

FEDERAL REGISTER

VOLUME 24

NUMBER 23

Washington, Tuesday, February 3, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

United States Information Agency

Effective upon publication in the FEDERAL REGISTER, paragraphs (i) and (j) of § 6.324 are revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-869; Filed, Feb. 2, 1959; 8:45 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

§ 6.102 [Amendment]

1. Effective upon publication in the FEDERAL REGISTER, paragraph (h) (4) of § 6.102 is revoked.

2. Effective upon publication in the FEDERAL REGISTER, paragraph (c) (9) of § 6.302 is revoked and a new subparagraph (9) is added to paragraph (c) as set out below.

§ 6.302 Department of State.

(c) Office of the Assistant Secretary for Congressional Relations.

(9) One Deputy Assistant Secretary (Mutual Affairs).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-902; Filed, Feb. 2, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE

Beginning February 4, 1959, a Cumulative Codification Guide will be carried at the end of each daily issue. The Cumulative Guide will begin anew each month. As in the past, the daily Guide will follow the Contents in each issue, and the usual analytical guides to sections will be printed monthly, quarterly, and annually.

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

Average Values of Farms; Vermont

On January 12, 1959, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units for 13 of the 14 counties identified below were determined to be as herein set forth. The average values heretofore established for said 13 counties, which appear in the tabulations of average values under § 331.17, Chapter III, Title 6, Code of Federal Regulations, are hereby superseded by the average values set forth below for said counties.

COUNTY	Average value
Addison	\$25,000
Bennington	25,000
Caledonia	18,000
Chittenden	23,000
Essex	18,000
Franklin	23,000
Grand Isle	20,000
Lamoille	20,000
Orange	18,000
Orleans	20,000
Rutland	25,000
Washington	20,000
Windham	25,000
Windsor	20,000

(Continued on p. 725)

CONTENTS

Agricultural Marketing Service	Page
Proposed rule making:	
Milk in Philadelphia, Pa., marketing area	737
Rules and regulations:	
Oranges, navel, grown in Arizona and designated part of California	726
Agriculture Department	
See also Agricultural Marketing Service; Commodity Exchange Authority; Commodity Stabilization Service; Farmers Home Administration.	
Notices:	
Great Plains Conservation Program; designation of counties	750
Alien Property Office	
Notices:	
Vested property, intention to return:	
Berger, Emilio	750
Tavasci, Agnese, et al	750
Atomic Energy Commission	
Rules and regulations:	
Contract appeals; use of hearing examiner therein	726
Census Bureau	
Notices:	
Number of employees, taxable wages, geographic location, and kind of business for establishments of multiunit companies; surveys	742
Civil Service Commission	
Rules and regulations:	
Competitive service, exceptions:	
State Department	723
U.S. Information Agency	723
Commerce Department	
See Census Bureau; Foreign Commerce Bureau.	
Commodity Exchange Authority	
Rules and regulations:	
Meal, cottonseed and soybeans; amounts fixed for reporting on certain forms	728
Commodity Stabilization Service	
Rules and regulations:	
Tobacco, cigar-filler, cigar-binder, cigar filler and binder; amounts and apportionments of national marketing quota	725

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

CFR SUPPLEMENTS

(As of January 1, 1959)

The following supplements are now available:

Title 3, 1958 Supplement
(\$0.35)

Title 46, Parts 146-149,
1958 Supplement 2 (\$1.50)

Order from Superintendent of Documents, Government Printing Office,
Washington 25, D. C.

CONTENTS—Continued

Commodity Stabilization Service—Continued	Page
Rules and regulations—Continued	
Wheat; determination of county normal yields for 1959 crop; correction	726
Farmers Home Administration	
Rules and regulations:	
Vermont; average values of farms	723
Federal Communications Commission	
Notices:	
Hearings, etc.:	
Jeannette Broadcasting Co. and Carnegie Broadcasting Co.	745
Moore, Frederick Franklin	745
Radio KYNO, the Voice of Fresno (KYNO)	745

RULES AND REGULATIONS

CONTENTS—Continued

Federal Communications Commission—Continued	Page
Notices—Continued	
Hearings, etc.—Continued	
Southeast Alaska Marine Transport Co.	746
Tempe Broadcasting Co. et al. (2 documents)	745, 746
Proposed rule making:	
Radio broadcast services; television stations; prohibition of national spot sales	741
Federal Power Commission	
Notices:	
Hearings, etc.:	
American Petrofina Co. of Texas et al.	749
Bradley Producing Corp.	748
Christie, Mitchell and Mitchell Co.	748
City of Bayard, Nebraska, v. North Central Gas Co.	747
East Tennessee Natural Gas Co.	750
Hunt, Hassie, Trust (2 documents)	749, 750
Producing Properties, Inc., and Raymond D. Reynolds	746
Sun Oil Co.	747
Tidewater Oil Co. et al.	749
Trunkline Gas Co. et al.	747
Fish and Wildlife Service	
Rules and regulations:	
Haddock and cod fisheries	733
Foreign Commerce Bureau	
Notices:	
Meyns, Peter, & Co.; supplemental order revoking export privileges	742
Interior Department	
See Fish and Wildlife Service; Land Management Bureau; Minerals Exploration Office.	
Interstate Commerce Commission	
Notices:	
Monon Railroad; rerouting and diversion of traffic	751
Motor carrier transfer proceedings	750
Justice Department	
See Alien Property Office.	
Labor Department	
See Public Contracts Division; Wage and Hour Division.	
Land Management Bureau	
Notices:	
Chiefs, Mineral and Land Adjudication Units; redelegation of authority by Land Office Manager	743
Filing of plat or survey and order providing for opening of lands; Idaho	743
Small tract classifications:	
California	744
Idaho	744
Minerals Exploration Office	
Rules and regulations:	
Mineral reserves, excluding organic fuels, in the United States, its territories and possessions; regulations for obtaining Federal assistance	731

CONTENTS—Continued

Post Office Department	Page
Rules and regulations:	
Services in post offices; closing of post office boxes used for unlawful or improper purposes	732
Public Contracts Division	
Rules and regulations:	
Flour and related products industry; final decision on minimum wage determinations	732
Saint Lawrence Seaway Development Corporation	
Notices:	
Administrative Officer; delegation of authority to execute acknowledgments of conveyances or other instruments	750
Securities and Exchange Commission	
Proposed rule making:	
Interpretation of administrative policy; extension of time for filing comments	742
Selective Service System	
Rules and regulations:	
Registration procedures; accomplishment of registration	731
Standby reserve of the Armed Forces; availability of members for order to active duty	731
Wage and Hour Division	
Proposed rule making:	
Industries of a seasonal nature; preliminary determination	740
Rules and regulations:	
Certain industries, employment of homeworkers	728
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.	
	Page
5 CFR	
6 (2 documents)	723
6 CFR	
331	723
7 CFR	
723	725
728	726
914	726
Proposed:	
961	737
10 CFR	
3	726
17 CFR	
11	728
Proposed:	
230	742
240	742
250	742
270	742
29 CFR	
530	728
605	728
607	728
617	728
621	728
625	728

CODIFICATION GUIDE—Con.

29 CFR—Continued	Page
628 -----	728
633 -----	728
Proposed:	
526 -----	740
30 CFR	
301 -----	731
32 CFR	
1613 -----	731
1690 -----	731
39 CFR	
41 -----	732
41 CFR	
202 -----	732
47 CFR	
Proposed:	
3 -----	741
50 CFR	
155 -----	733

(Sec. 41, 50 Stat. 528, as amended; 7 U.S.C. 1015)

Dated: January 28, 1959.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[P.R. Doc. 59-889; Filed, Feb. 2, 1959;
8:47 a.m.]

Title 7—AGRICULTURE

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

PART 723—CIGAR-FILLER TOBACCO, CIGAR BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

Announcement of Amounts of and Apportionments of National Marketing Quotas for Cigar-Binder (Types 51 and 52) Tobacco and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 and 55) Tobacco, Respectively, for 1959-60 Marketing Year Among Several States

Sec.
723.1001 Basis and purpose.

723.1002 Findings and determinations with respect to the national marketing quota for cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1959.

723.1003 Findings and determination with respect to the national marketing quota for cigar-filler and cigar-binder tobacco, types 42, 43, 44, 53, 54 and 55, for the marketing year beginning October 1, 1959.

Authority: §§ 723.1001 to 723.1003 issued under sec. 375, 52 Stat. 66, as amended, 7 U.S.C. 1375. Interpret or apply secs. 301, 312, 313, 52 Stat. 38, as amended; 46, as amended; 47, as amended; 7 U.S.C. 1301, 1312, 1313.

§ 723.1001 Basis and purpose.

The regulations contained in § 723.1001 to 723.1003 are issued (a) to establish the reserve supply level and the total supply of (1) cigar-binder (types 51 and 52) tobacco, and (2) cigar-filler and cigar-binder (types 42, 43, 44, 53, 54 and 55) tobacco, for the marketing year beginning October 1, 1958; (b) to announce the national marketing quotas for (1) cigar-binder (types 51 and 52) tobacco, and (2) cigar-filler and cigar-binder (types 42, 43, 44, 53, 54 and 55) tobacco, for the marketing year beginning October 1, 1959 and (c) to apportion the national marketing quotas among the several States. The findings and determinations by the Secretary contained in §§ 723.1002 and 723.1003 have been made on the basis of the latest available statistics of the Federal Government and after due consideration of data, views, and recommendations received from cigar-filler and cigar-binder tobacco producers and others as provided in notice (23 F.R. 7587) given in accordance with the Administrative Procedure Act (5 U.S.C. 1003).

Since producers of cigar-binder (types 51 and 52) tobacco and producers of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco are making 1959 farming plans and it is therefore imperative that they know the tobacco acreage allotments for their farms as soon as possible, it is hereby found that compliance with the 30-day effective date provisions of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the findings and determinations and the announcements and apportionments of the quotas contained herein shall become effective upon the date of their filing with the Director, Division of the FEDERAL REGISTER.

§ 723.1002 Findings and determinations with respect to the national marketing quota for cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1959.

(a) *Reserve supply level.* The reserve supply level for cigar-binder (types 51 and 52) tobacco is 49,700,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 16,000,000 pounds and a normal year's exports of 2,000,000 pounds.

(b) *Total supply.* The total supply of cigar-binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1958 is 43,100,000 pounds consisting of carry-over of 38,100,000 pounds and estimated 1958 production of 5,000,000 pounds.

(c) *Carry-over.* The estimated carry-over of cigar-binder (types 51 and 52) tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1959, is 28,100,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1958 of 15,000,000

¹ Rounded to the nearest tenth of a million pounds.

pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-binder (types 51 and 52) tobacco which will make available during the marketing year beginning October 1, 1959, a supply of cigar-binder (types 51 and 52) tobacco equal to the reserve supply level of such tobacco is 21,600,000 pounds, and a national marketing quota of such amount is hereby announced. Therefore, the amount of the national marketing quota for cigar-binder (types 51 and 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1959 is 21,600,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota for cigar-binder (types 51 and 52) tobacco is hereby apportioned among the several States pursuant to section 313(a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313(g) of the Act as follows:

State	Acreage allotment
Connecticut -----	7784
Massachusetts -----	4080
New Hampshire -----	1
New York -----	1
Vermont -----	6
Reserve ¹ -----	120

¹ Acreage reserved for establishing allotments for new farms.

§ 723.1003 Findings and determinations with respect to the national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco for the marketing year beginning October 1, 1959.

(a) *Reserve supply level.* The reserve supply level for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco is 98,300,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 33,500,000 pounds and a normal year's exports of 900,000 pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco for the marketing year beginning October 1, 1958 is 91,300,000 pounds consisting of carry-over of 67,100,000 pounds and estimated 1958 production of 24,200,000 pounds.

(c) *Carry-over.* The estimated carry-over of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1959 is 58,800,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1958 of 32,500,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco which will make available during the marketing year beginning October 1, 1959, a supply of cigar-filler and binder tobacco equal to the reserve supply level of such tobacco is 39,500,000 pounds, and a national marketing quota of such amount is hereby

announced. Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1959 is 39,500,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco is hereby apportioned among the several States pursuant to section 313(a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313(g) of the Act as follows:

State	Acreage Allotment
Illinois	7
Indiana	1
Iowa	8
Minnesota	248
New York	100
Ohio	5,287
Pennsylvania	262
Wisconsin	18,781
Reserve ¹	249

¹ Acreage reserved for establishing allotments for new farms.

Done at Washington, D.C., this 30th day of January 1959. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59-931; Filed, Jan. 30, 1959; 3:00 p.m.]

PART 728—WHEAT

Subpart—1959 Marketing Year

DETERMINATION OF COUNTY NORMAL YIELDS FOR 1959 CROP

Correction

In F.R. Doc. 58-10712, appearing at page 10495 of the issue for Wednesday, December 31, 1958, the appendix to § 728.908(d) should be changed by making the figure for Golden Valley, Montana, Continuous cropping, read "10.9".

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

[Navel Orange Reg. 154, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information sub-

mitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 914.454 (Navel Orange Regulation 154, 24 F.R. 559) are hereby amended to read as follows:

- (i) District 1: 660,660 cartons;
- (ii) District 2: 355,740 cartons.

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

Dated: January 29, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-887; Filed, Feb. 2, 1959; 8:46 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 3—RULES OF PROCEDURE IN CONTRACT APPEALS

This revision of Title 10, Chapter I, substitutes the Atomic Energy Commission hearing examiner for the Advisory Board on Contract Appeals with respect to appeals under disputed articles in Commission contracts and subcontracts. The revision provides that the decision of the hearing examiner shall become final sixty days after made unless a petition for review of the decision is filed with the Commission and the Commission grants the petition. The Advisory Board will continue, pursuant to the rules heretofore in effect, to have jurisdiction over cases in which that body either has (1) ordered a hearing prior to the effective date of the new rules, whether or not the hearing has been held, or (2) held a hearing prior to such effective date, whether or not the hearing has been concluded.

Because of the procedural nature of these rules, the Atomic Energy Commission has found that general notice of proposed rule making and public procedure thereon are unnecessary, and that good cause exists why these rules

should be made effective without the customary period of prior notice.

The Commission will continue to study the problems involved in the rules with respect to contract appeals with a view to making such further changes as may from time to time appear to be desirable. Members of the bar, contractors, and others are invited to submit any further comments and suggestions they may have to the Commission.

The following rules are made effective upon publication thereof in the FEDERAL REGISTER.

GENERAL PROVISIONS

Sec.

- 3.1 Purpose.
- 3.2 Scope.
- 3.3 Definitions.

PRELIMINARY PROCEEDINGS

- 3.10 Initial determination.
- 3.11 Appeal.
- 3.12 Notice of appeal.
- 3.13 Transmittal of notice of appeal.
- 3.14 Notification of parties by the hearing examiner.
- 3.16 Consideration by hearing examiner without hearing.
- 3.17 Notice of hearing.

HEARINGS

- 3.20 Absence of parties.
- 3.21 Recording of hearings.
- 3.22 Scope of the proceedings.
- 3.23 Conduct of hearings.

HEARING EXAMINER'S DECISION AND COMMISSION REVIEW

- 3.30 Hearing examiner's decision.
- 3.31 Commission review.

MISCELLANEOUS

- 3.40 Modification of rules.
- 3.41 Effective date-saving provisions.

AUTHORITY: 3.1 to 3.41 issued under sec. 161, Stat. 948, as amended; 42 U.S.C. 2201.

GENERAL PROVISIONS

§ 3.1 Purpose.

Contracts entered into by the United States Atomic Energy Commission usually contain a "disputes article" providing that disputes arising under the contract which are not disposed of by mutual agreement shall be decided in the first instance by the contracting officer. Many subcontracts under AEC cost-type contracts contain similar articles. The typical disputes clause further provides that the contractor or subcontractor may make an appeal in writing to the designated representative or representatives of the Commission, whose decision shall be final. The AEC hearing examiner is the designated representative to consider and initially decide all appeals arising under the disputes articles of Commission contracts and subcontracts. His decision is final unless one of the parties to the proceeding requests review thereof by petition and the Commission grants the petition and orders the record and decision submitted to it for further decision. The rules of procedure contained in this part are designed to provide an orderly and expeditious means for handling such appeals.

§ 3.2 Scope.

The rules contained in this part set forth the procedure which will be fol-

lowed by the hearing examiner in arriving at his decision, and by the Commission in the review, if any, of such decision, as to the disposition of an appeal from a decision of a contracting officer in the matter of a contract dispute arising under the disputes article of a contract or subcontract.

§ 3.3 Definitions.

"Hearing examiner" shall mean the AEC officer designated by the Commission to conduct assigned hearings in accordance with regulations of the Commission under the Atomic Energy Act of 1954, as amended, including the rules set forth in this part.

(b) "Contracting officer" shall mean the representative of the Commission who, under the contract or subcontract, has the responsibility for determining the dispute in the first instance and from whose decision the appeal has been taken.

(c) "Party" or "parties" shall mean the contractor (or subcontractor) and the contracting officer as defined in this part, as the text may indicate.

PRELIMINARY PROCEEDINGS

§ 3.10 Initial determination.

In disposing of a contract dispute other than by mutual agreement, the contracting officer shall furnish directly to the contractor or subcontractor a statement in writing of the contracting officer's decision, together with specific findings of fact and a copy of the rules contained in this part.

§ 3.11 Appeal.

An appeal from the decision of the contracting officer shall be taken by filing with the contracting officer from whose decision the appeal is taken a notice of appeal, together with three copies thereof.

§ 3.12 Notice of appeal.

The notice of appeal must be in writing but need not follow any prescribed form and may be in the form of a letter addressed to the contracting officer. It shall indicate the decision from which the appeal is taken, the date thereof and the number of the contract involved. It shall also specify the portion or portions of the decision from which the appeal is taken and the reasons why those portions are deemed to be erroneous. The notice of appeal should be dated and signed by the contractor or subcontractor, and, if he desires to appear or be represented at a hearing before the hearing examiner, should contain a request that such a hearing be held. The notice of appeal must be mailed or otherwise filed with the contracting officer within the time specified in the contract or subcontract or, if no time is specified, within 30 days from the date of receipt of the contracting officer's decision.

§ 3.13 Transmittal of notice of appeal.

When the notice of appeal has been received, the contracting officer will endorse the date of its receipt on the original and promptly forward the original and two copies thereof, together with three copies of the decision, findings of fact and supporting data, three copies

of all pertinent correspondence, and other data relevant to the dispute to the Hearing Examiner, United States Atomic Energy Commission, Washington 25, D.C.

§ 3.14 Notification of parties by the hearing examiner.

Upon receipt by him of the material referred to in § 3.13, the hearing examiner will so notify the contractor or subcontractor and the contracting officer.

§ 3.16 Consideration by hearing examiner without hearing.

If a hearing has not been requested in the notice of appeal or by the contracting officer, the hearing examiner will proceed to a decision on the basis of the record then before him, together with such a brief as the contractor or subcontractor may desire to submit and a reply brief submitted by the contracting officer. The examiner will instruct the parties with respect to the time within which such briefs must be submitted and served upon the other parties.

§ 3.17 Notice of hearing.

