Bureau of Land Management, by Order No. 4, dated May 5, 1954, I hereby classify for lease and sale under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 682a), as hereinafter indicated, the lands described in the following schedule, embracing approximately 2,767 acres.

MOUNT DIABLO MERIDIAN

The longer axis of all rectangular tracts lies either north and south or east and west, as indicated by the symbols "N-S" and "E-W" in Column (3) of the following schedule.

(1) Description	(2) Approximate area of tracts	(3) Approximate dimensions of tracts	(4) Purchase price per tract
FOR HOMESITES			
T. 16 N., R. 63 E.,	*Acres*	*Feet*	*Dollars*
Sec. 1, Lots 5 to 20 inclusive, S½NE¼	5	330 x 660 E-W	50
T. 17 N., R. 63 E.,			
Sec. 13, All	5	330 x 660 E-W	50
Sec. 24, All	5	330 x 660 E-W	50
Sec. 25, W½NE¼NE¼, N½NE¼NE¼NE¼, SW¼NW¼SE¼, N½NW¼SE¼NE¼.	5	330 x 660 E-W	50
Sec. 25, SW¼NE¼NE¼NE¼, NW¼SE¼NE¼NE¼	5	330 x 660 N-S	50
Sec. 25, SW¼NW¼SE¼NE¼, NW¼SW¼SE¼NE¼	5	330 x 660 N-S	50
Sec. 25, W½NE¼NW¼SE¼	5	330 x 660 N-S	50
Sec. 25, E½SE¼NE¼SE¼	5	330 x 660 N-S	50
Sec. 25, NW¼NW¼SW¼SE¼	2½	330 x 330	25
Sec. 36, SE¼SE¼	5	330 x 660 E-W	50
T. 17 N., R. 64 E.,			
Sec. 18, Lots 5 to 16 inclusive, E½NW¼NW¼, E½W½SW¼, E½W½, NW¼NE¼, W½NE¼NE¼, NE¼NE¼NE¼, NW¼SE¼NE¼, N½SW¼SE¼NE¼, NW¼SW¼SE¼, S½NE¼SE¼SE¼, SE¼SE¼SE¼.	5	330 x 660 E-W	50
Sec. 18, W½SE¼NE¼NE¼	5	330 x 660 N-S	50
Sec. 18, W½SW¼SW¼SE¼	5	330 x 660 N-S	50
Sec. 18, SW¼SW¼SE¼NE¼, NW¼NW¼NE¼SE¼	5	330 x 660 N-S	50
Sec. 18, SE¼SE¼NE¼SE¼, NE¼NE¼SE¼SE¼	5	330 x 660 N-S	50
Sec. 18, SE¼SW¼SE¼SE¼ Sec. 19, NE¼NW¼NE¼NE¼	5	330 x 660 N-S	50
Sec. 19, Lots 5 to 13 inclusive, E½W½NW¼, W½NE¼NW¼, NE¼NE¼NW¼, NW¼SE¼NW¼, S½NW¼NE¼NE¼, SW¼NE¼NE¼, S½NE¼SW¼NE¼, SE¼SW¼NE¼, E½SE¼SW¼, NW¼NW¼SE¼.	5	330 x 660 E-W	50
Sec. 19, W½SE¼NE¼NW¼	5	330 x 660 N-S	50
Sec. 19, W½SW¼SE¼NW¼	5	330 x 660 N-S	50
Sec. 19, E½SW¼SW¼NE¼	5	330 x 660 N-S	50
Sec. 19, E½SE¼NE¼SW¼	5	330 x 660 N-S	50
Sec. 19, E½SW¼SE¼SW¼	5	330 x 660 N-S	50
Sec. 19, SE¼SE¼NW¼NE¼, NE¼NE¼SW¼NE¼	5	330 x 660 N-S	50
Sec. 19, Lots 14 and 17	5	330 x 660 N-S	50
Sec. 30, E½E½NW¼, SW¼NE¼NW¼, W½SE¼NW¼, E½SW¼NW¼.	5	330 x 660 E-W	50
Sec. 30, E½SE¼NW¼NW¼	5	330 x 660 N-S	50
Sec. 30, Lot 16	5	330 x 660 N-S	50
FOR HOMESITE OR BUSINESS SITE			
T. 17 N., R. 64 E.,			
Sec. 17, N½NE¼NW¼NW¼	5	330 x 660 E-W	100
Sec. 17, SW¼NW¼NW¼NW¼, W½SE¼NW¼NW¼NW¼	3.75	330 x 495 E-W	100
Sec. 17, S½NE¼NW¼NW¼, E½SE¼NW¼NW¼NW¼	6.25	330 x 825 E-W	100
Sec. 17, S½NW¼SW¼NW¼	5	330 x 660 E-W	100
Sec. 17, NE¼SW¼NW¼NW¼, N½SE¼NW¼NW¼	7.50	330 x 990 E-W	100
Sec. 17, SE¼SW¼NW¼NW¼, S½SE¼NW¼NW¼	7.50	330 x 990 E-W	100
Sec. 17, E½NW¼NW¼SW¼NW¼, NE¼NW¼SW¼NW¼, NW¼NE¼SW¼NW¼.	6.25	330 x 825 E-W	100
Sec. 17, NW¼SW¼NW¼NW¼ Sec. 18, NE¼SE¼NE¼NE¼	5	330 x 660 E-W	100
Sec. 18, SE¼SE¼NE¼NE¼ Sec. 17, SW¼SW¼NW¼NW¼	5	330 x 660 E-W	100
Sec. 18, S½NE¼SE¼NE¼	5	330 x 660 E-W	100
Sec. 18, N½SE¼SE¼NE¼	5	330 x 660 E-W	100
Sec. 18, S½NW¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 18, S½NW¼SE¼SE¼	5	330 x 660 E-W	100
Sec. 18, S½NE¼SW¼SE¼	5	330 x 660 E-W	100
Sec. 18, N½NE¼SE¼NE¼ Sec. 17, W½NW¼NW¼SW¼NW¼	6.25	330 x 825 E-W	100
Sec. 18, NE¼NE¼NE¼SE¼, E½NW¼NE¼NE¼SE¼	3.75	330 x 495 E-W	100

