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TITLE 7—AGRICULTURE

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

PART 903—MILK IN THE ST. LOUIS, MO., MARKETING AREA

ORDER SUSPENDING CERTAIN PROVISIONS

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) hereinafter referred to as the "act," and of the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area (7 CFR Part 903) hereinafter referred to as the "order," it is hereby found and determined that the following provisions of § 903.43 (d) (1) of the order do not tend to effectuate the declared policy of the act with respect to all milk subject to the provisions of the order during the period from the effective date hereof through June 1953: "in the counties of Barry, Cedar, Christian, Dallas, Dent, Greene, Howell, Laclede, Lawrence, Miller, Morgan, Newton, Pettis, Phelps, Polk, Pulaski, Texas, Webster, Wright."

Milk production for the St. Louis market is now abnormally high. The plants to which producer milks is normally transferred or diverted for manufacture do not have adequate facilities for handling the large quantities of surplus milk currently being produced for the St. Louis market. The order now provides that milk transferred or diverted more than 110 miles from the St. Louis City Hall or to plants outside specified counties in the production area shall be classified as Class I. The suspension of some of these provisions for the spring months of this year will enable St. Louis handlers to transfer or divert milk for manufacture to plants beyond these limits within the State of Missouri and classify such surplus milk as Class II.

It is hereby found and determined that notice of proposed rule making and public procedure thereon in connection with the issuance hereof is impracticable, unnecessary, and contrary to the public interest, in that (1) the information upon which this action is based did not

become available in sufficient time for such compliance, and (2) this action is necessary so that the order will reflect current marketing conditions and facilitate, promote and maintain the orderly marketing of milk produced for the said marketing area. The changes caused by this suspension action do not require of persons affected any preparation which cannot be completed before the effective date hereof. Accordingly, it is hereby found that good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the following provisions of § 903.43 (d) (1) of the order be and hereby are suspended from the effective date hereof through June 1953: "in the counties of Barry, Cedar, Christian, Dallas, Dent, Greene, Howell, Laclede, Lawrence, Miller, Morgan, Newton, Pettis, Phelps, Polk, Pulaski, Texas, Webster, Wright"

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 603c)

Issued at Washington, D. C., this 30th day of April 1953, to be effective on and after the date of publication in the FEDERAL REGISTER.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-3925; Filed, May 1, 1953; 10:01 a. m.]

[Lemon Reg. 483]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.590 *Lemon Regulation 483*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 14 F. R. 3612) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and or-

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der, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as provided in this section, 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 section until 30 days after publication thereof 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 section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on April 29, 1953; such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time of the section.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., May 3, 1953, and ending at 12:01 a. m., P. s. t., May 10, 1953, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 450 carloads;
 - (iii) District 3: Unlimited movement.
- (2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2" and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

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

Done at Washington, D. C., this 30th day of April 1953.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable
Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE
DISTRICT NO. 2

[Storage date: Apr. 26, 1953]

[12:01 a. m. May 3, 1953, to 12:01 a. m. May 17, 1953]

Handler	Prorate base (percent)
Total	100.000
American Fruit Growers, Inc., Corona	.780
American Fruit Growers, Inc., Fullerton	1.117
American Fruit Growers, Inc., Upland	.562
Consolidated Lemon Co.	1.773
Hazeltine Packing Co.	.618
Ventura Coastal Lemon Co.	1.453
Ventura Pacific Co.	1.519
Chula Vista Mutual Lemon Association	.579
Index Mutual Association	.546
La Verne Cooperative Citrus Association	3.082
Ventura County Orange & Lemon Association	1.887
Glendora Lemon Growers Association	2.353
La Verne Lemon Association	.867
La Habra Citrus Association	2.230
Yorba Linda Citrus Association, The	1.043
Escondido Lemon Association	3.565
Cucamonga Mesa Growers	2.145
Etiwanda Citrus Fruit Association	.466
San Dimas Lemon Association	2.667
Upland Lemon Growers Association	8.602
Central Lemon Association	1.219
Irvine Citrus Association	.818
Placentia Mutual Orange Association	1.513
Corona Citrus Association	.639
Corona Foothill Lemon Co.	3.039
Jameson Co.	1.326
Arlington Heights Citrus Co.	1.678
College Heights Orange & Lemon Association	3.247
Chula Vista Citrus Association, The	.623
Escondido Cooperative Citrus Association	.278
Fallbrook Citrus Association	2.336
Lemon Grove Citrus Association	.581
Carpinteria Lemon Association	1.264
Carpinteria Mutual Citrus Association	1.355
Goleta Lemon Association	2.240
Johnston Fruit Co.	3.279
North Whittier Heights Citrus Association	1.126
San Fernando Heights Lemon Association	2.873
Sierra Madre-Lamanda Citrus Association	1.229
Briggs Lemon Association	1.678
Culbertson Lemon Association	.825
Fillmore Lemon Association	1.767
Oxnard Citrus Association	3.551
Rancho Sespe	1.332
Santa Clara Lemon Association	2.433
Santa Paula Citrus Fruit Association	2.740
Santicoy Lemon Association	1.828
Seaboard Lemon Association	3.500
Somis Lemon Association	2.834
Ventura Citrus Association	.796
Ventura County Citrus Association	.273
Limonera Co.	2.220
Teague-McKevett Association	.641
East Whittier Citrus Association	1.026
Murphy Ranch Co.	2.170