If a hearing has been requested, the hearing examiner will fix the time when and the place where such hearing will be conducted and will give the contractor at least 15 days' notice thereof in writing. In fixing a time and place for a hearing, the hearing examiner will consider the convenience of the parties. Ordinarily, hearings will be held at the location of the office of the commission administering the contract, but may be held at the AEC Headquarters Building at Germantown, Maryland, or such other place as shall be determined by the hearing examiner.

HEARINGS

§ 3.20 Absence of parties.

In the event of the unexcused absence of a party at the time and place set for a hearing, the hearing will proceed, and the appeal will be deemed as having been submitted without oral testimony or argument on behalf of that party.

§ 3.21 Recording of hearings.

The proceedings at hearings will be recorded and transcribed. One copy of the transcript of the proceedings will be furnished to the contractor or subcontractor without cost.

§ 3.22 Scope of the proceedings.

At a hearing the hearing examiner shall receive evidence and arguments presented by or on behalf of the parties. The appeal will be considered de novo, and independent findings of fact will be made, although the findings of fact of the contracting officer may be adopted by the hearing examiner in whole or in part.

§ 3.23 Conduct of hearings.

Hearings before the hearing examiner will be informal, and the manner in which facts are found and conclusions reached shall be a matter for the discretion of the hearing examiner. The hearing examiner may limit or otherwise control the issues presented by the appeal and the extent of the evidence, testimony

or argument presented as he shall see fit. However, the following general rules will apply:

(a) The parties may present to the hearing examiner a signed stipulation setting forth any agreed facts or stating the matters in dispute.

(b) Unless dispensed with by the hearing examiner, all testimony offered shall be received under oath. Attention of the witness shall be invited to 18 U.S.C. 1001 or 18 U.S.C. 1621, as appropriate.

(c) Ordinarily, the contractor or subcontractor will be expected to proceed with the affirmative presentation.

(d) Testimony and evidence may be submitted without regard to the formal rules of evidence, but shall, nevertheless, be subject to a determination by the hearing examiner with respect to propriety or relevance. Such determination may be made when the testimony or evidence is offered, or the testimony or evidence may be received subject to future determination by the hearing examiner.

(e) All witnesses shall be subject to cross-examination, and also to examination by the hearing examiner.

(f) In the discretion of the hearing examiner, and upon application in advance of the hearing and with notice to the opposing party, evidence may be submitted in affidavit form.

(g) The parties may be represented at a hearing by their attorneys or, with the permission of the hearing examiner, by any authorized person.

(h) All hearings will be so conducted as to ensure compliance with the security regulations and requirements of the AEC, and the hearing examiner may take whatever steps may be deemed appropriate to assure the common defense and security pursuant to the provisions of the Atomic Energy Act of 1954, as amended.

(i) Briefs shall be submitted to the hearing examiner and served upon the parties in accordance with instructions transmitted by the hearing examiner to the parties, and the hearing examiner may request preliminary briefs or statements describing the basis for the appeal and the questions involved in advance of a hearing.

HEARING EXAMINER'S DECISION AND COMMISSION REVIEW

§ 3.30 Hearing examiner's decision.

(a) The hearing examiner will make specific findings of fact and conclusions in writing, and his decision shall be based upon such findings and conclusions and shall also be in writing.

(b) The decision of the hearing examiner shall constitute the final action of the Commission sixty (60) days after the date thereof, unless any party shall within such period file a petition for review of such decision and the Commission, in its discretion, shall thereafter grant such petition.

§ 3.31 Commission review.

(a) The petition for review shall concisely and plainly state (1) the facts upon which the petitioner bases his claim that he has been adversely affected or aggrieved by the decision of the hearing

examiner or that review thereof is required in the public interest under applicable statutes and rules, and (2) the relief or disposition of the appeal which the petitioner seeks.

(b) Seven copies of the petition for review and brief in support thereof shall be filed with the Secretary of the Commission, who shall forthwith serve one copy of the petition and brief upon each of the members of the Commission, together with a copy of the decision of the hearing examiner. The petition and supporting brief shall be accompanied by a certificate of service thereof upon the respondent.

(c) Within twenty (20) days after the filing of the petition for review and supporting brief, the respondent may file seven copies of an opposing brief with the Secretary of the Commission, who shall forthwith serve one copy thereof upon each of the members of the Commission. The opposing brief shall be accompanied by a certificate of service thereof upon the petitioner.

(d) In their consideration of the petition for review and briefs filed with respect thereto, the members of the Commission may take into consideration, without limitation, (1) the propriety of the award on its face or the size of the award; (2) compliance by the contractor or subcontractor, contracting officer, and the hearing examiner with the requirements and standards of applicable statutes and rules and the contract or subcontract involved; and (3) important questions of policy or administration presented by the case.

(e) If the Commission denies the petition for review, the decision of the hearing examiner shall thereupon become the final action of the Commission. If the Commission grants the petition for review, it shall (1) direct the hearing examiner to forthwith certify the record of the case to the Commission and (2) issue an order for review which shall fix a time within which the parties may submit exceptions and briefs with reference to the decision of the hearing examiner. After the expiration of such time, the Commission shall proceed to a decision on the appeal, with or without oral argument thereon as the Commission shall by order direct, and such decision shall constitute the final action of the Commission.

(f) No officer or employee of the Commission, other than (1) a Commissioner, (2) a member of his immediate staff, or (3) Commission personnel who have not previously been involved, directly or indirectly, in the subject matter of the proceeding, in the proceeding itself, or in a factually related case, may participate or advise in the consideration of a petition for review or in the final decision of the Commission, except as a witness or counsel in the formal proceeding.

MISCELLANEOUS

§ 3.40 Modification of rules.

The rules contained in this part are intended to render the contract appeals procedure just and simple and to prevent unjustifiable expense and delay. They may be relaxed or modified by the hearing examiner in the interests of justice

and the expeditious settlement of disputes.

§ 3.41 Effective date-saving provisions.

The revised rules contained in this part shall become effective upon publication thereof in the FEDERAL REGISTER. However, all cases as to which the Advisory Board on Contract Appeals has, on or before the effective date of such revised rules, (1) ordered a hearing, whether or not such hearing has been held, or (2) conducted a hearing, whether or not such hearing has been conducted, shall be governed by the rules contained in this part prior to such date.

Dated at Germantown, Md., this 28th day of January 1959.

ALVIN A. LUEDECKE,
General Manager.

[F.R. Doc. 59-868; Filed, Feb. 2, 1959;
8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 11—SPECIAL PROVISIONS APPLICABLE TO COTTONSEED MEAL AND SOYBEAN MEAL

Amounts Fixed for Reporting on Forms 1101 and 1103

By virtue of the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended (7 U.S.C., 1952 ed., 1-17a), §§ 11.20 and 11.21 of Part 11, Chapter I, Title 17, Code of Federal Regulations (17 CFR, 1958 Supp., 11.20, 11.21) are hereby amended by deleting "1,500 tons" wherever the same appears in the said sections and inserting "2,500 tons" in lieu thereof.

The effect of this amendment will be to increase the quantities of cottonseed meal and soybean meal futures contracts which may be held, controlled, or carried, without reporting on Forms 1101 and 1103 under the provisions of §§ 11.04 and 11.05 of the regulations under the Commodity Exchange Act (17 CFR 11.04, 11.05). Since this amendment will operate to relieve or liberalize existing requirements and will not adversely affect the public, it is hereby found that notice and public procedure under section 4 of the Administrative Procedure Act are unnecessary, and that the amendment should be made effective within less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 8a, 49 Stat. 1500; 7 U.S.C. 12a)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Issued: January 29, 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-912; Filed, Feb. 2, 1959;
8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division,
Department of Labor

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

PART 605—WOMEN'S APPAREL INDUSTRY, HOMEWORKER REGULATIONS

PART 607—JEWELRY MANUFACTURING INDUSTRY, HOMEWORKER REGULATIONS

PART 617—KNITTED OUTERWEAR INDUSTRY, HOMEWORKER REGULATIONS

PART 621—GLOVES AND MITTENS INDUSTRY, HOMEWORKER REGULATIONS

PART 625—BUTTON AND BUCKLE MANUFACTURING INDUSTRY, HOMEWORKER REGULATIONS

PART 628—HANDKERCHIEF MANUFACTURING INDUSTRY, HOMEWORKER REGULATIONS

PART 633—EMBROIDERIES INDUSTRY, HOMEWORKERS REGULATIONS

Consolidation of Regulations

Restrictions on the employment of industrial homeworkers issued pursuant to subsection 11(d) of the Fair Labor Standards Act of 1938, are presently contained in 28 CFR Parts 605, 607, 617, 621, 625, 628, and 633. Except for the definition of the industry to which each of the respective parts applies, and for certain special provisions in Parts 607 and 621, the texts of these parts are identical. It is administratively desirable at this time and will best serve the interests of the public to consolidate these regulations by substituting one Part in which the uniform text, specific industry definitions, and special provisions are combined. A proposed amendment to Part 607 (23 F.R. 686) which would have amended the definition of that segment of the jewelry manufacturing industry which is presently contained in § 607.1(d)(2) by specifically excluding therefrom the setting of stones in non-jewelry articles is not being put into effect because subsequent developments have made it unnecessary.

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003), I find (1) that good cause exists why publication in the FEDERAL REGISTER of a general notice of proposed rule making is unnecessary; and (2) that good cause exists to forego provision for a delay of 30 days in the effective date of the consolidation of these regulations. The consolidation of Parts 605, 607, 617, 621, 625, 628, and 633 of the Code of Federal Regulations, except for minor editorial revisions, merely contemplates a physical change in the location of the respective Parts in the Code, and as such involves no changes in substance war-

ranting opportunity for public participation in making this amendment.

Accordingly, pursuant to authority contained in subsection 11(d) of the Fair Labor Standards Act of 1938 (52 Stat. 1066, as amended; 29 U.S.C. 211), Reorganization Plan No. 6 of 1950 (3 CFR 1950 Supp., p. 165), and General Order No. 45-A (15 F.R. 3290) of the Secretary of Labor, and in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003), Title 29, Code of Federal Regulations is amended as follows:

1. Parts 605, 607, 617, 621, 625, 628, and 633 are revoked.
2. A new Part 530 is issued to read as follows:

- Sec.
- 530.1 Definitions.
 - 530.2 Restriction of homework.
 - 530.3 Application on official forms.
 - 530.4 Terms and conditions for the issuance of certificates.
 - 530.5 Investigations.
 - 530.6 Termination of certificates.
 - 530.7 Revocation and cancellation.
 - 530.8 Preservation of certificates.
 - 530.9 Records and reports.
 - 530.10 Delegation of authority to grant, deny, or cancel a certificate.
 - 530.11 Petition for review.
 - 530.12 Special provisions.
 - 530.13 Petition for amendment of regulations.

AUTHORITY: §§ 530.1 to 530.13 issued under section 11, 52 Stat. 1066; 29 U.S.C. 211.

§ 530.1 Definitions.

(a) The meaning of the terms "person", "employ", "employer", "employee", "goods", and "production", as used in this part, is the same as in the Fair Labor Standards Act of 1938, as amended.

(b) "Industrial homemaker" and "homemaker", as used in this part, mean any employee employed or suffered or permitted to perform industrial homework for an employer.

(c) "Industrial homework", as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homemaker in such production.

(d) The women's apparel industry is defined as follows: The production of women's, misses' and juniors' dresses, washable service garments, blouses, and neckwear from woven or purchased knit fabric; women's, misses', children's and infants' underwear, nightwear, and negligees from woven fabrics; corsets and other body supporting garments from any material; other garments similar to the foregoing; and infants' and children's outerwear.

(e) The jewelry manufacturing industry is defined as follows:

(1) (i) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein includes, without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including,

without limitation, cigar and cigarette cases, holders, and lighters; watch cases; metal mesh bags and metal watch bracelets; and chain, mesh, and parts for use in the manufacture of any of the articles included in this definition. Jewelry as used in this part does not include pocket knives, cigar cutters, badges, emblems, military and naval insignia, belt buckles, and handbag and pocketbook frames and clasps, or commercial compacts and vanity cases, except when made from or embellished with precious metals or precious, semiprecious, synthetic or imitation stones, or the assaying, refining, and smelting of base or precious metals.

(ii) The term "parts" as used in subdivision (i) of this subparagraph does not include parts which are used predominantly for products other than jewelry, such as springs, blades, and nail files. The term "commercial compacts and vanity cases" as used means compacts and vanity cases which bear the trade name or mark of a cosmetic manufacturer and are made for the purpose of distributing or advertising said cosmetics.

(2) The manufacturing, cutting, polishing, encrusting, engraving, and setting of precious, semiprecious, synthetic, and imitation stones.

(3) The manufacturing, drilling, and stringing of pearls, imitation pearls, and beads designed for use in the manufacture of jewelry.

(4) The term "hand-fashioned jewelry" as used in § 530.12(b) means articles of jewelry commonly known as genuine Navajo, Pueblo, Hopi, or Zuni handmade jewelry which in all elements of design, fashioning and ornamentation are handmade by methods and with the help of only such devices as permit the maker to determine the shape and design of each individual product: *Provided*, That silver used in the making of such jewelry shall be of at least nine hundred fineness, and that turquoise and other stones used shall be genuine stones, uncolored and untreated by artificial means: *And provided further*, That power machinery is permitted in the production of findings, in the cutting and polishing of stones, in the buffing and polishing of completed products, and in incidental functions. Equipment specifically prohibited shall include hand presses, foot presses, drop hammers, and similar equipment: *And provided further*, That solder may be of less silver content than nine hundred: *And provided further*, That findings may be mechanically made of any metal by Indians or others: *And provided further*, That turquoise and other stones may be cut and polished by Indians or others without restrictions as to methods or equipment used.

(f) The knitted outerwear industry is defined as follows: The knitting from any yarn or mixture of yarns and the further manufacturing, dyeing or other finishing of knitted garments, knitted garment sections, or knitted garment accessories for use as external apparel or covering which are partially or completely manufactured in the same establishment as that where the knitting process is per-

formed; and the manufacture of bathing suits from any purchased fabric: *Provided*, That the manufacturing, dyeing or other finishing of the following shall not be included:

(1) Knitted fabric, as distinguished from garment sections or garments, for sale as such.

(2) Fulleed suitings, coatings, topcoatings, and overcoatings.

(3) Garments or garment accessories made from purchased fabric, except bathing suits.

(4) Gloves or mittens.

(5) Hosiery.

(6) Knitted garments or garment accessories for use as underwear, sleeping wear, or negligees.

(7) Fleece-lined garments made from knitted fabric containing cotton only or containing any mixture of cotton and not more than 25 percent, by weight, of wool or animal fiber other than silk.

(8) Knitted shirts of cotton or any synthetic fiber or any mixture of such fibers which have been knit on machinery of 10-cut or finer: *Provided*, That this exception shall not be construed to exclude from the knitted outerwear industry the manufacturing, dyeing, or other finishing of knitted shirts made in the same establishment as that where the knitting process is performed, if such shirts are made wholly or in part of fibers other than those specified in this clause, or if such shirts of any fiber are knit on machinery coarser than 10-cut.

(g) The gloves and mittens industry is defined as follows: The production of gloves and mittens from any material or combination of materials, except athletic gloves and mittens.

(h) The button and buckle manufacturing industry is defined as follows: The manufacture of buttons, buckles, and slides, and the manufacture of blanks and parts for such articles from any material except metal, for use on apparel.

(i) The handkerchief manufacturing industry is defined as follows: The manufacture of men's, women's and children's handkerchiefs, plain or ornamented, from any materials.

(j) The embroideries industry is defined as follows: The production of all kinds of hand and machine-made embroideries and ornamental stitchings, including but not by way of limitation, tucking, shirring, smocking, hemstitching, hand rolling, fagoting, Bonnaz embroidery, appliqueing, crochet beading, hand drawing, machine drawing, rhinestone trimming, sequin trimming, spangle trimming, eyelets, passementerie, pleating, the application of rhinestones and nailheads, stamping and perforating of designs, Schiffi embroidery and laces, burnt-out laces and velvets, Swiss hand-machine embroidery, thread splitting, embroidery thread cutting, scallop cutting, lace cutting, lace making-up, making-up of embroidered yard goods, straight cutting of embroidery and cutting out of embroidery, embroidery trimmings, bindings (not made in textile establishments), pipings and emblems: *Provided*, That (1) the foregoing when produced or performed by a manufacturer of a garment, fabric or other article for use on such garment, fabric or other

article, and (2) the manufacture of covered buttons and buckles, shall not be included.

§ 530.2 Restriction of homework.

No work in the industries defined in § 530.1(d) through (j) shall be done in or about a home, apartment, tenement, or room in a residential establishment unless a special homework certificate issued and in effect pursuant to this part has been obtained for each homeworker or unless the homeworker is so engaged under the supervision of a Sheltered Workshop, as defined in § 525.1 of this chapter.

§ 530.3 Application on official forms.

Certificates authorizing the employment of industrial homeworkers in the industries defined in § 530.1 may be issued on the following terms and conditions upon application therefor on forms provided by the Wage and Hour and Public Contracts Divisions. Such forms shall be signed by both the homeworker and the employer.

§ 530.4 Terms and conditions for the issuance of certificates.

(a) Upon application by the homeworker and the employer on forms provided by the Wage and Hour and Public Contracts Divisions, certificates may be issued to the applicant employer authorizing him to employ a particular worker in industrial homework in a particular industry, provided that the application is in proper form and sets forth facts showing that the worker:

(1) (i) Is unable to adjust to factory work because of age or physical or mental disability; or

(ii) Is unable to leave home because his presence is required to care for an invalid in the home; and

(2) (i) Was engaged in industrial homework in the particular industry for which the certificate is applied, as such industry is defined in § 530.1, prior to: (a) April 4, 1942, in the button and buckle manufacturing industry; (b) November 2, 1942, in the embroideries industry; (c) April 1, 1941, in the gloves and mittens industry; (d) October 7, 1942, in the handkerchief manufacturing industry; (e) July 1, 1941, in the jewelry manufacturing industry; (f) August 20, 1941, in the knitted outerwear industry; or (g) March 5, 1942, in the women's apparel industry, (except that if this requirement shall result in unusual hardship to the individual homeworker it shall not be applied; or

(ii) Is engaged in industrial homework under the supervision of a State Vocational Rehabilitation Agency.

(b) No homeworker shall perform industrial homework for more than one employer in the same industry, but homework employment in one industry shall not be a bar to the issuance of certificates for other industries.

§ 530.5 Investigation.

An investigation may be ordered in any case to obtain additional data or facts. A medical examination of the worker or invalid may be ordered or a certification of facts concerning eligibility for the certificate by designated

officers of the State or Federal Government may be required.

§ 530.6 Termination of certificates.

(a) Certificates shall be valid under the terms set forth in the certificate for a period of not more than 12 months from the date of issuance or such shorter period as may be fixed in the certificate. Application for renewal of any certificate shall be filed in the same manner as an original application under this part.

(b) No effective certificate shall expire until action on an application for renewal shall have been finally determined, provided that such application has been properly executed in accordance with the requirements, and filed not less than 15 nor more than 30 days prior to the expiration date. A final determination means either the granting of or initial denial of the application for renewal of a certificate, or withdrawal of the application. A "properly executed" application is one which contains the complete information required on the form.