(1) Description	(2) Approximate area of tracts	(3) Approximate dimensions of tracts	(4) Purchase price per tract
FOR HOMESITE OR BUSINESS SITE—continued			
T. 17 N., R. 64 E.—Continued	*Acres*	*Feet*	*Dollars*
Sec. 18, SE¼SW¼SE¼NE¼, SW¼SE¼SE¼NE¼	5	330 x 660 E-W	100
Sec. 18, NE¼NW¼NE¼SE¼, W½NW¼NE¼NE¼SE¼	3.75	330 x 495 E-W	100
Sec. 18, E½NE¼SW¼NE¼SE¼, N½SE¼NE¼SE¼	6.25	330 x 825 E-W	100
Sec. 18, SE¼SW¼NE¼SE¼, SW¼SE¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 18, W½SW¼NE¼SE¼, W½NE¼SW¼NE¼SE¼	6.25	Irregular	100
Sec. 18, E½NW¼NW¼SE¼SE¼, NE¼NW¼SE¼SE¼, NW¼NE¼SE¼SE¼.	6.25	330 x 825 E-W	100
Sec. 18, N½NE¼SW¼SE¼, W½NW¼NW¼SE¼SE¼	6.25	330 x 825 E-W	100
Sec. 18, N½SW¼SE¼SE¼, NE¼SE¼SW¼SE¼	7.5	330 x 990 E-W	100
Sec. 18, NE¼SW¼SW¼SE¼, NW¼SE¼SW¼SE¼	5	330 x 660 E-W	100
Sec. 18, SE¼SE¼SW¼SE¼, SW¼SW¼SE¼SE¼, E½SW¼SE¼SW¼SE¼.	6.25	330 x 825 E-W	100
Sec. 18, S½NE¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 18, SE¼SW¼SW¼SE¼, W½SW¼SE¼SW¼SE¼	3.75	330 x 495 E-W	100
Sec. 19, N½NE¼NW¼NE¼, NW¼NW¼NE¼NE¼	7.50	330 x 990 E-W	100
Sec. 19, N½NW¼NW¼NE¼	5	330 x 660 E-W	100
Sec. 19, S½NE¼NW¼NE¼, E½SE¼NW¼NW¼NE¼	6.25	330 x 825 E-W	100
Sec. 19, SW¼NW¼NW¼NE¼, W½SE¼NW¼NW¼NE¼	3.75	330 x 495 E-W	100
Sec. 19, N½SE¼NW¼NE¼, NE¼SW¼NW¼NE¼	7.50	330 x 990 E-W	100
Sec. 19, NE¼SE¼NE¼NW¼, NW¼SW¼NW¼NE¼	5	330 x 660 E-W	100
Sec. 19, SW¼SE¼NW¼NE¼, SE¼SW¼NW¼NE¼, E½SW¼SW¼NW¼NE¼.	6.25	330 x 825 E-W	100
Sec. 19, SE¼SE¼NE¼NW¼, W½SW¼SW¼NW¼NE¼	3.75	330 x 495 E-W	100
Sec. 19, NW¼NE¼SW¼NE¼, N½NW¼SW¼NE¼	7.50	330 x 990 E-W	100
Sec. 19, N½NE¼SE¼NW¼	5	330 x 660 E-W	100
Sec. 19, S½NW¼SW¼NE¼, E½SE¼NE¼SE¼NW¼	6.25	330 x 825 E-W	100
Sec. 19, W½SE¼NE¼SE¼NW¼, SW¼NE¼SE¼NW¼	3.75	330 x 495 E-W	100
Sec. 19, NW¼SW¼SW¼NE¼, NE¼SE¼SE¼NW¼	5	330 x 660 E-W	100
Sec. 19, NW¼SE¼SE¼NW¼, NE¼SW¼SE¼NW¼	5	330 x 660 E-W	100
Sec. 19, SW¼SW¼SW¼NE¼, SE¼SE¼SE¼NW¼, E½SW¼SE¼SE¼NW¼.	6.25	330 x 825 E-W	100
Sec. 19, W½SW¼SE¼SE¼NW¼, SE¼SW¼SE¼NW¼	3.75	330 x 495 E-W	100
Sec. 19, N½NE¼NE¼SW¼	5	330 x 660 E-W	100
Sec. 19, N½NW¼NE¼SW¼	5	330 x 660 E-W	100
Sec. 19, S½NE¼NE¼SW¼, E½SE¼NW¼NE¼SW¼	6.25	330 x 825 E-W	100
Sec. 19, W½SE¼NW¼NE¼SW¼, SW¼NW¼NE¼SW¼	3.75	330 x 495 E-W	100
Sec. 19, NW¼SE¼NE¼SW¼, NE¼SW¼NE¼SW¼	5	330 x 660 E-W	100
Sec. 19, NW¼SW¼NE¼SW¼, W½SW¼SW¼NE¼SW¼	3.75	Irregular	100
Sec. 19, SW¼SE¼NE¼SW¼, SE¼SW¼NE¼SW¼, E½SW¼SW¼NE¼SW¼.	6.25	330 x 825 E-W	100
Sec. 19, N½NE¼SW¼SW¼	5	330 x 660 E-W	100
Sec. 19, N½NW¼SE¼SW¼	5	330 x 660 E-W	100
Sec. 19, W½SE¼NE¼SW¼SW¼, SW¼NE¼SW¼SW¼, Lot 15	6.25	330 x 825 E-W	100
Sec. 19, S½NW¼SE¼SW¼, E½SE¼NE¼SW¼SW¼	6.25	330 x 825 E-W	100
Sec. 19, NW¼SE¼SW¼SW¼, Lot 16	5	330 x 660 E-W	100
Sec. 19, NW¼SW¼SE¼SW¼, NE¼SE¼SW¼SW¼	5	330 x 660 E-W	100
Sec. 19, W½SW¼SE¼SW¼SW¼, Lot 18	6.25	330 x 825 E-W	100
Sec. 19, SW¼SW¼SE¼SW¼, SE¼SE¼SW¼SW¼, E½SW¼SE¼SW¼SW¼.	6.25	330 x 825 E-W	100
Sec. 30, Lot 5	5	330 x 660 E-W	100
Sec. 30, NW¼SE¼NW¼NW¼, Lot 9	5	330 x 660 E-W	100
Sec. 30, SW¼SE¼NW¼NW¼, Lot 12, Lot 13	7.50	330 x 825 E-W	100
Sec. 30, Lot 14	5	330 x 660 E-W	100
T. 17 N., R. 63 E.,			
Sec. 25, SW¼NE¼SE¼NE¼, SE¼NW¼SE¼NE¼	5	330 x 660 E-W	100
Sec. 25, NW¼SE¼SE¼NE¼, NE¼SW¼SE¼NE¼	5	330 x 660 E-W	100
Sec. 25, W½SW¼SE¼SE¼NE¼, S½SW¼SE¼NE¼	6.25	330 x 825 E-W	100
Sec. 25, N½NE¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 25, NE¼NE¼NW¼SE¼, N½NW¼NE¼SE¼	7.5	330 x 990 E-W	100
Sec. 25, SE¼NW¼NE¼SE¼, S½NE¼NE¼SE¼	7.5	330 x 990 E-W	100
Sec. 25, SE¼NE¼NW¼SE¼, SW¼NW¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 25, NE¼SW¼NE¼SE¼, NW¼SE¼NE¼SE¼	5	330 x 660 E-W	100
Sec. 25, N½SE¼NW¼SE¼, NW¼SW¼NE¼SE¼	7.5	330 x 990 E-W	100
Sec. 25, E½SW¼SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, SW¼SE¼NE¼SE¼.	7.5	330 x 990 E-W	100
Sec. 25, S½SE¼NW¼SE¼, W½SW¼SW¼NE¼SE¼	6.25	330 x 825 E-W	100
Sec. 25, N½N½NE¼SW¼SE¼, N½NE¼NW¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, S½N½NE¼SW¼SE¼, S½NE¼NW¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, N½S½NW¼SW¼SE¼, N½SW¼NE¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, S½S½NW¼SW¼SE¼, S½SW¼NE¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, SE¼NE¼SW¼SE¼, N½NE¼SE¼SW¼SE¼	3.75	330 x 495 N-S	100
Sec. 25, N½N½SW¼SW¼SE¼, N½NW¼SE¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, S½NE¼SE¼SW¼SE¼, SE¼NW¼SE¼SW¼SE¼, N½N½S½SE¼SW¼SE¼.	3.0	Irregular E-W	100
Sec. 25, S½N½SW¼SW¼SE¼, SW¼NW¼SE¼SW¼SE¼, N½N½S½SW¼SW¼SE¼.	4.5	Irregular E-W	100
Sec. 25, S½N½S½SE¼SW¼SE¼, S½S½SE¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, S½N½S½SW¼SW¼SE¼, S½S½SW¼SW¼SE¼	3.75	165 x 990 E-W	100
Sec. 25, N½NE¼SE¼NE¼	5	330 x 660 E-W	100
T. 17 N., R. 63 E., Sec. 25, SE¼NE¼NE¼NE¼ T. 17 N., R. 64 E., Sec. 30, Lots 6, 7	6.25	330 x 825 E-W	100
T. 17 N., R. 63 E., Sec. 25, NE¼SE¼NE¼NE¼ T. 17 N., R. 64 E., Sec. 30, Lot 10	5	330 x 660 E-W	100
T. 17 N., R. 63 E., Sec. 25, S½SE¼NE¼NE¼ T. 17 N., R. 64 E., Sec. 30, Lot 11	6.25	330 x 825 E-W	100
T. 17 N., R. 63 E., Sec. 25, SE¼NE¼SE¼NE¼ T. 17 N., R. 64 E., Sec. 30, Lot 15	7.5	330 x 990 E-W	100
T. 17 N., R. 63 E., Sec. 25, NE¼SE¼SE¼NE¼ T. 17 N., R. 64 E., Sec. 30, Lot 17 T. 17 N., R. 64 E., Sec. 30, Lot 18	5	330 x 660 E-W	100
T. 17 N., R. 63 E., Sec. 25, SE¼SE¼SE¼NE¼, E½SW¼SE¼SE¼NE¼.	6.25	330 x 825 E-W	100