PRORATE BASE SCHEDULE—Continued
DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Dunning Ranch	0.600
Far West Produce Distributors	.048
Huarte, Joseph D.	.013
Latimer, Harold	.048
Paramount Citrus Association, The	.706
Santa Rosa Lemon Co.	.223
Torn Ranch	.001

[F. R. Doc. 53-3922; Filed, May 1, 1953; 8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 34]

PART 610—MINIMUM EN ROUTE INSTRUMENT ALTITUDES

ALTERATIONS

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

Part 610 is amended as follows:
1. Section 610.16 *Green civil airway No. 6* is amended to read in part:

From—	To—	Minimum altitude
Atlanta, Ga. (LFR)	Avondale (INT), Ga.	2,500

2. Section 610.18 *Green civil airway No. 8* is amended to read in part:

From—	To—	Minimum altitude
Cold Bay, Alaska (LFR)	King Salmon, Alaska (LFR)	10,000

3. Section 610.106 *Amber civil airway No. 6* is amended to read in part:

From—	To—	Minimum altitude
Atlanta, Ga. (LFR)	Smyrna (INT), Ga.	3,000

4. Section 610.210 *Red civil airway No. 10* is amended to read in part:

From—	To—	Minimum altitude
Tallahassee (INT), Ga.	Campbellton, Ga. (LFR)	2,700
Campbellton, Ga. (LFR)	Atlanta, Ga. (LFR)	2,700
Aiken, S. C. (LFR/RBN)	Charleston, S. C. (LFR)	1,500

RULES AND REGULATIONS

5. Section 610.244 *Red civil airway No. 44* is amended to read in part:

From—	To—	Minimum altitude
Bellingham, Wash. (LFR).	Cultus Lake (INT), British Columbia.	1 8,600

¹ For that airspace over United States territory.

6. Section 610.625 *Blue civil airway No. 25* is amended to read in part:

From—	To—	Minimum altitude
Hinchinbrook, Alaska (LFR). ¹	Gulkana, Alaska (LFR).	9,500

¹ 7,400'—Minimum crossing altitude at Hinchinbrook (LFR), northeastbound.

7. Section 610.646 *Blue civil airway No. 46* is amended to read:

From—	To—	Minimum altitude
Memphis, Tenn. (LFR).	Dyersburg, Tenn. (LFR/RBN).	2,000
Dyersburg, Tenn. (LFR/RBN).	Paducah, Ky. (LFR/RBN).	1,500

8. Section 610.6004 *VOR civil airway No. 4* is amended to eliminate:

From—	To—	Minimum altitude
Cherokee, Wyo. (VOR), Dir. or N. alter.	Rock River, Wyo. (VOR), Dir. or N. alter. ¹	12,000
Rock River, Wyo. (VOR).	Laramie, Wyo. (VOR). ²	11,000

¹ 12,000'—Minimum crossing altitude at Rock River (VOR), westbound.
² 10,000'—Minimum crossing altitude at Laramie, eastbound.