§ 530.7 Revocation and cancellation.

Any certificate may be revoked for cause at any time. Violation of any provision of the Fair Labor Standards Act shall be sufficient grounds for revocation of all certificates issued to an employer, in which event no certificates shall be issued to the offending employer for a period of one year. Before any certificate is cancelled, however, interested parties shall be notified in writing of the facts warranting such cancellation and afforded an opportunity to demonstrate or achieve compliance.

§ 530.8 Preservation of certificates.

A copy of the certificate shall be sent to the homeworker, who shall keep such certificate on the premises on which the work is performed. A copy shall also be sent to the employer, who shall keep this copy on file in the same place at which the worker's employment records are maintained.

§ 530.9 Records and reports.

The issuance of a certificate shall not relieve the employer of the duty of maintaining the records required in the regulations in Part 516 of this chapter and failure to keep such records shall be sufficient cause for the cancellation of certificates issued to such an employer.

§ 530.10 Delegation of authority to grant, deny, or cancel a certificate.

The Administrator may from time to time designate and appoint members of his staff or State Agencies as his authorized representatives with full power and authority to grant, deny, or cancel homework certificates.

§ 530.11 Petition for review.

Any person aggrieved by the action of an authorized representative of the Administrator in granting or denying a certificate may, within 15 days thereafter or within such additional time as the Administrator for cause shown may allow, file with the Administrator a petition for review of the action of such representative praying for such relief as is desired. Such petition for review, if

duly filed, will be acted upon by the Administrator or an authorized representative of the Administrator who took no part in the proceeding being reviewed. All interested parties will be afforded an opportunity to present their views in support of or in opposition to the matters prayed for in the petition.

§ 530.12 Special provisions.

(a) *Gloves and mittens industry.* Any certificate issued to an industrial homeworker by the New York State Department of Labor under paragraph II of Home Work Order No. 4 Restricting Industrial Homework in the Glove Industry, dated June 28, 1941, will be given effect by the Administrator as a certificate permitting the employment of the homeworker under the terms of § 530.4 for the period during which such certificate shall continue in force.

(b) *Jewelry manufacturing industry.* Nothing contained in the regulations in this part shall be construed to prohibit the employment, as homeworkers, of American Indians residing on the Navajo, Pueblo, and Hopi Indian Reservations, who are engaged in producing genuine hand-fashioned jewelry on the Indian reservations mentioned, provided the employment of such homeworker is in conformity with the following conditions:

(1) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall submit in duplicate to the regional office of the Wage and Hour and Public Contracts Divisions for the region in which his place of business is located, on April 1, August 1, and December 1 of each year, the name and address of such employee engaged by him during the preceding four-month period in making hand-fashioned jewelry on Indian reservations.

(2) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall file copies of his piece rates in duplicate with the regional office of the Wage and Hour and Public Contracts Divisions for the region in which his place of business is located on April 1, August 1, and December 1 of each year, and

(3) That each employer of one or more Indian homeworkers engaged in making hand-fashioned jewelry on these Indian reservations shall keep, maintain and have available for inspection by the Administrator or his authorized representative at any time, records and reports showing with respect to each of his homeworkers engaged in making hand-fashioned jewelry on these Indian reservations, the following information:

- (i) Name of the homeworker.
- (ii) Address of the homeworker.
- (iii) Date of birth of the homeworker, if under 19 years of age.
- (iv) Description of work performed.
- (v) Amount of cash wage payments made to the homeworker for each pay period.
- (vi) Date of such payment.
- (vii) Schedule of piece rates paid.

These records shall be kept by each employer for each of his Indian homework-

ers engaged in making hand-fashioned jewelry on Indian reservations, as provided in this section, in lieu of the records required under §§ 516.2 and 516.21 of this chapter: *Provided, however, That nothing in this section shall relieve an employer from maintaining all other records required by Part 516 of this chapter.*

§ 530.13 Petition for amendment of regulations.

Any person wishing an amendment, addition, or revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and reasons for proposing them. If upon inspection of the petition, or upon his own motion the Administrator believes that reasonable cause for amendment of the rules and regulations appears, the Administrator will, unless it is impractical, unnecessary, or contrary to the public interest to do so, either schedule a hearing with due notice to interested persons or make other provisions to afford interested persons opportunity to present their views in support of or in opposition to the proposed changes.

This part shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 24th day of January 1959.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 59-915; Filed, Feb. 2, 1959;
8:45 a.m.]

Title 30—MINERAL RESOURCES

Chapter III—Office of Minerals Exploration, Department of the Interior

PART 301—REGULATIONS FOR OBTAINING FEDERAL ASSISTANCE IN FINANCING EXPLORATIONS FOR MINERAL RESERVES, EXCLUDING ORGANIC FUELS, IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

Correction

In F.R. Doc. 58-10535, appearing at page 9918 of the issue for Tuesday, December 23, 1958, § 301.2(e) should read:

(e) "Commercial sources" means banking institutions or other private sources of credit.

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

[Amdt. 78]

PART 1613—REGISTRATION PROCEDURES

Accomplishment of Registration

The Selective Service Regulations are hereby amended as follows:

1. Paragraph (a) of § 1613.12 is amended to read as follows:

No. 23—2

§ 1613.12 Instructions concerning completion of registration card.

(a) The registrar shall take extreme care that the place of residence of the registrant is correctly entered in item 2 of the Registration Card (SSS Form No. 1). The local board having jurisdiction over the place of residence entered in item 2 of the Registration Card (SSS Form No. 1) shall always have jurisdiction over the registrant, unless otherwise directed by the Director of Selective Service. The registrar shall require the registrant to give sufficient information as to the location of the place of his residence to establish such place within the jurisdiction of a local board. The registrant shall not be permitted to give a place of residence outside of the several States of the United States, the District of Columbia, the Territory of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone. In describing his place of residence, the registrant shall give the street number thereof, when used, and in every case he shall give the name of the town, township, village, or city, and the county and State in which it is located. No R.F.D. route number shall be sufficient unless it is supplemented by more particular information showing where the place of residence is located on the R.F.D. route. The registrant shall be permitted to determine what place he desires to give as his residence when he is not located in the same place all of the time.

2. Paragraph (b) of § 1613.43 is amended to read as follows:

§ 1613.43 Disposition of registration card of registrant whose place of residence is not within local board area.

(b) If the place of residence shown in item 2 of any Registration Card (SSS Form No. 1) is outside the several States of the United States, the District of Columbia, the Territory of Hawaii, Puerto Rico, the Virgin Islands, Guam, and the Canal Zone, the local board in whose area the registrant registered shall retain such card.

(Sec. 10, 62 Stat. 618, as amended; 50 U.S.C. App. 460; E.O. 9979, July 20, 1948, 13 F.R. 4177; 3 CFR, 1943-1948 Comp.)

The foregoing amendments to the Selective Service Regulations shall become effective upon filing with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

JANUARY 29, 1959.

[F.R. Doc. 59-894; Filed, Feb. 2, 1959;
8:47 a.m.]

[Amdt. 79]

PART 1690—DETERMINATION OF AVAILABILITY OF MEMBERS OF THE STANDBY RESERVE OF THE ARMED FORCES FOR ORDER TO ACTIVE DUTY

Miscellaneous Amendments

The Selective Service Regulations are hereby amended as follows:

1. Paragraph (a) of § 1690.1 is amended to read as follows:

§ 1690.1 Authority of local boards.

(a) Local boards are authorized to determine the availability of members of the Standby Reserve of the Armed Forces for order to active duty under section 672(a) of title 10 of the United States Code, as amended, in time of war or national emergency declared by the Congress or whenever otherwise authorized by law. The authority conferred by this paragraph shall be subject to the rights of appeal to appeal boards and the Director of Selective Service provided by this part.

2. Subparagraphs (2) and (4) of paragraph (d) and paragraph (f) of § 1690.16 are amended to read as follows:

§ 1690.16 Appeal to appeal board.

(d) * * *

(2) Within 30 days after the date the local board mails to the reservist a Standby Reserve Notice of Availability (SSS Form No. 86) if, on that date, it appears that the reservist is located in one and the local board is located in another of the following: The continental United States except Alaska, the State of Alaska, the Territory of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone.

* * *

(4) Within 60 days after the date the local board mails to the reservist a Standby Reserve Notice of Availability (SSS Form No. 86) if, on that date, it appears that the reservist is located outside the several States of the United States, the District of Columbia, the Territory of Hawaii, Puerto Rico, the Virgin Islands, Guam, the Canal Zone, Canada, Cuba, and Mexico.

* * *

(f) The local board shall enter on the Standby Reserve Questionnaire (SSS Form No. 80) the date on which an appeal is filed, and, in lieu of preparing the Individual Appeal Record (SSS Form No. 120), shall prepare the Standby Reserve Individual Appeal Record (SSS Form No. 88) attaching the original to the inside of the cover of the reservist's standby reserve folder, which folder shall be forwarded to the appeal board. If the reservist is a registrant or special registrant, the local board shall also forward his Cover Sheet (SSS Form No. 101) to the appeal board.

3. Paragraph (e) of § 1690.17 is amended to read as follows:

§ 1690.17 Appeal to Director of Selective Service.

* * *

(e) When an appeal to the Director of Selective Service has been taken, the local board shall notify the reservist that the appeal has been taken, and, if the reservist's standby reserve folder or Cover Sheet (SSS Form No. 101), if any, is in its possession, forward such file(s) to the State Director of Selective Service.

4. In § 1690.19, paragraph (c) is revoked and paragraph (b) is amended to read as follows:

§ 1690.19 Notification and recording of availability and category.

(b) Enter on the Standby Reserve Questionnaire (SSS Form No. 80) a notation of the determination of the reservist's availability and category, the date of mailing of the Standby Reserve Notice of Availability (SSS Form No. 86), and the date of mailing of each Standby Reserve Availability Advice (SSS Form No. 87) and the name of the person to whom it is mailed.

(Sec. 10, 62 Stat. 618, as amended; 50 U.S.C. App. 460. Interpret or apply sec. 1(13), 72 Stat. 1440; 10 U.S.C. 672; E.O. 9979, 13 F.R. 4177; 3 CFR, 1943-1948 Comp.)

The foregoing amendments to the Selective Service Regulations shall become effective upon filing with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

JANUARY 29, 1959.

[F.R. Doc. 59-895; Filed, Feb. 2, 1959; 8:48 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 41—SERVICES IN POST OFFICES

Closing of Post Office Boxes Used For Unlawful or Improper Purposes

Notice of proposed amendment to § 41.3 *Post office boxes*, to add regulations thereto relating to the closing of post office boxes used for unlawful or improper purposes was published in the FEDERAL REGISTER of December 12, 1958, at page 9638, as Federal Register document 58-10294.

No comments have been received by the Department with respect to the proposed amendment.

Accordingly, the amendment is adopted without change. As adopted, the amendment to § 41.3 shall read as follows:

In § 41.3 *Post office boxes*, amend paragraph (g) by adding thereto a subparagraph (4) to read as follows:

(4) *Closing of boxes.* When a postmaster has reason to believe that a box is being used for a fraudulent, deceptive or unlawful scheme, or for an immoral or improper purpose, or for purposes of a lottery, or that the safety of the mail is endangered by its continued use, or that its use is for other than the receipt of mail or official postal notices, he will report the facts to the General Counsel who, if he finds that the box is being used for any of said purposes, shall have the right to order the box closed.

NOTE: The corresponding Postal Manual section is 151.384.

(R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-903; Filed, Feb. 2, 1959; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 202—MINIMUM WAGE DETERMINATIONS

Final Decision; Flour and Related Products Industry

This matter is before me for decision on the exceptions which have been filed to my proposed determination of the prevailing minimum wages for the flour and related products industry as published in the FEDERAL REGISTER (23 F.R. 5129).

Two parties to the proceedings have filed exceptions. The National Soft Wheat Millers Association excepts that the proposed rate of \$1.30 is too high and that it will have an adverse effect on small mills located mostly in Region VI—the southeastern States—especially those operating related and nonseparable feed manufacturing plants. The Association also urges that either no determination of minimum wages be made or that a separate minimum wage determination be made for Area VI.

The American Federation of Grain Millers (AFL-CIO), has excepted that the proposed rate is too low, that it does not reflect the value of fringe benefits accorded in the industry and that it does not reflect wages increases effective after the close of the hearing and of the record in these proceedings. The labor organization has requested oral argument on its exceptions.

The contention that the proposed rate is too high and that a separate rate should be provided for Region VI, or alternatively that no determination at all be made, renews the arguments in support of similar contentions made by this Association at the hearing and in its post-hearing submittal of proposed findings, conclusions and supporting reasons. The principal management Association in this industry which shared similar contentions at hearing and in its post-hearing presentation, has not excepted to the proposed decision of these issues.

These contentions and the reasons for disallowing them are presented fully in the proposed decision. No new arguments or reasons are advanced with this exception, and no further discussion of the contentions is appropriate or necessary. The exceptions of the Association are overruled.

The exceptions of the American Federation also renew contentions made by it at the hearing, and in its post-hearing presentation. These contentions are discussed in the proposed decision, and the reasons for their disallowance are there set forth fully.

As the proposed decision relates, the hearing in this matter was delayed at the request of the American Federation to afford it the requested opportunity to assemble data on wage increases effective after the pay period used in the wage survey made by the Bureau of Labor Statistics. Subsequently, the hearing itself was adjourned for over two months, again to grant the American Federation opportunity to assemble this wage-in-

crease data, which was received in evidence when the hearing reconvened. At the close of the hearing, additional time was provided for the submission of additional wage data, but none was tendered.

The evidence of wage increases which the Union submitted at the hearing, was not sufficient to support a finding of a post-survey increase in the minimum wage determined for the industry. Such evidence together with evidence of wage increases submitted by the main management trade association provided an adequate evidentiary base supporting the post-survey increase found in the proposed decision.

In its post-hearing presentation the American Federation also requested that the hearing again be reopened to receive evidence of additional post-hearing wage increases, which was not tendered, but which it proposed I should gather through a new wage survey by the Bureau of Labor Statistics. The proposed decision discusses and denies this request. The American Federation in its exceptions again renews its similar request that at this advanced stage I reopen the proceedings to receive evidence of what it asserts, without a showing, are further wage increases since the close of the hearing and of the record.

These proceedings already have undergone delay to afford the Union opportunity to present evidence of post-survey increases in minimum wages. The Union as an interested party to the proceedings has taken no position nor proposed a finding on the record as made as to the prevailing minimum wages in this industry. It has excepted to the \$1.30 an hour rate as too low and based on what it characterizes as obsolete wage data. However, it has not proposed a higher rate or rates as supported by the substantial evidence, nor has it even tendered the value of hourly minimum wage increases it claims have occurred since the hearing, the number or identity of plants according them, or the total covered workers affected.

In the circumstances, and in the interests of orderly completion of the proceedings and the establishment of a minimum wage standard applicable to the performance of Government contracts subject to the Walsh-Healey Act for the products of this industry, the union's request for re-opening of the record and for resumption of the hearing is denied.

The American Federation also excepts that the proposed decision "ignored and refused consideration" of fringe benefits received by employees in determining the proposed prevailing minimum wages in this industry. The proposed decision fully discusses the union's presentation on this question at the hearing and later in its post-hearing argument.

As the proposed decision makes clear, there was a failure of evidence on the fringe benefits issue tendered by the union. It placed principal reliance on a research study prepared by the Economic Research Department of the Chamber of Commerce of the United States, entitled: "Fringe Benefits—1955". The fatal disabilities of this study as evidencing the nature, value or prevalence of fringe benefits accorded in this industry, are set

out in the proposed decision. Absent the requisite factual showing, no consideration may be given the union's contention on inclusion of fringe benefits which presents only an academic question. In any event, as was detailed in the Proposed Amendment to the Determination of Prevailing Minimum Wages in the Woolen and Worsted Industry (19 F.R. 535), determination of prevailing minimum wages may not contain provisions separately relating to fringe benefits, or based upon them. The exception of the union is overruled.

The union finally contends that determination of \$1.30 per hour as the prevailing minimum wage in this industry "will in practice tend to lower rather than raise existing labor standards" in the industry. No facts or reasons are advanced in support of this naked assertion. I am persuaded to the contrary conclusion.

A prevailing minimum wage has not before been determined for this industry. Section 12 of the Walsh-Healey Act provides that the requirement of section 1(b) for the payment of minimum wages shall only apply "to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor." The proposed decision finds that \$1.30 per hour is the minimum wage most representative of the minimum wage practices of the industry as a whole, and the best measure of the industry standard which I am directed to find and determine as the prevailing minimum wage for persons employed in this industry. The record discloses that approximately 30 per cent of the covered workers in the industry were employed in 55 per cent of its plants which paid less than \$1.30 as a minimum wage.

In the absence of a determination the only other minimum wage requirement of Federal law applicable in this industry, would be that imposed by the Fair Labor Standards Act of 1938, as amended. This statute, with certain exceptions, requires the payment of a minimum wage of not less than \$1.00 per hour to employees engaged in commerce or in the production of goods for commerce, or substantially less than the minimum wage herein determined to be prevailing in this industry. This exception of the union is overruled. Similarly denied is the union's request for oral argument on this and its other exceptions as to which opportunity to submit written argument has been provided.

Accordingly, upon the findings, conclusions and the reasons therefor stated herein and in the Notice of Proposed Decision in the Determination of Prevailing Minimum Wages for the Flour and Related Products Industry filed in these proceedings, pursuant to authority of the Walsh-Healey Public Contracts Act (41 Stat. 2036; 41 U.S.C. 35 et seq.), and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 237), Part 202 of Title 41 of the Code of Federal Regulations is hereby amended by the addition of § 202.56 to read as follows:

§ 202.56 Flour and related products industry.

(a) *Definition.* The flour and related products industry is defined as the milling of flour from grain and the blending or other preparation of flour and dry flour mixes. Examples of products of the industry are flours made from wheat (white, durum, granular, whole wheat), rye, buckwheat, and corn, including blended, phosphated, bromated, self-rising, and other prepared flour and dry flour mixes; semolina and farina; cornmeal; corn grits, hominy, and flakes; and offals. The definition of this industry does not include flour and other products manufactured from rice, soybeans, and potatoes; those cereal preparations of the type generally called breakfast foods (except corn grits and hominy), baby foods, and coffee substitutes; and dry and prepared animal feeds (except offals which are included).

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the flour and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than \$1.30 per hour arrived at either on a time or piece rate basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

(d) *Effective date.* This section shall be effective and the minimum wage established herein shall apply as to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on or after March 5, 1959.