2. Classification of the above described lands by this order segregates them from all appropriation including location under the mining laws except as to applications under the Small Tract Act and applications under the mineral leasing laws.

3. The lands adjoin the outskirts of East Ely and are located in Steptoe Valley in White Pine County, Nevada. They extend in a northeasterly direction toward McGill, Nevada, along U. S. Highways 93 and 50. The topography is relatively flat with little change in elevation. Culinary water has been developed on adjacent lands from good wells at reasonable depths. Schools, stores and other public facilities are available in the City of Ely. The soil is a loam to sandy loam underlain with sand and gravel. The native vegetation consists of white sage, shadscale, rabbit brush, sage, Indian rice grass and halogeton. There is no evidence of metaliferous or nonmetaliferous minerals.

4. The individual tracts vary in size from 2.5 to 7.5 acres and are all rectangular in shape. The appraised value of the tracts vary from \$25 to \$100 per tract, as shown in paragraph one. Rights-of-way 50 feet in width for street and road purposes and for public utilities will be reserved along the boundaries of all tracts except the SW¼SE¼ Section 25, T. 17 N., R. 63 E., M. D. M., in which the right-of-way reservations will be as follows:

50 feet along the north, south, east, and west boundaries of the SW¼SE¼.

50 feet on each side of the east-west center lines of the N½SW¼SE¼, W½SW¼SE¼, W½E½SW¼SE¼.