9. Section 610.6006 *VOR civil airway No. 6* is amended to read in part:

From—	To—	Minimum altitude
Reno, Nev. (VOR).....	Lovelock, Nev. (VOR)	10,000

10. Section 610.6006 *VOR civil airway No. 6* is amended by adding:

From—	To—	Minimum altitude
Sacramento, Calif. (VOR), via S. alter.	West Point (INT), Calif., via S. alter. ¹ (Eastbound).....	8,000
	(Westbound).....	5,000
West Point (INT), Calif., via S. alter.	Reno, Nev. (VOR), via S. alter. ²	13,000

¹ 10,000'—Minimum crossing altitude at West Point (INT), northeastbound.
² 12,000'—Minimum crossing altitude at Reno (VOR), southwestbound.

11. Section 610.6020 *VOR civil airway No. 20* is amended by adding:

From—	To—	Minimum altitude
Evergreen, Ala. (VOR).	Montgomery, Ala. (VOR).	1,500

12. Section 610.6023 *VOR civil airway No. 23* is amended by adding:

From—	To—	Minimum altitude
Delta (INT), Calif.	Redding, Calif. (FM), southeastbound only.	7,000
Int. Sacramento, Calif. (VOR), rad. 342° T and E crs. Williams, Calif. (LFR).	Sacramento, Calif. (VOR), southeastbound only.	2,000

13. Section 610.6113 *VOR civil airway No. 113* is amended to read in part:

From—	To—	Minimum altitude
Modesto, Calif. (VOR) ¹	West Point (INT), Calif. ²	8,000
West Point (INT), Calif.	Reno, Nev. (VOR). ³	13,000

¹ 4,000'—Minimum crossing altitude at Modesto (VOR) northeastbound.
² 10,000'—Minimum crossing altitude at West Point (INT), northeastbound.
³ 12,000'—Minimum crossing altitude at Reno (VOR), southwestbound.

14. Section 610.6115 *VOR civil airway No. 115* is added to read:

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

15. Section 610.6118 *VOR civil airway No. 118* is amended by adding:

From—	To—	Minimum altitude
Rock River, Wyo. (VOR).	Laramie, Wyo. (VOR)	11,000

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

These rules shall become effective May 5, 1953.

[SEAL]

F. B. LEE,
*Acting Administrator of
 Civil Aeronautics.*

[F. R. Doc. 53-3777; Filed, May 1, 1953; 8:45 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NONRESIDENT BROKERS OR DEALERS AND BY NONRESIDENT GENERAL PARTNERS OR MANAGING AGENTS OF BROKERS OR DEALERS

Purpose of rule. The Securities and Exchange Commission has adopted a rule which requires each nonresident broker or dealer registered or applying for registration and each nonresident general partner or "managing agent" of an unincorporated broker or dealer registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against nonresident broker-dealers or nonresident partners who should be joined as parties where it is impossible to obtain service upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident broker-dealers and resident partners of such firms.

The Commission's notice that it was considering the adoption of this type of rule was published on November 13, 1952. The rule as proposed was not limited in its application to actions which accrued after the effective date of the rule. Comments on the proposal pointed out, however, that it might encourage a number of stale lawsuits, and that unless the application of the rule were limited many nonresident broker-dealers would be reluctant to register because they would not know to what civil liabilities they might subject themselves. The Commission agreed that a limitation was appropriate and when adopting the rule limited its application to causes of action which accrue on or after the effective date of the rule.

The Commission also adopted forms to be used for filing the irrevocable consent to service required under the rule: Form 7-M, to be used by an individual nonresident broker or dealer; Form 8-M for a corporation nonresident broker or dealer (a duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent, etc. must be filed with this in the form prescribed) Form 9-M, for a partnership nonresident broker or dealer; and Form 10-M for a nonresident general partner of a broker-dealer firm. An unincorporated nonresident broker or dealer not organized as a partnership will use Form 8-M with appropriate revisions; and a nonresident "managing agent" of such an unincorporated broker or dealer will use Form 10-M with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

Under the provisions of the rule a nonresident broker or dealer already registered, and each nonresident general partner or "managing agent" of an unincorporated broker or dealer already registered, must file the necessary forms not later than July 31, 1953.