Signed at Washington, D.C., this 27th day of January 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-881; Filed, Feb. 2, 1959; 8:46 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER I—NORTHWEST ATLANTIC COMMERCIAL FISHERIES

PART 155—HADDOCK AND COD FISHERIES

Basis and purpose. At its Fifth Annual Meeting held in Ottawa, Canada, June 6-11, 1955, the International Commission for the Northwest Atlantic Fisheries, a body created pursuant to Article II of the International Convention for the Northwest Atlantic Fisheries signed at Washington, D. C., under date of February 8, 1949, adopted three proposals recommending that the Contracting Governments take appropriate action to—

(1) Prohibit the taking of haddock and cod in Sub-area 3 of the Convention Area with a trawl net having a mesh size of less than four inches;

(2) Prohibit the taking of haddock and cod in Sub-areas 4 and 5 of the Convention Area with a trawl net having a mesh size of less than four and one-half inches;

(3) Permit persons to take haddock and cod in Sub-areas 3, 4, and 5 of the Convention Area with trawl nets having a mesh size less than that prescribed so long as such persons do not have in possession on board a vessel fishing primarily for other species, haddock or cod in amounts in excess of five thousand pounds for each species or ten percent by weight for each species of all fish on board such vessel, whichever is greater; and

(4) To prohibit the use of any means or device which would obstruct the meshes of the trawl net or which otherwise would have the effect of diminishing the size of the meshes of the net, except that the use of a protective covering (chafing gear) might be permitted to reduce and prevent damage to trawl nets so long as such protective covering is used in conformity with conditions prescribed by the Commission.

In each of the three Commission proposals, the recommended restrictions on the mesh size of a net are stated in terms of a trawl net constructed of manila twine, with the provision that when trawl nets other than manila are used they shall have a selectivity equivalent to that of a four-inch manila trawl net or a four and one-half inch manila trawl net, as the case may be.

The proposal relating to Sub-area 5 adopted at the Commission's Fifth Annual Meeting had the effect of superseding a proposal initially adopted at a Commission meeting held in St. Andrews, New Brunswick, Canada, June 30-July 9, 1952, which had recommended mesh size restrictions applicable only to haddock fishing in Sub-area 5 of the Convention Area. The three proposals adopted at the Commission's Fifth Annual Meeting recommended mesh size restrictions for cod fishing, as well as haddock fishing, in Sub-area 5 and, for the first time, recommended the institution of mesh size restrictions applicable to both haddock fishing and cod fishing within Sub-areas 3 and 4 of the Convention Area.

At its Sixth Annual Meeting held in Halifax, Nova Scotia, Canada, June 11-15, 1956, the Commission amended the proposal relating to Sub-area 5 which had been adopted at its Fifth Annual Meeting to provide for an alternative to the "five thousand pound-ten percent" exemption per fishing trip. The alternative exemption so proposed was limited in application to the taking of haddock and cod in Sub-area 5 only. Under the alternative provided by the Commission's amended proposal all Contracting Governments might also exempt from the mesh size restriction any person fishing in Sub-area 5 who does not catch, in any period of twelve months, haddock or cod in quantities in excess of ten percent for each species of all trawl-caught fish taken by such person during such period of twelve months.

Acceptance of the proposal relating to Sub-area 5 adopted at the Commission's Fifth Annual Meeting, as amended by the Commission at its Sixth Annual

Meeting, was completed by the Governments of the United States and Canada on November 26, 1956. Accordingly, in accordance with the provisions of the International Convention for the Northwest Atlantic Fisheries, the proposal as adopted and amended entered into force with respect to all Contracting Governments on March 26, 1957. Subsequently, the proposal was implemented with respect to persons under the jurisdiction of the United States engaged in fishing within Sub-area 5 through a revision of Part 155, Title 50, Code of Federal Regulations, issued on September 6, 1957 (22 F.R. 7426).

At its Seventh Annual Meeting held in Lisbon, Portugal, May 20-25, 1957, the Commission amended each of the three proposals adopted at its Fifth Annual Meeting to impose additional restrictions on the manner in which chafing gear may be fastened to the cod ends of trawl nets. Since Canada and the United States are the only Contracting Governments participating in Panel 5 for Sub-area 5, and both Governments having accepted the amendments made at the Commission's Seventh Annual Meeting, the amendment relating to Sub-area 5 became effective on September 28, 1958, for all Contracting Governments to the convention. Acceptance of the amendments for Sub-areas 3 and 4 not having been completed by all Contracting Governments participating in Panels 3 and 4, the effective dates of the amendments to the proposals for Sub-areas 3 and 4 are indeterminate. In the circumstances, the provisions of the 1955 Commission proposals governing the manner of fastening chafing gear to cod ends employed in fishing for haddock and cod in Sub-areas 3 and 4 thus far remain unchanged.

On November 29, 1957, the two proposals adopted at the Commission's Fifth Annual Meeting recommending mesh size restrictions to govern haddock fishing and cod fishing in Sub-areas 3 and 4 became effective for all Contracting Governments, except for paragraph IV (restricting the use of chafing gear) which did not become effective until January 1, 1958.

In accordance with section 4 (a) of the Northwest Atlantic Fisheries Act of 1950, a proposed revision of existing regulations designed to implement the Commission's proposals, as described above, was submitted to the Advisory Committee to the United States Commissioners on the International Commission for the Northwest Atlantic Fisheries on February 6, 1958, and was again reviewed with the Advisory Committee on May 28, 1958. The revised regulations now being adopted have thus received the approval, in principle, of the Advisory Committee.

By notice of proposed rule making published on September 19, 1958 (23 F.R. 7323), and under an extension of time published on October 4, 1958 (23 F.R. 7710), the public was invited to participate in the adoption of proposed amendments to these regulations by submitting written data, views, or arguments to the Director, Bureau of Commercial Fisheries, Fish and Wildlife Service, Washington 25, D. C., on or before October 15, 1958. No written comments, however,

have been received from the public in response to the notice.

Aside from minor editorial changes, the regulations now being adopted differ from existing regulations in three major respects in that they extend trawl net mesh size restrictions to Sub-areas 3 and 4; provide additional specifications for twines eligible for certification as having a dry-before-use mesh size equivalent to that of a wet-after-use mesh size; and modify the restrictions applicable to the fastening of chafing gear to cod ends used in taking haddock and cod in Sub-area 5.

It having been determined that a revision of the regulations under Part 155 is necessary to carry out the purposes and objectives of the International Convention for the Northwest Atlantic Fisheries and the Northwest Atlantic Fisheries Act of 1950, the regulations under Part 155 are revised to read as follows:

- Sec.
155.1 Meaning of terms.
155.2 Registration certificates.
155.3 Restrictions on fishing gear.
155.4 Temporary suspension of registration certificates.
155.5 Certain persons and vessels exempted.

AUTHORITY: §§ 155.1 to 155.5 issued under sec. 7, 64 Stat. 1069; 16 U. S. C. 986.

§ 155.1 Meaning of terms.

When used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section.

(a) *Convention area.* The term "Convention area" means and includes all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71°40' west longitude; thence due south to 39°00' north latitude; thence due east to 42°00' west longitude; thence due north to 59°00' north latitude; thence due west to 44°00' west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78°10' north latitude; thence southward to a point in 75°00' north latitude and 73°30' west longitude; thence along a rhumb line to a point in 69°00' north latitude and 59°00' west longitude; thence due south to 61°00' north latitude; thence due west to 64°30' west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of beginning.

(b) *Regulatory area.* The term "regulatory area" means and includes the whole of those portions of the Convention area which are separately described as follows:

(1) *Sub-area 3.* The term "Sub-area 3" means that portion of the Convention area, including all waters except territorial waters, lying south of the parallel of 52°15' north latitude; and to the east

of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15' north latitude; to the north of the parallel of 39°00' north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 43°30' north latitude, 55°00' west longitude, in the direction of a point in 47°50' north latitude, 60°00' west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(2) *Sub-area 4.* The term "Sub-area 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Sub-area 3 as described in subparagraph (1) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44°46'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude.

(3) *Sub-area 5.* The term "Sub-area 5" means that portion of the Convention area, including all waters except territorial waters, bounded by a line beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel at a point in 44°46'35.34" north latitude, 66°54'11.23" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point in 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00' north latitude, 65°40' west longitude; thence due south to the parallel of 39°00' north latitude; thence due west to the meridian of 71°40' west longitude; thence due north to a point three miles off the coast of the State of Rhode Island; thence along the coasts of Rhode Island, Massachusetts, New Hampshire, and Maine at a distance of three miles to the point of beginning.

(c) *Haddock.* The word "haddock" denotes any fish of the species *Melanogrammus aeglefinus*.

(d) *Haddock fishing.* The words "haddock fishing" mean and include (1) the catching, taking or fishing for or the attempted catching, taking or fishing for fish of the species *Melanogrammus aeglefinus*; and (2) the outfitting and departure of a vessel for or the return of a vessel from haddock fishing.

(e) *Cod.* The word "cod" denotes any fish of the species *Gadus callarias*.

(f) *Cod fishing.* The words "cod fishing" mean and include (1) the catching, taking or fishing for or the attempted

catching, taking or fishing for fish of the species *Gadus callarias*; and (2) the outfitting and departure of a vessel for or the return of a vessel from cod fishing.

(g) *Fishing vessel*. The words "fishing vessel" denote every kind, type or description of watercraft subject to the jurisdiction of the United States used in or outfitted for catching or processing fish or transporting fish from fishing grounds.

(h) *Trawl net*. The words "trawl net" mean any large bag net dragged in the sea by a vessel or vessels for the purpose of taking fish.

(i) *Cod end*. The words "cod end" mean the bag-like extension attached to the after end of the belly of the trawl net and used to retain the catch.

§ 155.2 Registration certificates.

(a) Unless permitted to do so by § 155.5, after the first day of March 1959, no person shall engage in haddock fishing or cod fishing within the regulatory area, nor shall any person possess, transport or deliver by means of any fishing vessel haddock or cod taken within such area except under a registration certificate issued and in force in conformity with the provisions of this part.

(b) The owner or operator of a fishing vessel may obtain without charge a registration certificate by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the names and addresses of the owner and operator of the vessel, the name, official number and home port of the vessel, and the period for which the registration certificate is desired. The form shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, who shall grant the registration certificate for the duration specified by the applicant in the form but in no event to extend beyond the end of the calendar year during which the registration certificate is issued. New registration certificates shall similarly be issued to replace expired, lost or mutilated certificates. An application for replacement of an expiring registration certificate shall be made in like manner as the original application not later than ten days prior to the expiration date of the expiring certificate.

(c) The registration certificate issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued and such certificate, the vessel, its gear and equipment shall at all times be subject to inspection for the purposes of this part by officers authorized to enforce the provisions of this part.

§ 155.3 Restrictions on fishing gear.

(a) No person shall possess at any time on board a vessel for which a registration certificate is in force, or use or attempt to use from such vessel, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of less than four and one-half inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine unless it shall have a selectivity equivalent to that of a four and one-half inch manila trawl

net: *Provided*, That any person who shall have first obtained a special permit, issuable by the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, authorizing such possession and use for haddock fishing or cod fishing in Sub-area 3 of the regulatory area may possess on board a vessel for which a registration certificate is in force and may use from such vessel while engaged in haddock fishing or cod fishing only within Sub-area 3, a trawl net or nets, parts of nets, or netting of manila twine having a mesh size, as defined in this section, of not less than four inches, or a trawl net or nets, parts of nets, or netting of material other than manila twine having a selectivity equivalent to that of a four-inch manila trawl net.

(b) As used in this section, the term "mesh size" shall mean: (1) With respect to any part of the net except the cod end, the average of the measurements of any twenty consecutive meshes in any row located at least ten meshes from the side lacings measured when wet after use; and (2) with respect to the cod end, the average of the measurements of any fifty consecutive meshes running parallel to the long axis of the cod end, beginning at the after end of the cod end, and being at least ten meshes from the side lacings or, if the cod end is less than fifty meshes in length, the average of the measurements of the meshes in any series of consecutive meshes running the full length of the cod end, parallel to the long axis of the cod end and located at least ten meshes from the side lacings, such measurements of the cod end to be made when wet after use, or, at the option of the user, a cod end which has been approved, in accordance with paragraph (d) of this section, by an au-

thorized employee of the Bureau of Commercial Fisheries, as having a mesh size when dry before use equivalent to not less than four and one-half inches when wet after use.

(c) All measurements of meshes shall be made by the insertion into the meshes under pressure of not less than ten nor more than fifteen pounds of a flat wedge-shaped gauge having a taper of two inches in eight inches and a thickness of three thirty-seconds of an inch.

(d) For the purpose of approving a dry cod end before use, as contemplated by paragraph (b) of this section, the average mesh size of such cod end shall be determined by measuring the length of any single row of meshes running the length of the cod end, parallel to the long axis of the cod end and located at least ten meshes from the side lacings, when stretched under a tension of two hundred pounds, and dividing the length by the number of meshes in such row: *Provided*, That not more than ten percent of the meshes in such row shall be more than one-half inch smaller when measured between knot centers than the average of the row. A cod end so measured which is constructed of one of the twines and is of not less than the average mesh size specified in the table below for such twine may be approved for haddock fishing or cod fishing by any authorized employee of the Bureau of Commercial Fisheries by the attachment to such cod end of an appropriate seal. The omission from the table of one or more specifications of twines shall not preclude the continued use of cod ends constructed from such twines where the cod ends received approval pursuant to the provisions of this part as the same were in effect between the dates of January 1, 1954, and October 24, 1956.

Type of twine	Manufacturer's specifications				Average mesh size
Manila, double strand:					
4-ply 45-yard					5.625 inches (55 $\frac{1}{4}$ ")
4-ply 50-yard					5.625 inches (55 $\frac{1}{4}$ ")
4-ply 75-yard					5.625 inches (55 $\frac{1}{4}$ ")
4-ply 80-yard					5.500 inches (54 $\frac{1}{2}$ ")
Cotton, 120-thread					4.250 inches (41 $\frac{1}{4}$ ")
	1st	Prep	Cable	Yds/lb.	
Synthetic:					
400/3 twisted twine, double strand, 840 denier 3 x 4 x 3.	S 2.7 T. P. I.	Z 5.0 T. P. I.	S 2.0 T. P. I.	129	4.375 inches (43 $\frac{1}{2}$ ")
200/3 twisted twine, single strand, 840 denier 6 x 4 x 3.	2.1 T. P. I.	4.4 T. P. I.	1.8 T. P. I.	62	4.500 inches (45 $\frac{1}{2}$ ")
No. 400 Single Braid	Linear density, 78.38 yards/lb. Average circumference, 0.493. Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply continuous filament nylon. Ply twist, 5.0 T. P. I. of "Z" twist. Single twist, .85 T. P. I. of "S" twist. Picks/inch, 26.3. Core yarn, 7 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon.				
Double strand	3 ply twist 6.4 T. P. I. of "Z" twist. 5 ply twist 1.1 T. P. I. of "S" twist.				4.375 inches (43 $\frac{1}{2}$ ")
Single strand					4.125 inches (41 $\frac{1}{4}$ ")
No. 550 Single Braid	Linear density, 71.00 yards/lb. Average circumference of outside braid, 0.5". Outside braid construction, 32 ends. 225 denier/68 filaments/3 ply/5 ply continuous filament nylon. Ply twist 5.1 T. P. I. of "Z" twist. Single twist, 0.85 T. P. I. of "S" twist. Picks/inch, 25.8. Core yarn, 8 ends. 3 ply twist 6.4 T. P. I. of "Z" twist. 5 ply twist 1.1 T. P. I. of "S" twist.				
Double strand					4.375 inches (43 $\frac{1}{2}$ ")
Single strand					4.125 inches (41 $\frac{1}{4}$ ")

Type of twine	Manufacturer's specifications	Average mesh size
Synthetic—Continued Flat Tubular Braid, single strand.	Linear density, 36.33 yards/lb. 16 ends consisting of 13 ends nylon, 3 ends dacron— percentage composition of braid: 77.12% bright nylon filament, 22.88% bright dacron filament. 12 ends 840 denier/140 filaments/2 ply/3 ply nylon. 3 ply 7.0 T. P. I. "Z" twist. 2 ply 0.5 T. P. I. "Z" twist. 1 end 210 denier/34 filaments/8 ply/3 ply nylon bright. 8 ply 0.5 "Z" twist. 3 ply 6.5 "S" twist. 3 ends 250 denier/34 filaments/10 ply/3 ply dacron bright. 10 ply 1.0 T. P. I. "Z" twist. 3 ply 6.0 T. P. I. "S" twist. Picks/inch, 10.7. Linear density, 38.89 yards/lb. Picks/inch, 9.0. Carriers, 16. Ends/carrier, 3. Total ends, 48. 840 denier/140 filaments/2 ply. 12.1 T. P. I. of "Z" twist in singles. 9.9 T. P. I. of "S" twist in 2 ply.	4.500 inches (4 1/2").
Westerbeke No. 2 Nylon Braid, 100% Nylon Braid.		5.0875 inches (5 1/16").

(e) The alteration, defacement or re-use of any seal affixed to a cod end in accordance with this section is prohibited.

(f) The repair, alteration or other modification of a cod end to which a seal has been affixed in accordance with this section shall invalidate such seal and such cod end shall not thereafter be deemed to be approved for haddock fishing or cod fishing. Nothing contained in this paragraph shall preclude the continued use at the option of the user of a cod end having an invalidated seal affixed thereto if such cod end after repair, alteration or other modification does not have a mesh size of less than four and one-half inches as defined in paragraph (b) of this section.

(g) For the purposes of this section, a cod end constructed of twine other than manila and not subject to approval and certification when measured dry before use as provided in paragraph (d) of this section shall be deemed to have a selectivity equivalent to that of a four and one-half inch manila trawl net if such cod end has a mesh size of not less than four and one-quarter inches when measured wet after use in the manner prescribed in paragraph (b) of this section.

(h) The use in haddock fishing or cod fishing within the regulatory area of any device or method which will obstruct the meshes of the trawl net or which otherwise will have the effect of diminishing the size of said meshes is prohibited: *Provided*, That (1) a protective covering of canvas, netting, or other material may be attached to the underside of the cod end only of the net to reduce and prevent damage and (2) a rectangular piece of netting may be attached to the upper side of the cod end only of the net to reduce and prevent damage so long as the netting attached to the upper side of the cod end conforms to the following conditions:

(i) Such netting shall not have a mesh size less than that specified in this section. For the purposes of this paragraph the required four and one-half inch mesh size when measured wet after use shall be deemed to be the average of the measurements of twenty consecutive meshes in a series across the netting, such measurements to be made with a

like gauge inserted into the meshes as specified in paragraph (c) of this section.

(ii) Such netting shall not exceed sixteen meshes in length counted parallel to the long axis of the cod end and the width of the netting shall be at least one and one-half times the width of the area of the cod end which is covered; such widths to be measured at right angles to the long axis of the cod end.

(iii) Such netting may be fastened to the cod end of the trawl net only along the forward and lateral edges of the netting and at no other place in the netting and when used in Sub-area 5 of the regulatory area the netting shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the cod line mesh.

§ 155.4 Temporary suspension of registration certificates.

(a) The owner or operator of any fishing vessel which is proposed to be used in haddock fishing or cod fishing beyond the limits of the regulatory area or is proposed to be used in fishing within such area for species of fish other than haddock or cod, may obtain a temporary suspension of the registration certificate issued for such vessel for the specified period during which such nonregulated fishing is to be conducted.