Rental for those tracts classified for Homesite Purposes will be \$15 for a 3-year period, payable in advance. Rental for Business Sites will conform to the requirements of the lease Form 4-776 with a minimum rental of \$20 per tract per year, payable in advance.

5. Leases will issue for a term of 3 years and will contain an option to purchase in accordance with 43 CFR 257.13. Lessees who comply with the general terms and conditions of their leases will be permitted to purchase their tracts at the prices listed above, providing that during the period of their leases they either (a) construct the improvements specified in paragraph 6, or (b) file a copy of an agreement in accordance with 43 CFR 257.13 (d). Leases will not be renewable unless failure to construct the required improvements is justified under the circumstances and non-renewal would work an extreme hardship on the lessee.

6. The improvements placed on the lease must meet the following minimum requirements before purchase will be approved.

(a) Building must be suitable for year-round habitation, must be neat and attractive and must be placed on a permanent foundation.

(b) All buildings must be built in a workmanlike manner of attractive properly finished materials and may consist of wood or masonry construction.

(c) All habitable rooms used for eating, sleeping, or living shall be provided with not less than one window with an area of not less than 12 square feet.

(d) Every dwelling shall have not less than two rooms and one bathroom. Any room designed for sleeping shall have a space of not less than 100 square feet. The bathroom shall be of sufficient size to accommodate the fixtures associated with this type of room.

(e) The dwelling shall have a floor space of not less than 400 square feet.

(f) There shall be at least two doors as a means of access to each dwelling unit.

(g) All dwellings must be connected to a sewage disposal system in accordance with the requirements of the Nevada State Department of Health as to type, size, and construction. No other type of sewage disposal will be permitted. For information relative to sanitary requirements the lessee may contact the Nevada State Department of Health at 325 West Street, Reno, Nevada. An applicant for purchase will be required to submit a certificate of approval signed by the proper authority of the Health Department.

(h) Structures built to qualify for business sites must meet all of the above minimum requirements except as to the number of rooms, and in addition, must be applicable to the business that is to be conducted and have a presentable appearance.

7. Applicants must file in duplicate with the Manager, Land Office, P. O. Box 1551, Reno, Nevada, application Form 4-776 filled out in compliance with the instructions on the form and accompanied by any showings or documents required by those instructions. The applications must be accompanied by a filing fee of $10 plus the advance rental specified above. Failure to transmit these payments with the application will render it invalid. Advance rentals will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

8. The lands are now subject to application under the Small Tract Act. All valid applications filed prior to 10:00 a. m., July 18, 1955, will be granted the preference-right provided by 43 CFR 257.5 (a). All valid applications from persons entitled to veteran's preference filed after 10:00 a. m., July 18, 1955, and prior to 10:00 a. m., March 27, 1956, will be considered as simultaneously filed at that time. All valid applications from persons entitled to veteran's preference filed after 10:00 a. m., March 27, 1956, and prior to 10:00 a. m., June 25, 1956, will be considered in the order of filing. All valid applications from other persons filed after 10:00 a. m., July 18, 1955, and prior to 10:00 a. m., June 25, 1956, will be considered as simultaneously filed at that time. All applications filed after 10:00 a. m., June 25, 1956, will be considered in the order of filing.

9. Inquiries concerning these lands shall be addressed to Manager, Land Office, P. O. Box 1551, Reno, Nevada, or Range Manager, Nevada Grazing District No. 4, P. O. Box 1289, Ely, Nevada.

E. R. GREENSLET,
State Supervisor.

FEBRUARY 20, 1956.

[F. R. Doc. 56-1598; Filed, Mar. 5, 1956; 8:48 a. m.]

[Order 601, Amdt. 2]

REVESTED OREGON AND CALIFORNIA RAILROAD GRANT LANDS AND COOS BAY WAGON ROAD GRANT LANDS

DECLARATION OF ANNUAL PRODUCTIVE CAPACITY

FEBRUARY 28, 1956.

The annual productive capacities of the Master Units composing the Revested Oregon and California Railroad Grant Lands and the Coos Bay Wagon Road Grant Lands in Oregon as declared in Bureau Order 601, dated October 25, 1955, are amended as follows:

Master unit	*Annual productive capacity (feet board measure)*
1. Columbia River	20,500,000
2. Clackamas-Molalla	11,100,000
3. Alsea-Rickreal	34,000,000
4. Santiam River	36,500,000
5. Upper Willamette	53,100,000
6. Siuslaw	57,000,000
7. Douglas	106,300,000
8. South Umpqua	25,500,000
9. South Coast	153,400,000
10. Josephine	48,800,000
11. Jackson	54,700,000
12. Klamath	13,200,000
Total	614,100,000

EDWARD WOOZLEY,
Director.

[F. R. Doc. 56-1687; Filed, Mar. 5, 1956; 8:46 a. m.]

[Document 12]

CALIFORNIA

RESTORATION ORDER UNDER FEDERAL POWER ACT

FEBRUARY 28, 1956.

Pursuant to determination DA-876-California, of the Federal Power Commission, and in accordance with Order No. 541, section 2.5 of the Director, Bureau of Land Management, approved April 21, 1954 (19 F. R. 2473-2476), it is ordered as follows:

The lands hereinafter described, so far as they are reserved for power purposes, are hereby restored to disposition under the public land laws subject to provisions of section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818), as amended.

MOUNT DIABLO MERIDIAN

T. 38 N., R. 8 W.,
Section 32, W½SW¼SW¼NE¼.

The area described contains 5 acres of public land within the boundaries of the Shasta National Forest.

The lands were withdrawn by Power Site Classification No. 85, approved November 5, 1924.

Any disposition of the lands described herein shall be subject to the stipulation that if and when the land is required in whole or in part for power development purposes, any structures or improvements placed thereon which may be found to obstruct or interfere with such development, shall without cost, expense, or delay to the United States, its licensees or permittees, be removed or relocated insofar as may be necessary to eliminate interference with such power development.