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940, particularly section 38 (a) thereof, and the Investment Advisers Act of 1940, particularly section 211 (a) thereof. The Commission hereby amends the title of Article 6 of the general rules and regulations under the Securities Act of 1933 to read: "Rules of General Applicability" and designates this rule to be Rule 172 under the Securities Act of 1933, Rule X-15B-7 under the Securities Exchange Act of 1934, Rule T-O-9 under the Trust Indenture Act of 1939, Rule N-6 under the Investment Company Act of 1940, and Rule R-1 under the Investment Advisers Act of 1940. The Com-

mission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

The text of the rule is as follows:

§ 230.172 *Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.* (a) Each nonresident broker or dealer registered or applying for registration pursuant to section 15 (b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each nonresident broker or dealer registered at the time this section becomes effective, and each nonresident general partner or managing agent of an unincorporated broker or dealer registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each broker or dealer applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents and powers of attorney required to be furnished by such broker or dealer and by each general partner or managing agent thereof: *Provided, however,* That where an application for registration of a broker or dealer is pending at

the time this section becomes effective such consents and powers of attorney shall be furnished within 36 days after this section becomes effective.

(3) Each broker or dealer registered or applying for registration who or which becomes a nonresident broker or dealer after the effective date of this section, and each general partner or managing agent, of an unincorporated broker or dealer registered or applying for registration, who becomes a nonresident after the effective date of this section, shall furnish such consent and power of attorney within 30 days thereafter.

(c) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "broker" shall have the meaning set out in section 3 (a) (4) of the Securities Exchange Act of 1934.

(2) The term "dealer" shall have the meaning set out in section 3 (a) (5) of the Securities Exchange Act of 1934.

(3) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(4) The term "nonresident broker or dealer" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(5) A general partner or managing agent of a broker or dealer shall be deemed to be a nonresident if he resides in any place not subject to the jurisdiction of the United States.

Said rule shall become effective June 1, 1953.

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77s. Interprets or applies sec. 23, 48 Stat. 801, as amended, sec. 319, 53 Stat. 1173, secs. 33, 211, 54 Stat. 841, 855; 17 U. S. C. 73w, 77c, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3262; Filed, May 1, 1953; 8:47 a. m.]

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

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NONRESIDENT BROKERS OR DEALERS AND BY NONRESIDENT GENERAL PARTNERS OR MANAGING AGENTS OF BROKERS OR DEALERS

Purpose of rule. The Securities and Exchange Commission has adopted a rule which requires each nonresident broker or dealer registered or applying for registration and each nonresident general partner or "managing agent" of an unincorporated broker or dealer registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against nonresident broker-dealers or nonresident partners who should be joined as parties where it is impossible to obtain service upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident broker-dealers and resident partners of such firms.

The Commission's notice that it was considering the adoption of this type of rule was published on November 13, 1952. The rule as proposed was not limited in its application to actions which accrued after the effective date of the rule. Comments on the proposal pointed out, however, that it might encourage a number of stale lawsuits, and that unless the application of the rule were limited many nonresident broker-dealers would be reluctant to register because they

would not know to what civil liabilities they might subject themselves. The Commission agreed that a limitation was appropriate and when adopting the rule limited its application to causes of action which accrue on or after the effective date of the rule.

The Commission also adopted forms to be used for filing the irrevocable consent to service required under the rule: Form 7-M, to be used by an individual nonresident broker or dealer; Form 8-M for a corporation nonresident broker or dealer (a duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent, etc. must be filed with this in the form prescribed) Form 9-M, for a partnership nonresident broker or dealer; and Form 10-M for a nonresident general partner of a broker-dealer firm. An unincorporated nonresident broker or dealer not organized as a partnership will use Form 8-M with appropriate revisions; and a nonresident "managing agent" of such an unincorporated broker or dealer will use Form 10-M with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

Under the provisions of the rule a nonresident broker or dealer already registered, and each nonresident general partner or "managing agent" of an unincorporated broker or dealer already registered, must file the necessary forms not later than July 31, 1953.

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940, particularly section 38 (a) thereof, and the Investment Advisers Act of 1940, particularly section 211 (a) thereof. The Commission hereby amends the title of Article 6 of the general rules and regulations under the Securities Act of 1933 to read: "Rules of General Applicability" and designates this rule to be Rule 172 under the Securities Act of 1933, Rule X-15B-7 under the Securities Exchange Act of 1934, Rule T-O-9 under the Trust Indenture Act of 1939, Rule N-6 under the Investment Company Act of 1940, and Rule R-1 under the Investment Advisers Act of 1940. The Commission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

The text of the rule is as follows:

§ 240.15b-7 *Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.* (a) Each nonresi-

dent broker or dealer registered or applying for registration pursuant to section 15 (b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each nonresident broker or dealer registered at the time this section becomes effective, and each nonresident general partner or managing agent of an unincorporated broker or dealer registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each broker or dealer applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents and powers of attorney required to be furnished by such broker or dealer and by each general partner or managing agent thereof; *Provided, however,* That where an application for registration of a broker dealer is pending at the time this section becomes effective such consents and powers of attorney shall be furnished within 30 days after this section becomes effective.