(b) Temporary suspension of registration certificates shall be granted upon oral or written request, specifying the period of suspension desired, by an authorized officer of the State of Maine or of the State of Massachusetts or by an authorized officer of any one of the following agencies: Bureau of Commercial Fisheries, Coast Guard, Bureau of Customs, Post Office Department. Such officer shall make appropriate endorsement on the certificate evidencing the duration of its suspension.

§ 155.5 Certain persons and vessels exempted.

Except as otherwise provided in this section, nothing contained in §§ 155.2 to 155.4 shall apply to:

(a) Any person or vessel authorized by the Secretary of the Interior to engage in haddock fishing or cod fishing for scientific purposes.

(b) Any vessel documented as a common carrier by the Government of the United States and engaged exclusively in the carriage of freight and passengers.

(c) Any person who in the course of taking fish other than haddock or cod, takes and possesses a quantity of haddock or cod not exceeding five thousand pounds for each, or ten percent by weight for each, of all fish on board the vessel from which the fishing is conducted whichever is the greater.

(d) Any person who, while engaged in fishing within Sub-area 5 of the regulatory area, does not take in any period of twelve months haddock or cod in quantities in excess of ten percent by weight for each of said species, of all the trawl-caught fish taken by such person within such period of twelve months. Any person desiring to avail himself of the exemption provided in this paragraph shall first obtain a certificate of exemption and shall comply with the following conditions:

(1) The owner or operator of a fishing vessel proposed to be operated under the exemption authorized in this paragraph may obtain without charge a certificate of exemption by furnishing, on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the name and address of the owner and operator of the vessel and the name, official number, and the home port of the vessel. Each such application must be accompanied by a written statement, certified by the applicant to be correct, listing by weight, species, and catch by month, the total quantities of all fish taken within Sub-area 5 of the regulatory area by means of the vessel to be exempted during a period of twelve months immediately preceding the date of application. The application form and the certified statement shall be submitted, in duplicate, to the Regional Director, Bureau of Commercial Fisheries, Gloucester, Massachusetts, who shall grant a certificate of exemption valid for a period of twelve months from the date of issue and authorizing during such period the use of the vessel for which issued in the taking of haddock or cod within Sub-area 5 of the regulatory area without regard to the registration requirements and restrictions on fishing gear imposed, respectively, by §§ 155.2 and 155.3, so long as the vessel and its fishing gear are not used to take haddock or cod within Sub-area 5 in quantities in excess of ten percent by weight for each species of all the trawl-caught fish taken by means of such vessel during the 12-month period covered by the certificate. Duplicate certificates of exemption shall be issued to replace lost or mutilated certificates. An application for renewal of an expiring certificate of exemption shall be made in like manner as the original application not later than 15 days prior to the expiration date of the expiring certificate, but no renewal shall be granted if it is determined by said Regional Director that the vessel for which a renewal is sought was used to take quantities of haddock or cod in excess of the allowable percentages during the 12-month period covered by the expiring certificate of exemption.

(2) The certificate of exemption issued by the Bureau of Commercial Fisheries shall be carried at all times on board the vessel for which it is issued, and such certificate, the vessel, its gear and equipment, and records pertaining to the catches of fish made by means of such vessel shall at all times be subject to inspection for the purposes of this part by any officer authorized to enforce the provisions of this part.

(3) The owner or operator of a fishing vessel for which a certificate of exemption is in force shall furnish on a form supplied by the Bureau of Commercial Fisheries, immediately following the delivery or sale of a catch of fish made by means of such vessel, a report¹ certified to be correct by the owner or operator, listing separately by species and weight the total quantities of all fish so sold or delivered: *Provided*, That, at the option of the owner or operator of such vessel, a copy of the fish ticket, weigh-out slip, settlement sheet, or similar record customarily issued by the fish dealer or his

agent at the time of delivery or sale of a catch of fish may be used for reporting purposes, in lieu of the form supplied by the Bureau of Commercial Fisheries, if such alternate record is similarly certified and contains all items of information required by this subparagraph. Such reports shall be delivered or mailed, in duplicate, to the said Regional Director.

(4) The owner or operator of a fishing vessel for which a certificate of exemption is in force, who proposes to use such vessel in fishing primarily for haddock or cod during any period of time within the 12-month period covered by the certificate, may obtain a temporary suspension of such certificate in like manner as provided in § 155.4 and may make application to engage in fishing for haddock or cod under a registration certificate as provided in § 155.2. Any haddock or cod taken by means of a vessel for which a registration certificate is in force and by means of haddock fishing or cod fishing conducted in conformity with the restrictions on fishing gear pre-

scribed by § 155.3 shall be excluded from the total of all trawl-caught fish taken during the applicable 12-month period when computing the ratio of haddock or cod to the trawl-caught fish taken during such period. For the purposes of computing the quantities of haddock or cod so to be excluded, the owner or operator of a fishing vessel covered by a suspended certificate of exemption and taking haddock or cod while operating under a registration certificate shall submit catch reports in like manner as provided in subparagraph (3) of this paragraph.

The foregoing revision of Part 155 shall become effective on March 1, 1959.

Issued at Washington, D.C., and dated January 30, 1959.

ELMER F. BENNETT,
Acting Secretary of the Interior.

[F.R. Doc. 59-953; Filed, Jan. 30, 1959; 4:32 p.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 961]

[Docket No. AO-160-A-20]

HANDLING OF MILK IN PHILADELPHIA, PA., MARKETING AREA

Decision With Respect to Proposed Amendments to Tentative 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 marketing orders (7 CFR Part 900), a public hearing was held at Philadelphia, Pennsylvania, on September 18, 1958, pursuant to notices thereof issued on August 19, 1958 (23 F.R. 6510), August 22, 1958 (23 F.R. 6628) and September 11, 1958 (23 F.R. 7144).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on December 12, 1958 (23 F.R. 9725), filed with the Hearing Clerk, United States Department of Agriculture, his recommended

decision containing notice of opportunity to file written exceptions thereto.

The material issues on the record of hearing relate to:

1. Revision of the producer definition to provide for diversion from:

- (a) A producer milk plant to a producer milk plant of another handler;
- (b) A producer milk plant to a non-producer milk plant; and
- (c) A nonproducer milk plant to a producer milk plant.

2. A provision to permit under specified conditions recognition of a contractual arrangement between a cooperative association which operates a producer milk plant and a proprietary handler as the operator of a producer milk plant and to treat the amount of milk specified in such contract for accounting and classification purposes as a receipt at the plant of the proprietary handler, regardless of where the milk was actually received.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion provisions.* The present provisions of the order should be amended to permit unlimited diversions of milk between producer milk plants not operated by the same handler and diversions to and from nonproducer milk plants under specified circumstances.

Diversions presently are not permitted under the order. The handler who first receives milk is held as the responsible handler for accounting and payment purposes. Movements between plants are recognized only on the basis of physical receipt and subsequent transfer.

Prior to the advent of farm bulk tanks, it was generally necessary that milk of dairy farmers intended for disposition

to outlets other than its plant of normal receipt first be received for cooling and assembly before disposition to its ultimate destination, either in cans or in bulk. Under such circumstances, little purpose would be served by a diversion provision.

The advent of farm bulk tanks bodes significant changes in the handling and movement of milk and it is desirable that some changes be made in the order provisions to accommodate the efficiencies inherent in transfers of milk via bulk tank handling. While only a relatively small segment of the producers on the market have yet installed bulk farm tanks, handlers in many circumstances have found it necessary to perform otherwise unnecessary handling functions, identified with receiving and transferring, in order to preserve producer status for milk disposed of to nonproducer milk plants or to maintain as their own producers, dairy farmers whose milk is disposed of to the producer milk plants of other handlers. In other instances, milk identified with nonproducer milk plants, but disposed of for manufacturing uses at producer milk plants has been subjected to similar unnecessary handling to maintain its identity as nonproducer milk.

The order provisions should limit the ability of a handler to take full advantage of the evolution of milk handling only to the extent necessary to establish clearly the identity of milk, establish its association with the market, and to protect the integrity of regulation. Since day-to-day and month-to-month market requirements may vary, some accommodation should be provided to permit the efficient handling of any necessary surplus. It is expedient, therefore, to permit certain diversions if the handler who normally receives the milk chooses to

¹ 18 U. S. C. 1001 provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

divert it and accepts the responsibility of accounting for it.

The Deputy Administrator concluded in his recommended decision that diversions should be permitted between producer milk plants of the same handler as well as between plants operated by different handlers. Both producers and handlers excepted to the conclusion that diversions should be permitted between regulated plants of the same handler. They pointed out that under existing regulation the multiple plant handler can move milk directly from the farm to whichever of his regulated plants he elects and the milk is priced under the order at the plant of physical receipt.

Since neither producers nor handlers desire diversion privileges between regulated plants of the same handler, there is no reason why such privileges should be provided.

In recommending provisions for diversion between producer milk plants, the Deputy Administrator recognized the opportunity which the multiple plant handler might have of receiving milk regularly at the city market as milk diverted from plants in a location zone differential area, with a resulting price advantage. Accordingly, it was concluded that when the milk of any producer was diverted to another producer milk plant the total deliveries of such producer for the entire month should be priced at the location of the plant where the greater proportion of such milk was physically received during the month.

Under the existing market structure and with no provision for diversions between regulated plants of the same handler, it is appropriate that milk diverted from a producer milk plant be priced at the location of the plant from which the diversion was made.

It is not necessary to limit in any way diversions between producer milk plants not operated by the same handler. Milk so diverted would qualify as producer milk under any circumstances. The order provisions assure full accounting for the milk regardless of which plant is designated the receiving plant. Milk so diverted should be treated as a receipt at the plant of the diverting handler and as a transfer to the plant of actual physical receipt if the handler in filing his monthly report pursuant to § 961.30 reports the milk as receipts from a producer(s) at his plant and as moved to the second plant. This procedure, while permitting greater efficiencies in the handling of milk, will likely result in no change in actual returns to producers.

Milk diverted from a producer milk plant to a nonproducer milk plant should also be priced on the basis of the location of the diverting plant. Proponents proposed that milk so diverted be priced f.o.b. the market. They state that the handler does not incur the cost of moving the milk to the market in this case and hence, he should not be permitted a transportation allowance.

Under the Federal order program milk is priced at the plant of receipt to reflect its location value in relation to the regulated market. This is accomplished by the application of appropriate location differentials which are intended to

reflect the cost of transportation between the plant of receipt and the city market. Regardless of whether the milk actually moves to the city market or remains in the country, its location value for the market does not change. Hence, it would be inappropriate to price milk normally received at a country point, but which is diverted to a nonproducer milk plant, at f.o.b. market prices.

The established order prices are intended to bring forth an adequate but not an excessive supply of fluid milk for the regulated market and no distinction is made in pricing milk which may move from time to time to outside markets. While it is possible that a handler, because of the location of the nonproducer milk plant to which milk was diverted, might gain some benefit by virtue of a saving in transportation costs which otherwise would be incurred in moving the milk to the regulated market, this cannot be construed as an injury to the producers whose milk is involved. The handler may have realized more or less than the order prices for the milk so disposed of; the producer, however, is assured the utilization value of his milk computed at the order prices at the location of the producer milk plant with which he is associated.

The Deputy Administrator in his recommended decision concluded that during the months of October through January diversion privileges to nonproducer milk plants were necessary only to accommodate the handling of week end surpluses which accrue because plants operate on a five-day bottling week. He recommended, therefore, that during such months such diversions be permitted on 14 days (7 days in the case of every-other-day delivery) during any month. Both producers and handlers excepted to this conclusion and pointed out that diversion privileges on 20 days would provide greater flexibility of operation on the part of handlers and hence a more orderly transition from can to farm bulk tank handling. Handlers argued that such 20-day diversion privilege should refer to days of delivery whereas producers argued that it should refer to days of production.

Under the individual handler type pooling arrangement in effect in the market diversions need be limited only to the extent necessary to establish a dairy farmer's bona fide association with the market based on physical receipt of his milk at a producer milk plant. Since both handlers and producers desire a more liberal diversion provision there appears no reason why they should not be accommodated in this regard. It is concluded therefore that diversions to a nonproducer milk plant(s) should be provided on not more than 20 days (10 days in the case of every-other-day delivery) during any of the months of October through January. Any dairy farmer whose milk is diverted on a greater number of days in any of these months should not acquire producer status during such months on the milk so diverted. A more liberal privilege in the case of every-other-day delivery, as suggested by handlers, would permit full diversion throughout the month of the

milk of any dairy farmer on every-other-day delivery and hence would provide no standards for determining whether such milk was in fact regularly associated with the market.

The months of February through September are the months of highest production and it is desirable that handlers be permitted unlimited privileges for diversion to nonproducer milk plants to expedite the orderly disposition of the seasonal surplus.

A number of the larger handlers in the market operate both producer and nonproducer milk plants. While individual-handler type pooling tends to encourage handlers to maintain blended returns to their producers which are favorable in relation to the blended price of other handlers, there are, nevertheless, substantial differences in pay prices as between handlers. Hence, it is apparent that a handler might, in order to maintain a competitive return to the dairy farmers delivering to his nonproducer milk plants, report such milk as a receipt at his producer milk plant and a diversion to the nonproducer milk plant, thus causing his regular producers to share their Class I market with dairy farmers whose milk is not associated with such market. Such an operation might lower returns to regular producers to the point of threatening the maintenance of an adequate supply of milk for the market. It is desirable therefore to establish some standard by which it may be determined that diverted milk in these months is in fact regularly associated with the market. This can be accomplished by limiting the diversion privilege in respect to the milk of new producers. It is provided, therefore, during the months of February through September, when unlimited diversions to nonproducer milk plants are permitted, that dairy farmers may maintain producer status where their milk is so diverted only if such dairy farmers held producer status during the entire month immediately preceding the month in which the diversion was made.

Exceptors pointed out that while such qualifying standards was appropriate in the case of a new producer, nevertheless, it might unnecessarily deter the efficiency of operation on developing bulk tank routes. They suggested therefore that a new producer whose milk was not eligible for diversion during any month of the flush season, because of lack of producer status during the full preceding month, be accorded producer status during any month of February through September on any of his milk diverted if the greater volume of his milk during such month from the first day of receipt, or diversion as the case may be, was physically received at a producer milk plant. Such a provision will permit limited diversion of the milk of a new producer during the first month of delivery and at the same time provide a reasonable standard for determining its association with the local market. Accordingly, it should be adopted.

It is possible that milk diverted from a producer milk plant to a regulated plant under another Federal order might acquire status as producer milk under

the provisions of such other order. Without appropriate safeguards such a movement might produce the inappropriate result of full regulation of the same milk under two Federal orders. It is necessary therefore that provision be made to exclude from any accounting under this order, milk reported as a diversion to a fully regulated plant under another order which milk is fully regulated and priced as producer milk under such other order.

Certain handlers associated with the market have manufacturing facilities in their producer milk plants and customarily process not only their own surplus but also the surplus of other handlers and/or surplus milk from surrounding unregulated markets. Unlimited diversions between producer milk plants, as previously discussed, will accommodate the most efficient handling of milk moving between regulated handlers.

The present order provisions permit transfers from nonproducer milk plants for Class II use and for Class I use on less than eleven days during any of the months of October through January. However, milk moved directly from the farm to a producer milk plant is treated as a producer receipt. Hence, handlers are deterred from accepting milk from nonproducer milk plants on a diversion basis for Class II use. It is desirable in the interest of orderly marketing and efficient handling to permit diversions from nonproducer milk plants to producer milk plants under specified conditions. However, any diversion privileges applicable to nonproducer milk should in no way enhance a regulated handler's opportunity to utilize nonproducer milk for Class I uses. As long as milk is received from nonproducer milk plants either by transfer or diversion for only Class II use, or for limited Class I use in the months of October through January, regular producers are not adversely affected and there is no need to further limit the amount of such milk which may be handled at a producer milk plant. The privilege of receiving milk from a nonproducer milk plant for Class I use on less than eleven days during any month of October through January was provided in the order effective June 1, 1956 and was necessary for reasons stated in the Secretary's decision of May 7, 1956 (21 FR. 3116). The intent of this provision can be preserved if milk received as diverted milk is treated as a transfer from the diverting plant for purposes of determining such plant's status as a producer or nonproducer milk plant. If the assignment of diverted milk in any month results in producer milk plant status for the diverting plant, such plant would then become a fully regulated plant.

2. *Recognition of contractual agreements between handlers.* One proposal considered at the hearing would revise the order provisions to recognize an existent contractual agreement between a cooperative association as a regulated handler and a proprietary handler by providing for the accounting of the contracted volumes of milk as though physically received by the proprietary

handler at his producer milk plant regardless of whether the milk so moved. Proponents pointed out that under the existing order provisions, to reflect the contracted volumes of milk in the proprietary handler's blend price computations, it is necessary first physically to receive the milk at the cooperative association's plant, then reload it and move it to the proprietary handler's plant, and when not needed there to reload it again and transport it back to the cooperative association's plant. This involves unnecessary handling in double hauling and loading and unloading which proponents claim would be eliminated by their proposal.

The diversion provision herein before recommended will mitigate the problem from which proponents seek relief by permitting the proprietary handler to receive direct delivery milk from specified producer members of the cooperative association and whenever the milk is not needed at his producer milk plant to have it received at the cooperative's plant as diverted milk. Accordingly, no further changes in the order provisions are necessary in this regard.

Proponents contend that the problem cannot be completely eliminated by the diversion provision since contracts are negotiated for specified volumes of milk which cannot be assigned conveniently to specified producers. They also state that cooperative members wish to have their milk received at the cooperative plant because of their confidence in the association's reporting of weights and tests.

Since the cooperative association in question markets the milk of its producer members, collects all proceeds from such sales, and reblends the proceeds among all of its members, there can be no problem in the payment of producers. One of the cooperative's functions in its role as a cooperative is to see that its members are compensated for the volumes and tests of milk actually delivered and this can be readily accomplished regardless of which plant actually receives the milk.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. 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 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) The tentative marketing agreement and the order as hereby proposed to be 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 hereby proposed to be 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 tentative marketing agreement and the order, as hereby proposed to be 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 and commercial activity specified, in a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of 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, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area" and "Order Amending the Order Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area, is approved or favored by the producers, as defined under the terms of the order as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of October 1958 is hereby determined to be the representative

period for the conduct of such referendum.

L. S. Iverson is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F.R. 5177), such referendum to be completed on or before the 15th day from the date this decision is issued.

Issued at Washington, D.C., this 29th day of January 1959.

[SEAL]

CLARENCE L. MILLER,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Philadelphia, Pennsylvania, Marketing Area

§ 961.0 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 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 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 regulating the handling of milk in the Philadelphia, Pennsylvania, 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 hereby 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 hereby 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 hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or 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 Philadelphia, Pennsylvania, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 961.10 and substitute therefor the following:

§ 961.10 Producer.

"Producer" means any person, except a producer-handler and a dairy farmer whose milk is received as milk diverted from a nonproducer milk plant, who produces milk which is received directly at a producer milk plant or is diverted in accordance with the provisions of paragraph (a) of this section: *Provided*, That milk so diverted to another plant (except a plant at which the milk is subject to the classification and pricing provisions of another Federal order) for the account of the diverting handler, shall be deemed to have been received at a producer milk plant at the location of the plant from which diverted.