The lands described shall be subject to application by the State of California for a period of 90 days from the date of publication of this order in the FEDERAL REGISTER for right-of-way for public highways or as a source of material for construction and maintenance of such highways, in accordance with and subject to the provisions of section 24 of the Federal Power Act, as amended, and the special stipulation provided in the preceding paragraph. Upon publication of this order in the FEDERAL REGISTER, the land described shall be subject to operation of the public land laws relating to National Forests, subject to the right of the State of California, as provided in this paragraph.

The land is within the exterior limits of the Shasta National Forest, and is therefore not subject to the provisions of the Act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, granting preference rights to veterans of World War II, and others.

Inquiries relating to these lands shall be addressed to the Manager, Land Office, Room 352 New Federal Building, Sacramento, California.

R. R. BEST,
State Supervisor.

[F. R. Doc. 56-1688; Filed, Mar. 5, 1956; 8:46 a. m.]

Bureau of Indian Affairs

[Bureau Order 551, Amdt 19]

FUNCTIONS RELATING TO INDIAN LANDS AND MINERALS

NAVAJO URANIUM PROSPECTING AND MINING PERMITS

Order 551, as amended (16 F. R. 2939, 5456, 7467, 8252; 17 F. R. 3516, 7552; 18 F. R. 7305; 19 F. R. 1936, 3971, 4544, 7416; and 20 F. R. 1562, 2964, 2894, 5442, 6590; 21 F. R. 222, 503), is further amended to add a new section 27 under the heading, Functions Relating to Indian Lands and Minerals, to read as follows:

SEC. 27. *Navajo uranium prospecting and mining permits.* The approval of tribal prospecting, drilling, and exploration permits and mining permits covering uranium and other minerals associated with it, assignment of such permits, and bonds given to secure the permits, on forms approved by the Commissioner of Indian Affairs, pursuant to 25 CFR Part 186. The authority conferred by this paragraph extends to and includes the approval or other administrative action required on all assignments of the permits now or hereafter in force on Navajo tribal lands, and bonds required in connection with such permits.

GLENN L. EMMONS,
Commissioner.

FEBRUARY 29, 1956.

[F. R. Doc. 56-1684; Filed, Mar. 5, 1956; 8:45 a. m.]

[Bureau Order 551, Amdt. 20]

FUNCTIONS RELATING TO SPECIFIC LEGISLATION

REDELEGATION OF AUTHORITY

Order 551, as amended (16 F. R. 2939, 5456, 7467, 8252; 17 F. R. 3516, 7552; 18 F. R. 7305; 19 F. R. 1936, 3482, 3971, 4544, 7416; and 20 F. R. 1562, 2964, 2894, 5442, 6590; 21 F. R. 222, 503), is further amended by adding a new section 361 under the heading, Functions Relating to Specific Legislation, to read as follows:

SEC. 361. *Authority under act approved August 13, 1954 (68 Stat. 724) (Western Oregon).* (a) The taking of action with respect to those matters as provided for in the following sections of said act:

Sec. 5;
Sec. 6 (a), (c);
Sec. 8;
Sec. 10; and
Sec. 12.

Except that (1) patents may not be issued pursuant to section 6 (c) and section 12, and (2) only federally owned personal property may be transferred pursuant to section 8.

GLENN L. EMMONS,
Commissioner.

FEBRUARY 29, 1956.

[F. R. Doc. 56-1685; Filed, Mar. 5, 1956; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11602; FCC 56M-192]

CLARA LEE WOOD

ORDER CONTINUING HEARING

In the matter of Clara Lee Wood, Tampa, Florida, Docket No. 11602; order to show cause why the license for Radiotelephone Station WPD should not be revoked.

The Hearing Examiner having under consideration a motion of the Commission's Safety and Special Radio Services Bureau, filed February 27, 1956, to continue until May 1, 1956, the hearing in the above entitled proceeding which is presently scheduled to commence March 1, 1956;

It appearing that the continuance sought is to afford respondent the opportunity to comply, prior to hearing, with a request of the Commission for additional information relative to the operation of the radio station here involved;

It is ordered, This 27th day of February 1956, that the motion is granted, and that the hearing in the above-entitled proceeding is continued to May 1, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-1689; Filed, Mar. 5, 1956; 8:46 a. m.]

[Docket No. 11604; FCC 56M-202]

HILLTOP BROADCASTING CO. (WTVH)

ORDER CONTINUING HEARING

In re application of Hilltop Broadcasting Company (WTVH), Peoria, Illinois, Docket No. 11604, File No. BMPCT-3492; for modification of construction permit.

The Hearing Examiner having under consideration a Motion to Postpone Hearing filed by Hilltop Broadcasting Company (WTVH) on February 24, 1956;

It appearing that the applicant is considering amending its application so as to reduce the height of its proposed tower and thus eliminate any possibility that its proposal would constitute an air hazard; and

It appearing that the only issue in this proceeding is whether the applicant's proposal would constitute an air hazard; and

It further appearing that Counsel for the Broadcast Bureau, the only other participant in this proceeding, has consented to grant of the motion;

It is ordered, This 28th day of February 1956, that the motion of Hilltop Broadcasting Company (WTVH) to postpone hearing is granted; and the hearing now scheduled for March 30, 1956, is continued to 10:00 a. m., May 31, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-1690; Filed, Mar. 5, 1956; 8:46 a. m.]

[Docket Nos. 11632, 11633; FCC 56M-194]

PACIFIC TELEVISION, INC., AND KOOS, INC.

ORDER SCHEDULING HEARING

In re applications of Pacific Television, Inc., Coos Bay, Oregon, Docket No. 11632, File No. BPCT-2046; KOOS, Inc., Coos Bay, Oregon, Docket No. 11633; File No. BPCT-2052; for construction permits for new television broadcast stations.

It is ordered, This 27th day of February 1956, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 30, 1956, in Washington, D. C.