(3) Each broker or dealer registered or applying for registration who or which becomes a nonresident broker or dealer after the effective date of this section, and each general partner or managing agent, of an unincorporated broker or dealer registered or applying for registration, who becomes a nonresident after the effective date of this section, shall furnish such consent and

power of attorney within 30 days thereafter.

(c) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "broker" shall have the meaning set out in section 3 (a) (4) of the Securities Exchange Act of 1934.

(2) The term "dealer" shall have the meaning set out in section 3 (a) (5) of the Securities Exchange Act of 1934.

(3) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(4) The term "nonresident broker or dealer" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(5) A general partner or managing agent of a broker or dealer shall be deemed to be a nonresident if he resides in any place not subject to the jurisdiction of the United States.

Said rule shall become effective June 1, 1953.

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77s. Interpret or applies sec. 23, 48 Stat. 901, as amended, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 17 U. S. C. 78w, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3861; Filed, May 1, 1953; 8:47 a. m.]

§ 249.508 *Form 8-M, for a corporation nonresident broker or dealer*

§ 249.509 *Form 9-M, for a partnership nonresident broker or dealer*

§ 249.510 *Form 10-M, for a nonresident general partner of a broker-dealer firm.*

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78w. Interpret or apply sec. 15, 48 Stat. 895, as amended; 15 U. S. C. 78o)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3865; Filed, May 1, 1953; 8:47 a. m.]

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NONRESIDENT BROKERS OR DEALERS AND BY NONRESIDENT GENERAL PARTNERS OR MANAGING AGENTS OF BROKERS OR DEALERS

Purpose of rule. The Securities and Exchange Commission has adopted a rule which requires each nonresident broker or dealer registered or applying for registration and each nonresident general partner or "managing agent" of an unincorporated broker or dealer registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against nonresident broker-dealers or nonresident partners who should be joined as parties where it is impossible to obtain service

upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident broker-dealers and resident partners of such firms.

The Commission's notice that it was considering the adoption of this type of rule was published on November 13, 1952. The rule as proposed was not limited in its application to actions which accrued after the effective date of the rule. Comments on the proposal pointed out, however, that it might encourage a number of stale lawsuits, and that unless the application of the rule were limited many nonresident broker-dealers would be reluctant to register because they would not know to what civil liabilities they might subject themselves. The Commission agreed that a limitation was appropriate and when adopting the rule limited its application to causes of action which accrue on or after the effective date of the rule.

The Commission also adopted forms to be used for filing the irrevocable consent to service required under the rule: Form 7-M, to be used by an individual nonresident broker or dealer; Form 8-M for a corporation nonresident broker or dealer (a duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent, etc., must be filed with this in the form prescribed); Form 9-M, for a partnership nonresident broker or dealer; and Form 10-M for a nonresident general partner of a broker-dealer firm. An unincorporated nonresident broker or dealer not organized as a partnership will use Form 8-M with appropriate revisions; and a nonresident "managing agent" of such an unincorporated broker or dealer will use Form 10-M with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

Under the provisions of the rule a nonresident broker or dealer already registered, and each nonresident general partner or "managing agent" of an unincorporated broker or dealer already registered, must file the necessary forms not later than July 31, 1953.

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940, particularly section 38 (a) thereof, and the Investment Advisers Act of 1940, particularly section 211 (a) thereof. The Commission hereby amends the title of Article 6 of the general rules and regulations under the Securities Act of 1933

PART 249—FORMS PRESCRIBED UNDER THE SECURITIES EXCHANGE ACT OF 1934

SUBPART F—FORMS FOR REGISTRATION OF BROKERS AND DEALERS TRANSACTING BUSINESS ON OVER-THE-COUNTER MARKETS¹

§ 249.507 *Form 7-M, for use by an individual nonresident broker or dealer*

¹Filed as part of the original document.

to read: "Rules of General Applicability" and designates this rule to be Rule 172 under the Securities Act of 1933, Rule X-15B-7 under the Securities Exchange Act of 1934, Rule T-O-9 under the Trust Indenture Act of 1939, Rule N-6 under the Investment Company Act of 1940, and Rule R-1 under the Investment Advisers Act of 1940. The Commission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