(a) Diverted by a handler in his capacity as the operator of a producer milk plant: (1) To the producer milk plant of another handler, (2) to a nonproducer milk plant on not more than 20 days (10 days in the case of every-other-day delivery) during any month(s) of October through January or (3) to a nonproducer milk plant during any of the months of February through September: *Provided*, That no dairy farmer shall qualify as a producer under this subparagraph with respect to milk so diverted unless: (i) He held status as a producer throughout the entire preceding month, or (ii) the greater volume of his milk from the first day of delivery or diversion during the current month, as the case may be, was physically received at a producer milk plant.

2. Delete § 961.12 and substitute therefor the following:

§ 961.12 Producer milk.

"Producer milk" means only that milk (a) received at a producer milk plant directly from producers, not including milk received as diverted milk for another handler's account or (b) diverted by the handler in his capacity as the operator of a producer milk plant, in accordance with the provisions of § 961.10: (1) To a nonproducer milk plant or (2) to the producer milk plant of another handler.

§ 961.30 [Amendment]

3. Delete the word "and" following the semicolon at the end of paragraph (d) in § 961.30; substitute a semicolon in place of the period at the end of paragraph (e) and add new paragraphs (f) and (g) to read as follows:

(f) Milk diverted from a producer milk plant, from the farm on which such milk was produced, to another plant(s); and

(g) Milk received, directly from the farm on which such milk was produced, as milk diverted from a nonproducer milk plant(s).

4. Add a new section immediately following § 961.61 to read as follows:

§ 961.62 Milk received as diverted milk or disposed of by diversion.

(a) Milk received directly at a producer milk plant as milk diverted from another plant for the account of the operator of such other plant shall be treated as a receipt at the diverting plant and a transfer to the producer milk plant for purposes of determining the diverting handler's status as a producer milk plant pursuant to § 961.7.

(b) Milk caused by a handler, as the operator of a producer milk plant, to be diverted for his account to another plant under the conditions of § 961.10 shall for purposes of classification, pricing, and payments be considered to have been received by the diverting handler at the plant from which the diversion was made and as transferred to the plant where physically received.

[F.R. Doc. 59-888; Filed, Feb. 2, 1959; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 526]

INDUSTRIES OF A SEASONAL NATURE

Preliminary Determination

The Administrator of the Wage and Hour and Public Contracts Divisions has found and determined that (1) the storing of grain including flaxseed, buckwheat, and soy beans by country grain elevators, public terminal and sub-terminal grain elevators, and wheat flour mill elevators (6 F.R. 2889, June 13, 1941; as corrected 9 F.R. 10593, August 25, 1944), (2) the flat warehousing of grain in sacks, including rough or paddy rice, in the States of California, Oregon, Washington, and Idaho (6 F.R. 6778, Dec. 17, 1941), and (3) the drying or storing or drying and storing, including receiving, or rough southern rice in the States of Texas, Arkansas, Louisiana and other southern States (15 F.R. 6197, Sept. 12, 1950), are each an industry of a seasonal nature within the meaning of section 7(b) (3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063, 29 U.S.C. 207), and 29 CFR, Part 526. As industries of a seasonal nature, each is partially excepted from the overtime provisions of section 7(a) of the Fair Labor Standards Act (52 Stat. 1063, 29 U.S.C. 207) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year.

The aforementioned determinations are variously restricted to specified types of grain storing establishments, specified types of grain or related commodities, or specific geographic locations. Since their issuance, it is noticed by the Administrator that storage practices in the grain storing industry have changed.

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.

It is now common in the industry to store grain and other commodities covered by the determinations in establishments other than the types specified in the determinations. These establishments utilize different methods and facilities for handling and storing the commodities covered by the determinations, but otherwise operate in the same manner as those establishments now within the scope of the determinations. It appears that they receive for storing, handling and preparing in their raw or natural state 50 per cent or more of their annual volume in a period or periods amounting in the aggregate to not more than 14 workweeks, as required by § 526.3(b) of 29 CFR, Part 526.

Therefore upon consideration of the aforesaid facts, I hereby make a preliminary determination pursuant to §§ 526.5(b) and 526.6(b)(2) of 29 CFR, Part 526, and section 7(b)(3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063, 29 U.S.C. 207), that a prima facie case is shown for amending the above determinations by (a) including the bulk storage of grain in non-elevator type establishments as well as in elevators and flat warehouses, (b) consolidation of the above-mentioned determinations into one determination, and (c) defining in more detail the industry to which this determination shall apply.

The proposed determination shall read as follows:

(1) The storing, and drying before storage, of grain including flaxseed, buckwheat, soy beans, and rough rice in country grain elevators, public terminal and sub-terminal grain elevators, wheat flour mill elevators, non-elevator type bulk grain storing establishments, and flat warehouses constitute an industry of a seasonal nature within the meaning of section 7(b)(3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063, 29 U.S.C. 207) and Part 526 of the regulations issued thereunder (29 CFR Part 526).

(2) For purposes of this determination, the industry engaged in the storing, and drying before storage, of grain includes the operations of storing and drying prior to storage of grain, flaxseed, buckwheat, soy beans and rough rice, and any operations necessary or incident to such storing and drying, including: receiving, unloading, weighing, testing, cleaning, mixing, fumigating, shelling corn, sacking, and removing these commodities from storage, during the period or periods when the commodities are being received, dried or stored.

(3) The term "non-elevator type bulk grain storing establishments" includes warehouses, quonset huts, barns, steel tanks, tents, and other similar storage facilities which are used to store grain, whether operated in conjunction with an elevator to supplement the elevator's storage space or operated as independent establishments. "Flat warehousing" means the storing of grain in sacks.

If no objections and request for hearing are received within 15 days following publication of this preliminary determination in the FEDERAL REGISTER, the Administrator pursuant to § 526.6(b)(2) of 29 CFR, Part 526, will make a finding upon the prima facie case. Objections

and request for hearing from any interested person shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor Building, Washington 25, D.C.

Signed at Washington, D.C., this 24th day of January 1959.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 59-816; Filed, Feb. 2, 1959;
8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12746; FCC 59-63]

[47 CFR Part 3]

RADIO BROADCAST SERVICES

Certain Television Stations; Prohibition of National Spot Sales

In the matter of amendment of § 3.658 of the Commission's rules and regulations to prohibit television stations, other than those licensed to an organization which operates a television network, from being represented in national spot sales by an organization which also operates a television network; Docket No. 12746.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. By Public Law 112, 84th Congress, 1st Session, the Commission was authorized and directed to conduct a study of radio and television network broadcasting. The study was formally instituted by the Commission's Delegation Order No. 10 of July 22, 1955 (FCC 55-810) which delegated to a Network Study Committee of four Commissioners the Commission's powers and jurisdiction to carry out the study. The purposes and objectives of the study were announced by the Network Study Committee in Public Notice (FCC 55M-977) and separate Order of November 21, 1955 (FCC 55M-978). A special Network Study Staff was organized to conduct the study.

3. On October 3, 1957, the Director of the Commission's Network Study Staff submitted to the Network Study Committee a Report on Network Broadcasting. The Report contained, among other matters, a study of the representation of television stations in national spot sales by companies which also operate television networks. The Report noted that national spot and network television are competing forms of national television advertising and that there is a potential if not actual conflict of interest when the same party engages in both activities. It concluded that the public interest would be better served if organizations which operate television networks did not also participate in the representation of television stations in the national spot field. The Report recommended that the Commission adopt a rule prohibiting organizations which operate television networks from representing in national spot sales television

stations other than those which they own and operate. It also recommended that a reasonable period of time, such as two years, be allowed for the stations now represented by organizations which also operate networks to transfer their representation to a non-network organization.

4. On January 9, 1958, the Commission issued a Notice of Public Hearing (FCC 58-37) in Docket No. 12285, in the matter of the Study of Radio and Television Network Broadcasting. A public hearing was held before the Commission en banc, commencing on March 3, 1958, for the purpose of affording interested parties an opportunity to comment on the findings, recommendations and conclusions contained in the Report on Network Broadcasting. Through this procedure the Commission has had the benefit of the views of interested persons and organizations in its consideration of the need for a revision of its rules and policies in the broadcast field. Representatives of the Columbia Broadcasting System, Inc. and the National Broadcasting Co., Inc., of non-network stations represented by the Columbia Broadcasting System or the National Broadcasting Co., and of non-network organizations engaged in the national station representative business appeared to testify concerning the afore-mentioned matter at the Hearing.

5. On the basis of the Report on Network Broadcasting and the testimony presented in the Hearing in Docket No. 12285, the Commission is of the view that a rule-making proceeding should be instituted to consider the adoption of a rule prohibiting television station licensees from being represented in national spot sales by an organization which also operates a television network. This proposed rule does not apply to the representation in spot sales of television stations licensed to the organization which operates a television network.

6. Any interested party desiring to file comments with respect to the above matter may file with the Commission, on or before February 28, 1959, a written statement or brief setting forth his comments. Comments or briefs in reply to the original comments may be filed within 15 days from the last day for filing said original comments. No additional comments may be filed unless (a) specifically requested by the Commission or (b) good cause for the filing of such additional comment is established.

7. Persons filing comments are requested to direct their attention to the period of time that should be allowed for stations to transfer their representation to a non-network organization in the event that the proposed amendment is adopted. Persons filing comments are also requested to suggest the specific language which might be used if the proposed rule is adopted.

8. The Report on Network Broadcasting did not study the matter of network representation of stations in the radio field, and the present Notice of Proposed Rule Making applies specifically to television. Parties filing comments are requested to direct their attention to the need for and desirability

of a similar rule with respect to the participation of organizations which operate radio networks in the representation of stations in the national spot radio field.

9. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be filed.

10. Authority for the adoption of the proposed amendment is contained in sections 4(i), 303(f) and 303(i) of the Communications Act of 1934, as amended.

Adopted: January 28, 1959.

Released: January 29, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-904; Filed, Feb. 2, 1959;
8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 240, 250, 270]

NOTICE OF INTENTION TO AN- NOUNCE INTERPRETATION OF AD- MINISTRATIVE POLICY

Extension of Time for Submitting Comments

On December 30, 1958, the Securities and Exchange Commission, in Securities Act Release No. 4010 and related re-

leases under the Acts administered by the Commission, invited all interested persons to file written views and comments on a proposed interpretation of administrative policy on financial statements regarding balance sheet treatment of the accumulated credit arising from the recognition in such statements of the deferral to future periods of current reductions in income taxes.

It was requested that such written views and comments be submitted in triplicate on or before January 31, 1959. Pursuant to requests the Commission has extended the time for submitting such views and comments to February 28, 1959, and announces that a public hearing will be held on the release in Room 193 of its offices at 425 Second Street NW., Washington, D.C., on March 25, 1959, at 10:00 a.m.

Any person interested in presenting his views on the proposed interpretation of administrative policy at the public hearing should, not later than February 28, 1959, submit to the Commission in writing a statement of his intention to appear at the hearing, together with a written statement of his views, in triplicate, and should limit his request for time to make oral presentation so as to provide an opportunity for all interested persons to be heard. Except where it is requested that views and comments not be disclosed, they will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

JANUARY 27, 1959.

[F.R. Doc. 59-883; Filed, Feb. 2, 1959;
8:46 a.m.]

NOTICES

DEPARTMENT OF COMMERCE

Bureau of the Census

NUMBER OF EMPLOYEES, TAXABLE WAGES, GEOGRAPHIC LOCATION, AND KIND OF BUSINESS FOR ESTABLISHMENTS OF MULTIUNIT COMPANIES

Notice of Consideration for Surveys

Notice is hereby given that the Bureau of the Census is considering a proposal under the provisions of the Act of Congress approved August 31, 1954, 13 U.S.C. 181, 224, and 225, to conduct a First Quarter 1959 Survey of multiunit companies. This survey is designed to collect information for the 1959 County Business Patterns Report on the number of employees, taxable wages, geographic location, and kind of business for establishments of multiunit companies. Wherever possible, information on kind of business and county location will be taken from the 1958 Censuses of Business, Manufacturers, and Mineral Industries reports. The coordination of the data for the 1958 Censuses of Business,

Manufacturers, and Mineral Industries and the data for the 1959 County Business Patterns will have significant application to the needs of the public and to governmental agencies. The requested data are not publicly available from non-governmental or governmental sources. Reports will be required from only the larger multiunit companies in the United States and only when the data are not available from other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Copies of the proposed form and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington 25, D.C. Any suggestions or recommendations concerning the subject matter of the proposed survey should be submitted in writing to the Director of the Bureau of the Census and will receive consideration.

[SEAL] ROBERT W. BURGESS,
Director,
Bureau of the Census.

[F.R. Doc. 59-890; Filed, Feb. 2, 1959;
8:47 a.m.]

Bureau of Foreign Commerce

[Case No. 207A]

PETER MEYNS & CO.

Supplemental Order Revoking Export Privileges

In the matter of the application of the Director, Investigation Staff, for an order revoking the probation provision contained in Part IV of the order of April 10, 1956, Case No. 207A (21 F.R. 2415, April 13, 1956), Peter Meyns, d/b/a Peter Meyns & Co., respondent.

The respondent, Peter Meyns, doing business under the firm name and style of Peter Meyns & Co., at Hamburg, Germany, having heretofore by order dated April 10, 1956, published April 13, 1956, 21 F.R. 2415, been denied export privileges for so long as export controls shall be in effect, and the said denial having been curtailed to two years upon the "condition that the respondent complies in all respects with this order, and with all other requirements of the Export Control Act of 1949, as amended, and all regulations promulgated thereunder" and the said order having provided also that "[T]he privileges conditionally restored to [him] * * * may be revoked summarily and without notice upon a finding by the Director of the Office of Export Supply * * * that the respondent has, at any time following the date [thereof] knowingly failed to comply with any of the conditions or provisions upon which or whereby * * * he has been permitted to engage in any phase of the export business * * * in which event the "denial of his export privileges * * * shall continue thereafter for the duration of export controls"; and it now having been found and determined by me, after reviewing an application made by the Director, Investigation Staff, Bureau of Foreign Commerce, for an order revoking said probation provision, and the evidence presented to the Compliance Commissioner in support thereof, and the Compliance Commissioner's Report and Recommendation thereon, that the respondent, Peter Meyns, has knowingly failed to comply with the condition and provisions contained in said order in that:

(a) While subject to the effective denial therein contained he sold and delivered quantities of Gilsonite exported from the United States, and

(b) While subject to said effective denial he transshipped to Communist China quantities of Gilsonite, which had been exported from the United States, all without prior permission or authorization from the Bureau of Foreign Commerce; and

It being necessary to achieve effective enforcement of the Export Control Act of 1949, as amended: It is hereby ordered:

I. Part IV of the said order of April 10, 1956, be and the same hereby is revoked.

II. All outstanding validated export licenses in which Peter Meyns has any interest, direct or indirect, be and the same hereby are revoked and shall be

returned forthwith to the Bureau of Foreign Commerce for cancellation.

III. So long as export controls shall be in effect the respondent, Peter Meyns, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by him directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the preparation or filing of any export license application or document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the receiving, ordering, buying, selling, delivering, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (e) in financing, forwarding, transporting, or other servicing of such exports from the United States.

IV. Such denial shall extend not only to Peter Meyns but also to any person, firm, corporation, or business organization with which he may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

V. No person, firm, corporation, or other business organization, whether in the United States or elsewhere, during any time when Peter Meyns or any related party is prohibited under the terms hereof from engaging in any activity within the scope of Part III hereof, shall, without prior disclosure to and specific authorization from the Bureau of Foreign Commerce, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any export license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, or (b) order, receive, buy, sell, deliver, use, dispose of, finance, transport, forward, or otherwise service or participate in any exportation from the United States, on behalf of or in any association with him or any related party. Nor shall any person do any of the foregoing acts with respect to any exportation in which he or any related party may have any interest or obtain any benefit of any kind or nature, direct or indirect.

VI. The respondent, if he objects to this order, may apply that it be set aside and have a hearing thereon, if he shall so request, as more fully provided in 182.16 of the export regulations (24 F.R. 388).

Dated: January 29, 1959.

JOHN C. BORTON,
Director, Office of Export Supply.

[F.R. Doc. 59-891; Filed, Feb. 2, 1959; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

JANUARY 26, 1959.

A plat of survey of the lands described below will be officially filed in the Land Office, Boise, Idaho, effective at 10:00 a.m., on March 3, 1959.

BOISE MERIDIAN

T. 3 S., R. 34 E.,

Sec. 11: Lots 4, 5, 6, 7;

Sec. 12: Lots 6, 7, 8, 9, 10;

Sec. 13: Lots 5, 6, 7, N $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 14: Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,

14, 15, 16, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 15: Lots 5, 6, 7, 8, 9, 10, 11;

Sec. 20: Lots 14, 15, 16;

Sec. 21: Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,

16, 17, 18, 19;

Sec. 22: Lots 9, 10, 11, 12, 13, 14, 15, 16,

17, NW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 23: Lots 15, 16, 17;

Sec. 29: Lots 8, 9, 10, 11, 12, 13, 14, 15, 16,

SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 30: Lot 7;

Sec. 31: Lots 13, 14.

The area described aggregates 2,180.52 acres.

The above-described lands are opened to application, selection, and petition as described below. The lands have been subject to operation of the United States Mining Laws and Mineral Leasing Laws at all times.

These lands are islands in the Snake River and lands that were omitted from the previous survey because of gross error or fraud which left large areas of public domain inside the meanderline of the Snake River. Much of the land has been settled, reclaimed, cultivated, and cropped with adjoining farms. The lands are typical of other lands adjoining the Snake River in this area and are located from one to eight miles southwesterly of Blackfoot, Idaho, in Bingham County. Elevation is 4,500 feet. Some of the land is sub-irrigated pasture and gravel beds and is covered with cottonwood, willows, and briars.

No application for these lands will be allowed under the homestead, desertland, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 2 hereof, are hereby opened to filing of applications and selections, in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and re-

spective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. Applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284 as amended), presented prior to 10:00 a.m., on March 3, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m., on June 2, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above presented prior to 10:00 a.m., on June 2, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

Persons claiming veteran's preference rights under Paragraph a(2) above must enclose with their application proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P.O. Box 2237, Boise, Idaho.

DONALD I. BAILEY,
Land Office Manager.

[F.R. Doc. 59-879; Filed, Feb. 2, 1959; 8:46 a.m.]

UTAH

Redelegation of Authority by Land Office Manager to Chiefs, Mineral and Land Adjudication Units

JANUARY 21, 1959.

Pursuant to authority contained in Bureau Order 541, as amended, authority is hereby redelegated to the Chief, Mineral Adjudication Unit to take action for the Manager in all matters listed in

section 3.6 of Part III-A, and to the Chief, Lands Adjudication Unit in all matters listed in section 3.9 of Part III-A, to become effective immediately upon publication in the FEDERAL REGISTER. The authority delegated may not be redelegated.

ERNEST E. HOUSE,
Land Office Manager,
Salt Lake City Land Office.

Approved: January 22, 1959.

VAL B. RICHMAN,
Utah State Supervisor.

[F.R. Doc. 59-880; Filed, Feb. 2, 1959;
8:46 a.m.]