Released: February 28, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-1691; Filed, Mar. 5, 1956; 8:47 a. m.]

[Docket Nos. 11634, 11635; FCC 56M-197]

STEPHENVILLE BROADCASTING CO. AND OSAGE BROADCASTING CO.

ORDER SCHEDULING HEARING

In re applications of Galen O. Gilbert and J. R. Kincaid, d/b as Stephenville Broadcasting Company, Tahlequah, Oklahoma, Docket No. 11634, File No. BP-9978; John M. Mahoney and John Q. Adams, d/b as Osage Brdoacasting Company, Bartlesville, Oklahoma, Docket No. 11635, File No. BP-10096; for construction permits.

It is ordered, This 27th day of February 1956, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 30, 1956, in Washington, D. C.

Released: February 28, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-1692; Filed, Mar. 5, 1956; 8:47 a. m.]

[Docket Nos. 11636, 11637; FCC 56M-196]

W. A. SMITH (WPLA) AND R. E. HUGHES

ORDER SCHEDULING HEARING

In re applications of W. A. Smith (WPLA), Plant City, Florida, Docket No. 11636, File No. BMP-6984; R. E. Hughes, Auburndale, Florida, Docket No. 11637, File No. BP-9512; for construction permits.

It is ordered, This 27th day of February 1956, that Hugh B. Hutchison will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 30, 1956, in Washington, D. C.

Released: February 28, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-1693; Filed, Mar. 5, 1956; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-9262, G-9960]

HOUSTON, TEXAS GAS AND OIL CORP. AND COASTAL TRANSMISSION CORP.

NOTICE OF APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

FEBRUARY 28, 1956.

Houston, Texas Gas and Oil Corporation (Houston), a Delaware corporation with its principal place of business at 4604 South Main Street, Houston, Texas, filed on August 26, 1955, its application, as amended and supplemented on February 10 and 16, 1956, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing it to construct and operate natural-gas pipe-line facilities as hereinafter described, for the transportation and sale of natural gas in various communities, to public utilities and other markets in the State of Florida.

Coastal Transmission Corporation (Coastal), a Delaware corporation with its principal place of business located at 1921 Commerce Building, Houston, Texas, filed on February 8, 1956, an application for a certificate of public convenience and necessity pursuant to the Natural Gas Act, authorizing it to construct and operate certain natural-gas pipe-line facilities, as hereinafter described, for the transportation and sale of natural gas to Houston at or near the east bank of the Mississippi River in East Baton Rouge Parish, Louisiana, which gas will be sold by Houston in accordance with its application for a certificate of public convenience and necessity above referred to.

Docket No. G-9262. Houston proposes to construct and operate approximately 961 miles of main transmission pipe line from a connection with Coastal's proposed facilities near Baton Rouge, Louisiana, in a generally easterly and southeasterly direction to a point near Miami, Florida. The main line would be comprised successively of approximately 580 miles of 26-inch diameter pipe, 144 miles of 24-inch diameter pipe, and 236 miles of 18-inch diameter pipe.

The facilities which Houston proposes to construct and operate include 5 compressor stations with a total installed horsepower of 32,000.

In addition, Houston proposes to construct and operate approximately 496 miles of lateral pipe lines varying in diameter from 2½ to 18 inches, extending from its main line and principal laterals to points of delivery to 98 wholesale and retail customers.

Houston also seeks authorization to construct and operate the meter stations and other facilities necessary to make its proposed sales to its potential customers in Florida.

The initial capacity of the project is stated to be 370,000 Mcf per day, with a peakday capacity of 385,000 Mcf per day, and an ultimate daily capacity of 520,000 Mcf when fully powered. Houston will obtain its natural gas supply from Coastal.

The estimated over-all capital cost of the proposed project is $105,836,000 which will be financed by the issuance of First Mortgage Bonds, Interim Notes convertible into Preferred Stock to be sold with Common Stock as a unit, and Common Stock.

The market in which Houston proposes to sell natural gas lies entirely within the State of Florida, and such sales consist of sales for resale to existing or proposed private and municipally-owned distribution systems, and sales to direct industrial customers for various uses, including processing and the generation of electricity.

Houston estimates its sales initially on a peak day to resale-customers to be 132,828 Mcf of natural gas, and annually, 15,857,253 Mcf. Peak day sales to direct industrial customers are estimated at 209,877 Mcf, and annual sales at 112,945,163 Mcf.

Houston proposes an initial city-gate rate of 5.5 cents per therm for contract quantities of gas for resale, and 6.5 cents per therm of authorized quantities in excess of the annual contract amount. Interruptible gas for resale would be billed at 3.3 cents per therm. Direct interruptible sales would be made at 2.85 cents, 3.01 cents and 3.3 cents per therm, depending on the type of service and terms of the contract.

Docket No. G-9960. Coastal proposes to construct and operate approximately 565 miles of main line extending from a point near McAllen, Hidalgo County, Texas, in a generaly northeasterly and easterly direction, approximately paralleling the Texas and Louisiana Gulf Coast, to a point on the east bank of the Mississippi River near Baton Rouge, Louisiana. From the point of origin to the terminus the main line would be comprised of, successively, approximately 61 miles of 12-inch, 252 miles of 22-inch, 128 miles of 24-inch and 123 miles of 26-inch diameter pipe.

Coastal also proposes to construct and operate 4 compressor stations having a total installed horsepower of 26,000.

In addition, Coastal proposes to construct approximately 272 miles of lateral pipelines varying in diameter from 6⅝ inches to 16 inches, extending from its principal pipeline to various sources of its natural-gas supply in East Texas. As a part of its project, Houston proposes to construct and operate such other facilities as are necessary, including sales and purchase meter stations.

The initial design capacity of the pipe line to be utilized for the transportation of natural gas will approximate 350,000 Mcf per day, with a peak-day capacity of 385,000 Mcf.

The application recites that the line will be capable of transporting 450,000 Mcf per day when fully powered.