The text of the rule is as follows:

§ 260.0-9 *Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.* (a) Each nonresident broker or dealer registered or applying for registration pursuant to section 15 (b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each nonresident broker or dealer registered at the time this section becomes effective, and each nonresident general partner or managing agent of an unincorporated broker or dealer registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each broker or dealer applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents and powers of attorney required to be furnished by such broker or dealer and by each general partner or managing agent thereof: *Provided, however* That where an application for registration of a broker or dealer is pending at the time this section becomes effective such consents and powers of attorney shall be furnished within 30 days after this section becomes effective.

(3) Each broker or dealer registered or applying for registration who or which becomes a nonresident broker or dealer after the effective date of this section, and each general partner or managing agent, of an unincorporated broker or dealer registered or applying for registration, who becomes a nonresident after the effective date of this section, shall furnish such consent and power of attorney within 30 days thereafter.

(c) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "broker" shall have the meaning set out in section 3 (a) (4) of the Securities Exchange Act of 1934.

(2) The term "dealer" shall have the meaning set out in section 3 (a) (5) of the Securities Exchange Act of 1934.

(3) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(4) The term "nonresident broker or dealer" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(5) A general partner or managing agent of a broker or dealer shall be deemed to be a nonresident if he resides in any place not subject to the jurisdiction of the United States.

Said rule shall become effective June 1, 1953.

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77s. Interprets or applies sec. 23, 48 Stat.

901, as amended, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 17 U. S. C. 78w, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3863; Filed, May 1, 1953; 8:47 a. m.]

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NONRESIDENT BROKERS OR DEALERS AND BY NONRESIDENT GENERAL PARTERS OR MANAGING AGENTS OF BROKERS OR DEALERS

Purpose of rule. The Securities and Exchange Commission has adopted a rule which requires each nonresident broker or dealer registered or applying for registration and each nonresident general partner or "managing agent" of an unincorporated broker or dealer registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against nonresident broker-dealers or nonresident partners who should be joined as parties where it is impossible to obtain service upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission

and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident broker-dealers and resident partners of such firms.

The Commission's notice that it was considering the adoption of this type of rule was published on November 13, 1952. The rule as proposed was not limited in its application to actions which accrued after the effective date of the rule. Comments on the proposal pointed out, however, that it might encourage a number of stale lawsuits, and that unless the application of the rule were limited many nonresident broker-dealers would be reluctant to register because they would not know to what civil liabilities they might subject themselves. The Commission agreed that a limitation was appropriate and when adopting the rule limited its application to causes of action which accrue on or after the effective date of the rule.

The Commission also adopted forms to be used for filing the irrevocable consent to service required under the rule: Form 7-M, to be used by an individual nonresident broker or dealer; Form 8-M for a corporation nonresident broker or dealer (a duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent, etc., must be filed with this in the form prescribed) Form 9-M, for a partnership nonresident broker or dealer; and Form 10-M for a nonresident general partner of a broker-dealer firm. An unincorporated nonresident broker or dealer not organized as a partnership will use Form 8-M with appropriate revisions; and a nonresident "managing agent" of such an unincorporated broker or dealer will use Form 10-M with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

Under the provisions of the rule a nonresident broker or dealer already registered, and each nonresident general partner or "managing agent" of an unincorporated broker or dealer already registered, must file the necessary forms not later than July 31, 1953.

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940 particularly section 38 (a) thereof, and the Investment Advisers Act of 1940, particularly section 211 (a) thereof. The Commission hereby amends the title of Article 6 of the general rules and regulations under the Securities Act of 1933 to read: "Rules of General Applicability" and designates this rule to be Rule 172 under the Securities Act of 1933, Rule

X-15B-7 under the Securities Exchange Act of 1934, Rule T-O-9 under the Trust Indenture Act of 1939, Rule N-6 under the Investment Company Act of 1940, and Rule R-1 under the Investment Advisers Act of 1940. The Commission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

The text of the rule is as follows:

§ 270.06 *Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.* (a) Each nonresident broker or dealer registered or applying for registration pursuant to section 15 (b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each nonresident broker or dealer registered at the time this section becomes effective, and each nonresident general partner or managing agent of an unincorporated broker or dealer registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each broker or dealer applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents

and powers of attorney required to be furnished by such broker or dealer and by each general partner or managing agent thereof: *Provided, however, That* where an application for registration of a broker or dealer is pending at the time this section becomes effective such consents and powers of attorney shall be furnished within 30 days after this section becomes effective.