[California No. 554]

CALIFORNIA

Small Tract Classification Order

JANUARY 26, 1959.

1. Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management under Part II, Document 4, California State Office, dated November 19, 1954 (19 F.R. 7697), I hereby classify the following described lands, totaling 120 acres in Shasta County, California as suitable for lease and sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended:

MOUNT DIABLO MERIDIAN

T. 32 N., R. 5 W.

Sec. 15, Fractional Lot 1 in NE $\frac{1}{4}$ NE $\frac{1}{4}$ (North of MS 4911), Unpatented Portion of NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Containing approximately 120 acres, to be subdivided into 48 small tracts, 24 of which are covered by applications from persons entitled to preference under 43 CFR 257.5(a).

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean Conflict and other qualified persons entitled to preference under the Act of September 27, 1944 (58 Stat. 497; 43 U.S.C. 279-284), as amended.

4. All valid applications filed prior to January 26, 1959, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5(a).

R. G. SPORLEDER,
Officer in Charge,
Northern Field Group,
Sacramento, California.

[F.R. Doc. 59-877; Filed, Feb. 2, 1959;
8:46 a.m.]

[Serial No. Idaho 010118]

IDAHO

Small Tract Classification Order No. 9; Amendment

JANUARY 26, 1959.

Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473), I hereby reclassify for cabin and business sites, subject to valid existing rights, the lands described in Idaho Small Tract Classification Order No. 9, dated August 29, 1950 (F.R. Document 50-7860) as follows:

BOISE MERIDIAN, IDAHO

T. 2 S., R. 17 E., Section 1

Lot No.	Acres	Right-of-way		Appraised value
		Width	Location	
Group No. 1:				
6.....	0.938	(Feet) 20	W. boundary.....	
7.....	0.078	10	S. boundary.....	\$500.00
10.....	0.074	10	N. & E. boundary.....	100.00
11.....	0.075	10	N. & W. boundary.....	100.00
12.....	0.078	10	W. boundary.....	100.00
13.....	0.078	10	E. boundary.....	100.00
16.....	0.078	10	W. boundary.....	100.00
17.....	0.078	10	W. boundary.....	100.00
18.....	0.076	10	E. boundary.....	100.00
20.....	0.078	10	W. boundary.....	100.00
21.....	0.078	10	E. boundary.....	100.00
22.....	0.078	10	W. boundary.....	100.00
23.....	0.078	10	E. boundary.....	100.00
26.....	0.065	10	W. boundary.....	100.00
27.....	0.057	10	W. boundary.....	100.00
29.....	0.078	10	W. boundary.....	100.00
30.....	0.078	10	E. boundary.....	100.00
31.....	0.078	10	E. boundary.....	100.00
32.....	0.078	10	W. boundary.....	100.00
33.....	0.078	10	E. boundary.....	100.00
34.....	0.050	10	W. boundary.....	100.00
35.....	0.043	10	W. boundary.....	100.00
37.....	0.078	10	W. boundary.....	100.00
38.....	0.078	10	E. boundary.....	100.00
39.....	0.078	10	E. boundary.....	100.00
41.....	0.078	10	E. boundary.....	100.00
42.....	0.036	10	W. boundary.....	100.00
43.....	0.045	10	W. boundary.....	100.00
46.....	0.078	10	E. boundary.....	100.00
47.....	0.078	10	E. boundary.....	100.00
50.....	0.065	10	N. & W. boundary.....	100.00
52.....	0.078	10	E. boundary.....	100.00
53.....	0.078	10	E. boundary.....	100.00
55.....	0.085	10	W. boundary.....	100.00
56.....	0.070	10	W. boundary.....	100.00
57.....	0.078	10	E. & W. boundary.....	100.00
58.....	0.078	10	E. boundary.....	100.00
60.....	0.078	10	E. & W. boundary.....	100.00
61.....	0.058	10	W. boundary.....	100.00
63.....	0.078	10	E. & W. boundary.....	100.00
64.....	0.078	10	E. boundary.....	100.00
66.....	0.078	10	E. & W. boundary.....	100.00
67.....	0.034	10	W. boundary.....	100.00
68.....	0.036	10	W. boundary.....	100.00
69.....	0.078	10	E. & W. boundary.....	100.00
70.....	0.078	10	E. boundary.....	100.00
71.....	0.078	10	E. boundary.....	100.00
72.....	0.078	10	E. & W. boundary.....	100.00
74.....	0.150	20	W. boundary.....	125.00
76.....	0.155	10	S. boundary.....	125.00
78.....	0.393	20	N. boundary.....	125.00
79.....	0.534	20	W. boundary.....	125.00
Group No. 2:				
14.....	0.078	10	E. boundary.....	100.00
15.....	0.078	10	E. boundary.....	100.00
24.....	0.078	10	W. boundary.....	100.00
25.....	0.078	10	E. boundary.....	100.00
28.....	0.078	10	E. boundary.....	100.00
36.....	0.078	10	E. boundary.....	100.00
40.....	0.078	10	W. boundary.....	100.00
44.....	0.078	10	E. boundary.....	100.00
45.....	0.078	10	W. boundary.....	100.00
48.....	0.078	10	W. boundary.....	100.00
49.....	0.078	10	E. & S. boundary.....	100.00
51.....	0.078	10	E. & W. boundary.....	100.00
54.....	0.078	10	E. & W. boundary.....	100.00
59.....	0.078	10	E. boundary.....	100.00
65.....	0.078	10	E. boundary.....	125.00
80.....	0.277	20	W. boundary.....	125.00
81.....	0.294	20	W. boundary.....	125.00
82.....	0.371	20	W. boundary.....	125.00
83.....	0.233	20	W. boundary.....	125.00
84.....	0.324	20	W. boundary.....	125.00
85.....	0.315	10	S. boundary.....	125.00
86.....	0.313	20	W. boundary.....	125.00
87.....	0.313	10	S. boundary.....	125.00
88.....	0.354	20	W. boundary.....	125.00
89.....	0.285	10	N. boundary.....	125.00
90.....	0.313	20	S. boundary.....	125.00
91.....	0.313	10	W. boundary.....	125.00
92.....	0.313	10	N. & S. boundary.....	125.00
93.....	0.165	10	N. & S. boundary.....	125.00
Group No. 3:				
5, 8, 9, 19, 62, 73, 75, 77, & SE $\frac{1}{4}$ SW $\frac{1}{4}$				

The appraised value of each lot in Groups No. 1 and 2 and the rights-of-way to be reserved for roads only are shown above. Appraised values are not shown for Group No. 3 nor are there any rights-of-way reserved.

Group No. 1 is reclassified for lease with option to purchase. All of the lots in this group are now leased under the original classification and the lessees will have a preference right of purchase. This reclassification will become effective immediately upon issuance of this notice. Existing leases may be renewed for a 3-year period with option to purchase upon timely application by the lessees provided lease requirements have been met. The lessee must exercise this option to purchase within 3 years from the date of renewal of his lease. Present lessees will not be required to exercise the option to purchase under existing leases but may do so if they wish. Lease rentals will remain the same as specified in the original order.

Group No. 2 is reclassified for direct sale at public auction. The time, date, and conditions of the sale will be set and publicized by the Manager of the Idaho Land Office.

The small tract classification is revoked with respect to Group No. 3 and the subdivisions included therein are reclassified for disposition under the Recreation or Public Purposes Act.

MICHAEL T. SOLAN,
Acting State Supervisor.

[F.R. Doc. 59-878; Filed, Feb. 2, 1959;
8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12621, 12622; FCC 59M-120]

JEANNETTE BROADCASTING CO. AND CARNEGIE BROADCASTING CO.

Order Continuing Hearing Conference

In re applications of John J. Keel and Lloyd W. Dennis, Jr., d/b as Jeannette Broadcasting Company, Jeannette, Pennsylvania, Docket No. 12621, File No. BP-11543; Hoyt C. Murphy and G. Russell Chambers, d/b as Carnegie Broadcasting Company, Carnegie, Pennsylvania, Docket No. 12622, File No. BP-11863; for construction permits.

The Hearing Examiner having under consideration "Petition for Extension of Time to Exchange Exhibits", filed January 23, 1959, on behalf of Jeannette Broadcasting Company and "Opposition to Petition for Extension of Time to Exchange Exhibits", filed January 27, 1959, on behalf of Carnegie Broadcasting Company;

It appearing that at a prehearing conference held in this proceeding on December 1, 1958, it was agreed to by all counsel that an exchange of exhibits herein should be accomplished on or before February 2, 1959;

It further appearing that the pleading of Jeannette Broadcasting Company requests an extension of 30 days from

February 2, 1959, for an exchange of exhibits herein;

It further appearing that the allegations in the pleadings heretofore referred to are in direct conflict and to a degree are argumentative in substance, therefore they cannot be reconciled as to certain facts and circumstances surrounding conversations and informal meetings relating to the exchange of exhibits herein;

It further appearing that it would be appropriate to extend the time for the exchange of exhibits between the parties for a reasonable period of time but not for 30 days as requested by Jeannette Broadcasting Company;

Accordingly it is ordered, This 28th day of January 1959, that the "Petition For Extension of Time to Exchange Exhibits" filed on behalf of Jeannette Broadcasting Company is hereby granted in part and denied in part to the extent that the exchange of exhibits between the parties shall be accomplished on or before February 17, 1959; And, it is further ordered, That the prehearing conference now scheduled for February 16, 1959, be, and the same is hereby, continued to February 26, 1959, 10:00 o'clock a.m., in the Commission's offices, Washington, D.C.

Released: January 28, 1959.

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

[F.R. Doc. 59-905; Filed, Feb. 2, 1959;
8:49 a.m.]

[Docket No. 12663]

FREDERICK FRANKLIN MOORE

Notice of Place of Hearing

In the matter of Frederick Franklin Moore, 6110 S. Orange Blossom Trail, Orlando, Florida, Docket No. 12663; suspension of radiotelephone first-class operator license.

The hearing on the above-entitled matter presently scheduled for Wednesday, February 11, 1959, will be held at 10:00 a.m., in the Old Council Room, Police Building, Orlando, Florida.

Dated: January 27, 1959.

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

[F.R. Doc. 59-906; Filed, Feb. 2, 1959;
8:49 a.m.]

[Docket No. 12664; FCC 59M-119]

RADIO KYNO, THE VOICE OF FRESNO (KYNO)

Order Continuing Hearing

In re application of Amelia Schuler, Lester Eugene Chenault and Bert Williamson d/b as Radio KYNO, The Voice of Fresno (KYNO), Fresno, California,

Docket No. 12664, File No. BP-11458; for construction permit.

The Hearing Examiner having under consideration a petition filed on January 26, 1959, by Radio KYNO, requesting that the date for the exchange of the proposed exhibits of the applicant (Radio KYNO) in the above-styled proceeding be continued from January 27, 1959, to February 19, 1959, and that the hearing date be continued from February 3, 1959, to February 26, 1959; and

It appearing that the requested continuances are based on the need for the additional time to complete the preparation and submission of additional engineering data to counsel for Radio KYNO and to hold informal conferences among all counsel prior to the commencement of the hearing; and

It further appearing that all other parties have informally consented to the granting of the subject petition and to a waiver of the 4-day requirement of § 1.43 of the rules; and

It further appearing that good cause for granting the petition has been shown;

Accordingly, it is ordered, This 27th day of January 1959, that the aforesaid petition of Radio KYNO is granted, and that the date for the exchange of proposed Radio KYNO exhibits is continued to February 19, 1959; and

It is further ordered, That the date for the hearing in this proceeding is continued from February 3, 1959, to Thursday, February 26, 1959, at 10:00 a.m.

Released: January 28, 1959.

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

[F.R. Doc. 59-907; Filed, Feb. 2, 1959;
8:49 a.m.]

[Docket No. 12735, etc.; FCC 59-38]

TEMPE BROADCASTING CO. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of W. H. Hansen, Robert William Hansen, and Clyde J. Barnes, d/b as Tempe Broadcasting Company, Tempe, Arizona, Docket No. 12735, File No. BP-11283; Richard B. Gilbert, Tempe, Arizona, Docket No. 12736, File No. BP-11887; David V. Harman, Tempe, Arizona, Docket No. 12737, File No. BP-12388; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 21st day of January 1959;

The Commission having under consideration the above-captioned applications of Tempe Broadcasting Company; Richard B. Gilbert; and David V. Harman, each for a construction permit for a new standard broadcast station to operate on 1580 kilocycles, daytime only, with power of 10 kilowatts, at Tempe, Arizona;

It appearing that, except as indicated by the issues specified below, each of the applicants is legally, financially, technically, and otherwise qualified to construct and operate its respective proposal, but that operation of the stations as proposed would result in mutually destructive interference; and

It further appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applicants were advised by letter dated November 7, 1958, of the aforementioned deficiency and that the Commission was unable to conclude that a grant at this time of any one of the applications would be in the public interest; and

It further appearing that each applicant filed a timely reply; and

It further appearing that, in view of the foregoing, the Commission is of the opinion that a hearing on the instant application is necessary:

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the instant proposals would best serve the public interest, convenience, and necessity in light of the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each of the instant applicants to own and operate its proposed station.

b. The proposals of each of the instant applicants with respect to the management and operation of its proposed station.

c. The programming service proposed by each of the instant applicants.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order; and

It is further ordered, That the issues in this proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give assurance that the proposals set forth in the application will be effectuated.

Released: January 23, 1959.

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

[F.R. Doc. 59-908; Filed, Feb. 2, 1959;
8:49 a.m.]

[Docket No. 12735, etc.; FCC 59M-105]

TEMPE BROADCASTING CO. ET AL.

Order Scheduling Hearing

In re applications of W. H. Hansen, Robert William Hansen, and Clyde J. Barnes, d/b as Tempe Broadcasting Company, Tempe, Arizona, Docket No. 12735, File No. BP-11283; Richard B. Gilbert, Tempe, Arizona, Docket No. 12736, File No. BP-11887; David V. Harman, Tempe, Arizona, Docket No. 12737, File No. BP-12388; for construction permits.

It is ordered, This 22d day of January 1959, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 25, 1959, in Washington, D.C.

Released: January 26, 1959.

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

[F.R. Doc. 59-909; Filed, Feb. 2, 1959;
8:49 a.m.]

[Docket No. 12739]

SOUTHEAST ALASKA MARINE TRANSPORT CO.

Order To Show Cause

In the matter of Southeast Alaska Marine Transport Co., 1111 Northern Life Tower, Seattle 1, Washington, Docket No. 12739; order to show cause why there should not be revoked the license for Radio Station WB-8462 aboard the vessel "Ruth Ann."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to section 308(b) of the Communications Act of 1934, as amended, the above-named licensee was requested to furnish a statement, under oath or affirmation, describing the means by which control of the subject radio station was retained by the licensee, within thirty days from the date of receipt of the Commission's letter dated November 17, 1958; and

It further appearing that the Commission's above-mentioned letter of November 17, 1958, was sent by Certified Mail—Return Receipt Requested (No. 97475); and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, L. Nolan, on November 24, 1958, to a Post Office Department return receipt; and

It further appearing that, although more than thirty (30) days have elapsed since the licensee's receipt of the Commission's letter, no response thereto has been received; and

It further appearing that, in view of the foregoing, the licensee has willfully violated section 308(b) of the Communications Act of 1934, as amended;

It is ordered, This 27th day of January 1959, pursuant to section 312(a)(4) and

(c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing¹ to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this Order by Certified Mail—Return Receipt Requested to the said licensee.

Released: January 29, 1959.

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

[F.R. Doc. 59-910; Filed, Feb. 2, 1959;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-13600]

PRODUCING PROPERTIES, INC., AND RAYMOND D. REYNOLDS

Notice of Application and Date of Hearing

JANUARY 27, 1959.

Take notice that Raymond D. Reynolds (Reynolds), an independent producer, resident of Houston, Texas, and Producing Properties, Inc. (Producing), an independent producer with an office in Dallas, Texas, filed on October 28, 1957, pursuant to section 7 of the Natural Gas Act, a joint application in Docket No. G-13600 for (1) a certificate of public convenience and necessity authorizing Producing to sell natural gas in interstate commerce to Tennessee Gas Transmission Company (Tennessee) for resale from certain acreage in the Decker's

¹ Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person, or by his attorney, file with the Commission, within thirty (30) days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. If the licensee fails to file such an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty (30) days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty (30) days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

Prairie Area, Harris and Montgomery Counties, Texas, subject to the jurisdiction of the Commission, and (2) if required, authorization permitting Reynolds to abandon the sale of natural gas to Tennessee, subject to the jurisdiction of the Commission, as covered by the basic sales contract of February 10, 1954, with Tennessee, and made the subject of certificate authorization by the Commission as reflected in its order issued March 6, 1956. In the Matters of Sokla Gasoline Company et al., Docket No. G-6100 et al. in which proceeding in Docket No. G-6209 Reynolds, together with signatory parties, Jim Talley, R. D. Simonon, W. A. Steinmann, and E. F. Lingle were authorized to render service to Tennessee under the gas sales contract of February 10, 1954, all as more fully appears in the joint application filed with the Commission, and open for public inspection.

The joint application recites that Producing will continue to render service to Tennessee previously rendered by Reynolds.

Reynolds, by instrument of assignment dated October 29, 1957, effective September 1, 1957, assigned his interest in the subject acreage to Producing subject to production payment reservations by him. The subject gas sales contract has been redesignated as and is presently on file with the Commission as Producing Properties, Inc., et al., FPC Gas Rate Schedule No. 4 and the assignment as Supplement No. 5 thereto.

This matter is one that should be 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 February 25, 1959, at 9:30 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 such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of 11.30(c)(1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

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 February 18, 1959. 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 therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-870; Filed, Feb. 2, 1959; 8:45 a.m.]

No. 23—4

[Docket No. G-15394 etc.]

TRUNKLINE GAS CO. ET AL.

Order Amending Order Reconvening Hearing

JANUARY 27, 1959.

In the matters of Trunkline Gas Company, Docket No. G-15394; Pan American Petroleum Corporation, Docket No. G-15438; Phillips Petroleum Company, Docket No. G-15471; Phillips Petroleum Company, Docket No. G-15472; Union Oil Company of California, Docket No. G-15485; Union Oil Company of California, Docket No. G-15486; Union Oil Company of California, Docket No. G-15487; Michigan Gas Storage Company, Docket No. G-15827; The Superior Oil Company, Docket No. G-16147; Nicklos Oil & Gas Company, Docket No. G-16222; Tidewater Oil Company, Docket No. G-16267; Pan American Petroleum Corporation, Docket No. G-16501; Pan American Petroleum Corporation, Docket No. G-16502; J. S. Michael Company, Docket No. G-16551; J. S. Michael, Docket No. G-16570.

On December 23, 1958, an order was issued in the above docketed consolidated proceedings reconvening the hearing and specifying procedure. Said order provided that at the reconvened hearing, on February 2, 1959, the staff of the Commission would present such evidence upon the issues presented herein as it deems necessary, and upon the completion of the receipt of such direct evidence, the Presiding Examiner would recess the hearing until February 9, 1959, at which session cross-examination of the staff witnesses would proceed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and in the public interest, that said order, issued on December 23, 1958, be amended as hereinafter ordered.