The estimated total over-all capital cost of Coastal's proposed project, including the down payment on its proposed purchase of the gas and physical properties in the Rayne Field, is $68,-251,000, which Coastal proposes to finance by a Bank Loan and the issuance of First Mortgage Bonds and Interim Notes and Common Stock.

The gas obtained by Coastal will be purchased at prices varying from 16 cents to 20 cents per Mcf.

All of such gas purchased will be sold to Houston at a price estimated to be 25.12 cents per Mcf.

The application discloses that there is pending an arrangement whereby Florida Power and Light Company would purchase approximately 100,000 Mcf per day from Sun Oil Company, which Coastal would transport on a cost-of-service basis and deliver to Houston for further transportation.

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 March 28, 1956.

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

[F. R. Doc. 56-1694; Filed, Mar. 5, 1956; 8:47 a. m.]

[Docket No. G-9504]

KANSAS-NEBRASKA NATURAL GAS CO.

NOTICE OF HEARING

FEBRUARY 28, 1956.

Take notice that, 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 will be held on March 19, 1956, at 10:00 a. m., e. s. t., in a 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 filed on October 18, 1955 by Kansas-Nebraska Natural Gas Company in the above-entitled matter.

Due notice of the application filed herein has been had by publication in the FEDERAL REGISTER on December 8, 1955 (20 F. R. 9031) and no protests or petitions to intervene have been filed herein.

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

[F. R. Doc. 56-1695; Filed, Mar. 5, 1956; 8:47 a. m.]

[Docket No. G-4695 etc.]

MURPHY CORP. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

Take notice that each of the Applicants listed below has filed an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing such applicant to continue to sell natural gas subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open for public inspection. These matters should be consolidated and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, 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 will be held on the date and at the place hereinafter stated, concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) 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) not less than ten days before the date of hearing. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request for waiver is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

The dockets, Applicants and material averments in applications to which reference is made above are as follows:

Docket No; Applicant; Filing Date; and Gas Field and Purchaser

G-4695; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; North Ruston, Lincoln Parish, Louisiana; Arkansas-Louisiana Gas Company.

G-4696 and G-4697; Murphy Corporation, C. H. Murphy, Jr., Attorney in fact for J. K. Mahony et al., Murphy Building, El Dorado, Arkansas; 11-5-54; Delhi, Franklin and Richmond Parishes, Louisiana; Texas Eastern Transmission Corporation.

G-4698; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Deer Creek-Bryceland, Bienville Parish, Louisiana; Southern Natural Gas Company.

G-4699; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Sligo, Bossier Parish, Louisiana; Mississippi-River Fuel Corporation.

G-4700; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Ruston, Lincoln Parish; Louisiana Mississippi-River Fuel Corporation.

G-4701; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Athens, Claiborne Parish, Louisiana; Arkansas-Louisiana Gas Company.

G-4702; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; North Ruston, Lincoln Parish, Louisiana; Arkansas-Louisiana Gas Company.

G-4703; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Simsboro, Lincoln Parish, Louisiana; Arkansas-Louisiana Gas Company.

G-4705; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Spraberry, Glasscock County, Texas; El Paso Natural Gas Company.

G-4706; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Clayton, Live Oak and Mullen Counties, Texas; Texas-Illinois Natural Gas Pipe Line Company.

G-4707; Murphy Corporation, Murphy Building, El Dorado, Arkansas; 11-5-54; Bear Creek, Bienville Parish, Louisiana; Arkansas-Louisiana Gas Company.

G-4708; C. H. Murphy, Jr., Murphy Building, El Dorado, Arkansas; 11-5-54; Carthage, Panola County, Texas; Texas Gas Transmission Corporation.

G-4709; Executors of Estate of C. H. Murphy, deceased, Murphy Building, El Dorado, Arkansas; 11-5-54; Bear Creek and Bryceland, Bienville Parish, Louisiana; Southern Natural Gas Company.

G-4710; Executors of Estate of C. H. Murphy, deceased, Murphy Building, El Dorado, Arkansas; 11-5-54; Bryceland, Bienville Parish, Louisiana; Texas Eastern Transmission Corporation.

G-4711; Executors of Estate of C. H. Murphy, deceased, Murphy Building, El Dorado, Arkansas; 11-5-54; Ruston, Lincoln Parish, Louisiana; Mississippi River Fuel Corporation.

G-4712; J. J. Roberts and C. H. Murphy, Jr., dba Roberts & Murphy, Murphy Building, El Dorado, Arkansas; 11-5-54; Ruston, Lincoln Parish, Louisiana; Mississippi River Fuel Corporation.

G-4713; J. J. Roberts and C. H. Murphy, Jr., dba Roberts & Murphy, Murphy Building, El Dorado, Arkansas; 11-5-54; Waskom, Harrison County, Texas; Arkansas-Louisiana Gas Company.

G-4714; J. J. Roberts and C. H. Murphy, Jr., dba Roberts & Murphy, Murphy Building, El Dorado, Arkansas; 11-5-54; Bethany, Panola County, Texas; United Gas Pipe Line Company.

A public hearing will be held on March 29, 1956, beginning 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 in and the issues presented by the above applications.

[SEAL] LEON M. FUQUAY,
Secretary.

FEBRUARY 29, 1956.

[F. R. Doc. 56-1701; Filed, Mar. 5, 1956; 8:48 a. m.]

[Docket No. G-10011]

SINCLAIR OIL AND GAS CO.

ORDER SUSPENDING PROPOSED CHANGES IN RATES

Sinclair Oil and Gas Company (Applicant), on February 1, 1956, tendered for filing proposed changes in presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing which is proposed to become effective on the date shown:

Description; Purchaser; Rate Schedule Designation; and Effective Date [1]

Notice of change, dated January 31, 1956; Natural Gas Pipeline Company of America; Supplement No. 7 to Applicant's FPC Gas Rate Schedule No. 9; March 15, 1956.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until August 15, 1956, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

By the Commission.[2]

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-1702; Filed, Mar. 5, 1956; 8:48 a. m.]