The Commission orders:

(A) Paragraph (C) of the order, issued on December 23, 1958, in these consolidated proceedings, be and the same is hereby amended to read as follows:

(C) The procedure at the reconvened hearing shall be as follows: The staff of the Commission shall present such evidence upon the issues presented herein as it deems necessary at the hearing on February 2, 1959, and immediately following the receipt of such direct evidence, cross-examination of the staff witnesses shall forthwith proceed in a manner to be prescribed by the Presiding Examiner. Following cross-examination of the witnesses for the staff, recesses, if any, taken for the preparation and presentation of rebuttal evidence shall be at the discretion of the Presiding Examiner.

(B) In all other respects the order issued December 23, 1958, herein shall remain in full force and effect.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-871; Filed, Feb. 2, 1959; 8:45 a.m.]

[Docket No. G-16396]

SUN OIL CO.

Order Changing Designation of Proceedings

JANUARY 27, 1959.

Sun Oil Company (Operator) et al. (Sun) on December 9, 1958, submitted a motion requesting that the designation of this proceeding be changed from "Sun Oil Company (Operator), et al." to "Sun Oil Company". Texaco Seaboard, Inc., the former signatory non-operating co-owner, has made rate schedule filings, designated as its FPC Gas Rate Schedule No. 25 and Supplements thereto, for the sale of its own gas. Accordingly, Sun's FPC Gas Rate Schedule No. 100, as supplemented, which is herein involved, now governs the sale of only gas owned by Sun.

The Commission finds: Good cause has been shown for redesignating this proceeding as "In the Matter of Sun Oil Company".

The Commission orders: This proceeding is hereby redesignated as "In the Matter of Sun Oil Company".

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-872; Filed, Feb. 2, 1959; 8:45 a.m.]

[Docket No. G-16434]

CITY OF BAYARD, NEBRASKA v. NORTH CENTRAL GAS CO.

Notice of Complaint and Date of Hearing

JANUARY 27, 1959.

Take notice that the City of Bayard, Nebraska (Bayard), filed on September 25, 1958, a complaint against North Central Gas Company (North Central), a Wyoming corporation, having its principal place of business at 441 South Center Street, Casper, Wyoming, requesting that the Commission find that it has jurisdiction under sections 1(b), 2(6), 4(a) and 7(a) of the Natural Gas Act to order North Central to sell gas at wholesale to Bayard after Bayard acquires North Central's local gas distribution system, and to set the rates for such sale; and requesting that the Commission, under section 7(a) of the Natural Gas Act direct North Central to supply gas to Bayard after acquisition by Bayard of the local gas distribution system, either as it is presently being supplied or by making provision for serving Bayard with Wyoming gas through the pipeline west of Bayard; and further, that the Commission fix a rate which is just and reasonable under section 4(a) of the Natural Gas Act for any gas which it may order to be sold, all as more fully represented in said complaint, which is on file with the Commission and open for public inspection.

Bayard alleges that its residents are supplied with natural gas by North Central which engages both in the transportation in interstate commerce of gas by

pipeline from the gas fields to Bayard and in the local distribution of gas within the city limits of Bayard.

Bayard alleges that in a city election held on April 3, 1956, a majority of the voters voted for purchase of said gas system; that upon inquiry by Bayard, North Central indicated that it would not supply gas to Bayard after it takes over the local distribution system.

Bayard further alleges that it obtained an order of the Nebraska Railway Commission requiring North Central to show cause why it should not be required to serve Bayard with gas at wholesale at rates fixed by the Railway Commission, but on appeal the Nebraska Supreme Court held that North Central is not within the jurisdiction of the Railway Commission.

Bayard alleges that North Central has taken the position that it is not subject to Federal Power Commission jurisdiction.

Bayard alleges that the North Central pipeline supplying Bayard with gas runs along the North Platte River extending both to the east and west of Bayard; that this pipeline extends west of Bayard to the Sand Drew Field in the State of Wyoming and that when pressure conditions so require Bayard is served with gas originating in Wyoming.

Bayard alleges on information and belief that some of the gas which may reach Bayard from either of two north-south pipelines operated by North Central originates in the State of Colorado.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 1, 2, 4, 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 2, 1959, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., concerning the matters involved in and the issues presented by such application.

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 February 19, 1959.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-873; Filed, Feb. 2, 1959;
8:45 a.m.]

[Docket No. G-17591]

BRADLEY PRODUCING CORP.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 27, 1959.

The Bradley Producing Corporation (Bradley), on January 2, 1959, tendered for filing a proposed change in his presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 29, 1958.

Purchaser: Natural Gas Pipeline Company of America.

Rate schedule designation: Supplement No. 2 to Bradley's FPC Gas Rate Schedule No. 2.

Effective date: February 2, 1959 (stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, Bradley states that periodic price escalation provisions are common in long-term gas sales contracts, permit initial deliveries of gas at low price levels during which time buyer's unamortized capital investment is high, and provide added revenues contemporaneously with higher costs.

The increased rate and charge so proposed has 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 Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 2 to Bradley's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Bradley's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 2, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

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

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-874; Filed, Feb. 2, 1959;
8:45 a.m.]

[Docket No. G-17592]

CHRISTIE, MITCHELL AND MITCHELL CO.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 27, 1959.

Christie, Mitchell and Mitchell Company (Christie) on January 2, 1959,

tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 31, 1958.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 7 to Christie's FPC Gas Rate Schedule No. 4.

Effective date: February 2, 1959 (stated effective date is the first day after the expiration of the required thirty days' notice).

In support of the proposed increase in rate, Christie calls attention to the re-determination clause in its contract; states the contract was negotiated at arm's length; and alleges that the proposed rate is fair and reasonable and will produce only a reasonable return on the investment.

The increased rate and charge so proposed has 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 proposed change, and that Supplement No. 7 to Christie's FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Christie's FPC Gas Rate Schedule No. 4.

(B) Pending hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until July 2, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

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

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

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-875; Filed, Feb. 2, 1959;
8:45 a.m.]

[Docket No. G-17599]

TIDEWATER OIL CO. ET AL.

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Changed Rate To Become Effective

JANUARY 27, 1959.

Tidewater Oil Company (Operator) et al. (Tidewater) on December 29, 1958, tendered for filing a proposed change in its presently effective rate schedule¹ for sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 24, 1958.

Purchaser: Transcontinental Gas Pipe Line Corporation.

Rate schedule designation: Supplement No. 3 to Tidewater's FPC Gas Rate Schedule No. 62.

Effective date: January 29, 1959 (stated effective date is the first day after the required thirty days' notice).

In support of the proposed increased rate and charge, Tidewater has interpreted the tax provisions of the aforementioned rate schedule to the effect that the tax reimbursement for the increase in the Louisiana severance tax will be at the same level that Tidewater received for the Louisiana gathering tax. This interpretation appears to be questionable and should be determined after hearing.

The increased rate and charge so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) 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 change, and that the above-designated supplement be suspended and the use deferred as herein after ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Tidewater be required to file an undertaking as herein after ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Tidewater's FPC Gas Rate Schedule No. 62.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until January 30, 1959, and thereafter until

¹ Rates in effect subject to refund in Docket No. 15621.

such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement shall be effective on January 30, 1959: *Provided, however*, That within 20 days from the date of this order Tidewater shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Tidewater shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Tidewater until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Tidewater so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sale to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance hereof, Tidewater shall execute and file in triplicate with the Secretary of the Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Tidewater Oil Company (Operator) et al. To Conform With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued in Docket No. G-17599, Tidewater Oil Company hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of _____.

TIDEWATER OIL COMPANY

By _____

Attest:

As a further condition of this order Tidewater shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Tidewater is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Tidewater shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) 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.

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

By the Commission.

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-876; Filed, Feb. 2, 1959; 8:45 a.m.]

[Docket No. G-9554 etc.]

HASSIE HUNT TRUST

Amendments to Order Severing and Terminating Proceedings

JANUARY 26, 1959.

In the matter of Hassie Hunt Trust; Docket No. G-9554, G-11123, G-11906, G-13472 and G-13529.

In the Order Severing Proceedings And Terminating Proceedings, issued January 12, 1959, and published in the FEDERAL REGISTER on January 17, 1959 (24 F.R. 442), correct the third sentence of the second paragraph to read:

"Hassie Hunt sells the gas to Texas Eastern Transmission Corporation under its FPC Gas Rate Schedule No. 4, to Texas Gas Transmission Corporation under its FPC Gas Rate Schedule No. 20 and to Louisiana Nevada Transit Company under its FPC Gas Rate Schedule No. 14".

Also correct lines 8 and 9 of the 8th paragraph on page 2 to read: "Texas Gas Transmission Corporation under Rate Schedule No. 20" instead of "Texas Eastern Transmission Corporation under Rate Schedule No. 20".

[SEAL]

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-898; Filed, Feb. 2, 1959; 8:48 a.m.]

[Docket No. G-17269 etc.]

AMERICAN PETROFINA CO. OF
TEXAS ET AL.

Amendment to Order for Hearings and Suspending Proposed Changes in Rates

JANUARY 27, 1959.

In the matter of American Petrofina Company of Texas et al; Docket Nos. G-17269, et al; Gulf Oil Corporation, Docket No. G-17290.

In the Order For Hearings And Suspending Proposed Changes In Rates, is-

sued December 30, 1958, and published in the FEDERAL REGISTER on January 7, 1959 (24 F.R. 178), line "34" under "Rate Schedule" change "Supplement No. 5" to "Supplement No. 6".

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-899; Filed, Feb. 2, 1959;
8:48 a.m.]

[Docket No. G-17431]

HASSIE HUNT TRUST

Amendment to Order for Hearing and Suspending Proposed Change in Rates

JANUARY 23, 1959.

In the Order For Hearing And Suspending Proposed Change In Rate, issued January 9, 1959, and published in the FEDERAL REGISTER on January 16, 1959 (24 F.R. 406), please change the last sentence of the 2d paragraph to read "This interpretation appears to be questionable and should be determined at the hearing."

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-900; Filed, Feb. 2, 1959;
8:48 a.m.]

[Docket No. G-17330]

EAST TENNESSEE NATURAL GAS CO.

Amendment to Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets and Allowing Certain Tariff Sheets To Become Effective

JANUARY 27, 1959.

In the Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets And Allowing Certain Other Revised Tariff Sheets To Become Effective, issued December 24, 1958, and published in the FEDERAL REGISTER on January 3, 1959 (24 F.R. 75), change the first line of the second paragraph from "September 28, 1958", to read "November 28, 1958".

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-901; Filed, Feb. 2, 1959;
8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MONTANA AND SOUTH DAKOTA

Designation of Counties Within Great Plains Area of Ten Great Plains States Where Great Plains Conservation Program is Specifically Applicable

For the purpose of making contracts based upon an approval plan of farming operations pursuant to the Act of August 7, 1956 (70 Stat. 1115-1117), the following counties of the following States are designated as susceptible to serious wind

erosion by reason of their soil types, terrain, and climatic and other factors.

Daniels MONTANA Prairie
SOUTH DAKOTA
Hyde

Done at Washington, D.C., this 29th day of January 1959.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F.R. Doc. 59-913; Filed, Feb. 2, 1959;
8:49 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

EMILIO BERGER

Notice of Intention to Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mr. Emilio Berger, 654 Rodolfo Rutte, Magdalena del Mar, Peru; Claim No. 61683; \$1,714.79 in the Treasury of the United States. Vesting Order No. 17800.

Executed at Washington, D.C., on January 27, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-896; Filed, Feb. 2, 1959;
8:48 a.m.]

AGNESE TAVASCI ET AL.

Notice of Intention To Return Vested Property

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Agnese Tavaschi, \$200.00 in the Treasury of the United States.
Angelo Gino Tavaschi, \$600.00 in the Treasury of the United States.
Elena Tavaschi, \$240.00 in the Treasury of the United States.
Elvira Tavaschi, \$240.00 in the Treasury of the United States.
Giacomo Tavaschi, \$200.00 in the Treasury of the United States.
Giovanni Battista Tavaschi, \$600.00 in the Treasury of the United States.
Giovannina Tavaschi, \$240.00 in the Treasury of the United States.

Lia Tavaschi, \$200.00 in the Treasury of the United States.

Margherita Lina Tavaschi, \$200.00 in the Treasury of the United States.

Maria Clotilde (Tilda) Tavaschi, \$1200.00 in the Treasury of the United States.

Maria Giuseppina Tavaschi, \$1200.00 in the Treasury of the United States.

Maria Pasqualina Tavaschi, \$300.00 in the Treasury of the United States.

Salvatore Tavaschi, \$240.00 in the Treasury of the United States.

Santino Tavaschi, \$240.00 in the Treasury of the United States.

Albino Pedeferrri, \$66.67 in the Treasury of the United States.

Antonio Pedeferrri, \$66.67 in the Treasury of the United States.

Giuseppe Pedeferrri, \$66.66 in the Treasury of the United States.

All of the above-named claimants reside in Gordona, Italy.

Claim No. 40300. Vesting Order No. 1144.

Executed at Washington, D.C., on January 27, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-897; Filed, Feb. 2, 1959;
8:48 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

ADMINISTRATIVE OFFICER

Delegation of Authority to Execute Acknowledgments of Conveyances or Other Instruments

Pursuant to Public Law 358, 83d Congress (33 U.S.C. 981, et. seq.) creating the Saint Lawrence Seaway Development Corporation, and vesting the management of the Corporation in the Administrator thereof, I hereby authorize the Administrative Officer of the Corporation to execute acknowledgments of conveyances or other instruments by the Corporation. This delegation of authority is effective as of January 1, 1959.

LEWIS G. CASTLE,
Administrator.

[F.R. Doc. 59-882; Filed, Feb. 2, 1959;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 80]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 29, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant

to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61686. By order of January 26, 1959, the Transfer Board approved the transfer to H. E. Hudgins, doing business as Mobjack Trucking, Cobb's Creek, Va., of a portion of Certificates Nos. MC 61620 and MC 61620 Sub 11, issued June 10, 1949 and October 2, 1957, respectively, to H. E. Hudgins and C. Douglas Thomas, doing business as M. & G. Transportation, Cobb's Creek, Va., authorizing the transportation of: General commodities, excluding household goods and other specified commodities, from Norfolk and Portsmouth, Va., to points in Mathews and Gloucester Counties, Va., and from points in Mathews and Gloucester Counties, Va., to Norfolk, Va., as restricted. S. Harrison Kahn, 726 Investment Building, Washington, D.C., for applicants.

No. MC-FC 61695. By order of January 23, 1959, the Transfer Board approved the transfer to Harry E. Culbertson and Harry E. Culbertson, Jr., doing business as Harry E. Culbertson, Philadelphia, Pa., of Certificate No. MC 35756, issued December 30, 1952, to Arthur W. Culbertson and Harry E. Culbertson, doing business as Harry E. Culbertson, Philadelphia, Pa., authorizing the transportation of: New and used furniture, interior decorations, advertising and window displays, pictures, statues, electrical materials, window cleaning materials and supplies, materials and supplies used or useful in renovating and pointing stone, brick, and terra cotta, flowers and plants, building materials and supplies, new office equipment and stationery supplies, heating supplies, elevators, materials and supplies used or useful in the installation and repair of elevators, lumber used in the crating of pictures and statues, and printing materials and supplies, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., points in Pennsylvania within 25 miles of Philadelphia, those in New Jersey, and those in the New York, N.Y., Commercial Zone.

No. MC-FC 61741. By order of January 23, 1959, the Transfer Board approved the transfer to John J. Conrad, doing business as Conrad Transfer & Storage Co., Terre Haute, Ind., of Certificate No. MC 104047 issued August 27, 1943, to Vern Bennett, doing business as Bennett's Transfer, Clinton, Ind., authorizing the transportation of household goods as defined by the Commission, over irregular routes, from Clinton, Ind., to points in Illinois, Kentucky, Ohio, and the lower peninsula of Michigan; from points in Illinois, Kentucky, Ohio, and the lower peninsula of Michigan to points in Indiana; and return, with no transportation for compensation except as otherwise authorized, to the above-specified origin points. Fred A. Wiecking, 130 East Washington Street, Indianapolis, Ind., for applicants.

No. MC-FC 61748. By order of January 23, 1959, the Transfer Board approved the transfer to Block & Rose, Inc., New York, N.Y., of certificates in Nos. MC 22562 and MC 22562 Sub 4, issued May 14, 1951, and May 31, 1951, respectively, to Louis Destefanis, doing business as Acme Van Company, New York, authorizing the transportation of new furniture, over irregular routes, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., points in Connecticut and New Jersey, and those in Pennsylvania within 60 miles of Philadelphia; and from New York, N.Y., to points in New York. Irving Abrams, Brodsky and Lieberman, 1776 Broadway, New York, N.Y.

No. MC-FC 61778. By order of January 23, 1959, the Transfer Board approved the transfer to Curtis S. Barclay and Jack Edwards, a Partnership, doing business as Western Trucking, of the operating rights in Certificate No. MC 100077, issued November 7, 1957, to Jimmie Porcher, doing business as Porcher Trucking Company, authorizing the transportation, over irregular routes, of ore, from points of production in Sierra and Grant Counties, N. Mex., to nearest railroad points in said counties, livestock, from points in six New Mexico counties, not served by railroads, livestock feedstuffs, from El Paso and Tornillo, Tex., to points in the said six counties not served by railroad, livestock, between the same six counties, in New Mexico, on the one hand, and, on the other, nearest railroad points in said counties. Bert E. Newland, P.O. Box 152, Deming, N. Mex.

No. MC-FC 61786. By order of January 23, 1959, the Transfer Board approved the transfer to Kobylaski Trucking Corp., Pine Island, New York, of certificates in Nos. MC 105755 Sub 2, MC 105755 Sub 4, and MC 105755 Sub 5, issued April 11, 1947, November 4, 1948, and May 6, 1949, respectively, to Michael Kobylaski, doing business as M. K. Trucking, Pine Island, New York, authorizing the transportation of milk and creamery products from Slate Hill, N.Y., to specified points in New Jersey, and empty containers for such commodities on the return trip. Martin Werner, 295 Madison Avenue, New York 17, N.Y.

[SEAL]

HAROLD D. McCoy,
Secretary.[F.R. Doc. 59-892; Filed, Feb. 2, 1959;
8:47 a.m.]

[Rev. S.O. 562; Taylor's I.C.C. Order 96]

MONON RAILROAD Rerouting Traffic

In the opinion of Charles W. Taylor, Agent, the Monon Railroad, because of

bridge damage due to flood conditions, is unable to transport traffic routed over the French Lick branch between Orleans and French Lick, Indiana.

It is ordered, That:

(a) *Rerouting traffic.* The Monon Railroad, and its connections, are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The carriers rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) *Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.*

(e) *In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with the pertinent authority conferred upon it by the Interstate Commerce Act.*

(f) *Effective date.* This order shall become effective at 8:00 a.m., January 28, 1959.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 10, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Federal Register Division.

Issued at Washington, D.C., January 28, 1959.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 59-893; Filed, Feb. 2, 1959;
8:47 a.m.]