[1] The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Applicant if later.

[2] Commissioners Digby and Stueck dissenting.

[Docket No. E-6660]

KENTUCKY UTILITIES CO.

NOTICE OF APPLICATION

FEBRUARY 29, 1956.

Take notice that on February 23, 1956, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Kentucky Utilities Company ("Applicant"), a corporation organized under the laws of the State of Kentucky and doing business in the States of Kentucky and Tennessee, with its principal business office at Lexington, Kentucky, seeking an order authorizing the merger or consolidation of applicant's facilities with certain facilities, more fully described below, of Stearns Coal and Lumber Company ("Stearns"), a Kentucky corporation with its principal business office at Stearns, Kentucky. Applicant proposes to purchase from Stearns certain electric facilities consisting generally of all of Stearns' urban and rural electric transmission and distribution lines and all substations in McCreary County, Kentucky, and all substations, equipment and devices appurtenant thereto, and all land rights owned by Stearns or across property owned by Stearns, necessary or useful in the maintenance and operation of such facilities and future extensions thereto; exmept the electric generating station owned by Stearns, its appurtenant equipment, the transmission lines used to supply energy to the coal mines owned by Stearns and the distribution lines used to supply energy to the manufacturing facilities owned by Stearns. The consideration for the proposed facilities to be acquired is stated in the application to be $236,036 plus an additional amount equal to the greater of (a) a sum equal to the reproduction cost new, less observed depreciation of the facilities presently used by Stearns for service to approximately 70 rural customers or (b) a sum equal to $50 multiplied by the exact number of such rural customers in or near those communities being served by Stearns on the closing date. After the acquisition is consummated, applicant will use the acquired facilities to provide electric service at retail in the areas now being served by means of such facilities. The latter will be interconnected with applicant's system by a transmission line now being constructed by East Kentucky Rural Electric Cooperative Corporation ("Cooperative"). Applicant proposes to construct a substation near Whitley City, Kentucky, to connect the facilities acquired from Stearns to the 69 kv line of the Cooperative. Pursuant to a wheeling contract, the Cooperative will deliver power to the substation for distribution by applicant. Upon consummation of the proposed transaction, applicant will sell to Stearns all electric energy to be used by Stearns; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 21st day of March 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-1703; Filed, Mar. 5, 1956; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 1, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31759: *Citrus fruit—Pacific Coast to Minnesota and Wisconsin*. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on citrus, grapefruit, lemons, limes, madarines, oranges and tangerines, carloads from specified points on the south Pacific coast and nearby area, taking origin rate basis 4 rates or arbitraries higher to stations in Minnesota and Wisconsin taking destination Groups D-1 and E-5 rates.

Grounds for relief: Circuitous routes operating through intermediate destinations in Missouri taking Group E-4 rates.

Tariff: Supplement 2 to Agent Prueter's I. C. C. 1572.

FSA No. 31760: *Aluminum billets, etc., official territory to the South*. Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on aluminum billets, blooms, ingots, pigs or slabs, straight or mixed carloads from specified points in Indiana, Maryland, Michigan, New York, Ohio and Pennsylvania, to specified points in Alabama, Florida, Georgia, North Carolina and South Carolina.

Grounds for relief: Circuitous routes.

Tariffs: Supplement 9 to Agent C. W. Boin's I. C. C. A-1079; Supplement 18 to Agent H. R. Hinsch's I. C. C. A-4664.

FSA No. 31761: *Lumber and related articles—Alabama to Florida*. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on lumber and related articles, carloads from Corduroy, Beatrice and Tunnel Springs, Ala., to Live Oak and Slade, Fla.

Grounds for relief: Circuitous routes.

Tariff: Supplement 112 to Agent Spaninger's I. C. C. 1293.

FSA No. 31762: *Sugar—New York terminal district to official territory*. Filed by C. W. Boin, Agent, for interested rail carriers. Rates on sugar, beet or cane, in bulk, in self clearing cars, carloads from points in the New York, N. Y. terminal district on Brooklyn Eastern District Terminal Railroad, Bush-Terminal Railroad and Jay Street connecting Railroad and New York Dock Railway to points in official territory.

Grounds for relief: Circuitous routes.

Tariffs: Supplement 387 to Agent Boin's I. C. C. A-848; Agent C. W. Boin's tariff I. C. C. A-1087.

FSA No. 31763: *Sugar—Boston, Mass., and New York, N. Y. to Cincinnati, Ohio and Louisville, Ky*. Rates on O. E. Swenson, Agent, for interested rail carriers. Rates on sugar, beet, or cane, including liquid beet or cane sugar, not colored, flavored or medicated, and invert sugar, in bulk in drums or barrels, also in tankcars, carloads from Boston, Mass., and New York, N. Y. and points taking same rates to Cincinnati, Ohio and Louisville, Ky.

Grounds for relief: Maintenance of prescribed rates differentially related to those prescribed from New Orleans, La., and other southern ports, and circuitous routes.

Tariff: Supplement 38 to Agent Swenson's I. C. C. 573.

FSA No. 31764: *Merchandise—Cincinnati, Ohio, to Florida*. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on merchandise, in mixed carloads from Cincinnati, Ohio to Daytona Beach and Tallahassee, Fla.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 32 to Agent Spaninger's I. C. C. 1458.

FSA No. 31765: *Trailer-on-flat-car service between New England points and points in New York*. Filed by The New York, New Haven and Hartford Railroad Company, for itself and interested rail carriers. Rates on various commodities loaded in or on trailers transported on railroad flat cars between points on the N. Y. N. H. & H. RR in Massachusetts and Rhode Island, on the one hand, and points in New York State on lines of other applicants, on the other.

Grounds for relief: Motor truck competition and circuity.

Tariff: Supplement 7 to New York, New Haven and Hartford Railroad tariff I. C. C. F-4383.

By the Commission.

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

[F. R. Doc. 56-1697; Filed, Mar. 5, 1956; 8:48 a. m.]