(3) Each broker or dealer registered or applying for registration who or which becomes a nonresident broker or dealer after the effective date of this section, and each general partner or managing agent, of an unincorporated broker or dealer registered or applying for registration, who becomes a nonresident after the effective date of this section, shall furnish such consent and power of attorney within 30 days thereafter.

(c) Service of any process, pleadings or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "broker" shall have the meaning set out in section 3 (a) (4) of the Securities Exchange Act of 1934.

(2) The term "dealer" shall have the meaning set out in section 3 (a) (5) of the Securities Exchange Act of 1934.

(3) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(4) The term "nonresident broker or dealer" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(5) A general partner or managing agent of a broker or dealer shall be deemed to be a nonresident if the resides in any place not subject to the jurisdiction of the United States.

Said rule shall become effective June 1, 1953.

(Sec. 19, 48 Stat. 85, as amended; 15 U. S. C. 77a. Interprets or applies sec. 23, 49 Stat. 501, as amended, sec. 319, 53 Stat. 1173, secs.

38, 211, 54 Stat. 841, 855; 17 U. S. C. 78w, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3864; Filed, May 1, 1953;
8:47 a. m.]

PART 275—GENERAL RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

CONSENT TO SERVICE OF PROCESS TO BE FURNISHED BY NONRESIDENT BROKERS OR DEALERS AND BY NONRESIDENT GENERAL PARTNERS OR MANAGING AGENTS OF BROKERS OR DEALERS

Purpose of rule. The Securities and Exchange Commission has adopted a rule which requires each nonresident broker or dealer registered or applying for registration and each nonresident general partner or "managing agent" of an unincorporated broker or dealer registered or applying for registration to file a written irrevocable consent and power of attorney appointing the Commission as agent to receive process, pleadings and other papers in any civil suit or action, where the cause of action (1) accrues on or after the effective date of the rule, (2) arises out of any activity in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer and (3) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts. The rule provides that service shall be made on the Commission by delivering the requisite number of copies to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf, and it also provides that a copy shall be forwarded by the Commission promptly to the appropriate defendants at their last address of record filed with the Commission.

Applicable provisions of the various acts administered by the Commission authorize it to institute injunctive actions in cases involving violations of the respective acts, and violations of provisions of these acts may result in civil liabilities. The statutes contain broad venue provisions for suits or actions brought to enforce liabilities or duties created thereunder and the service of process provisions are also broad. As a practical matter, however, rights arising because of violations of these acts may prove unenforceable against nonresident broker-dealers or nonresident partners who should be joined as parties where it is impossible to obtain service upon such persons. The proposed rule is intended to give full effect to the provisions of the acts mentioned and to preserve for and afford to the Commission and others the same opportunity to enforce rights or duties against such persons as they have in the case of resident broker-dealers and resident partners of such firms.

The Commission's notice that it was considering the adoption of this type of rule was published on November 13, 1952. The rule as proposed was not limited in its application to actions which accrued after the effective date of the rule. Comments on the proposal pointed out, however, that it might encourage a number of stale lawsuits, and that unless the application of the rule were limited many nonresident broker-dealers would be reluctant to register because they would not know to what civil liabilities they might subject themselves. The Commission agreed that a limitation was appropriate and when adopting the rule limited its application to causes of action which accrue on or after the effective date of the rule.

The Commission also adopted forms to be used for filing the irrevocable consent to service required under the rule: Form 7-M, to be used by an individual nonresident broker or dealer; Form 8-M for a corporation nonresident broker or dealer (a duly certified copy of the resolution of the Board of Directors authorizing the execution of the consent; etc. must be filed with this in the form prescribed). Form 9-M, for a partnership nonresident broker or dealer and Form 10-M for a nonresident general partner of a broker-dealer firm. An unincorporated nonresident broker or dealer not organized as a partnership will use Form 8-M with appropriate revisions; and a nonresident "managing agent" of such an unincorporated broker or dealer will use Form 10-M with appropriate revisions. The rule defines a "managing agent" to mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

Under the provisions of the rule a nonresident broker or dealer already registered, and each nonresident general partner or "managing agent" of an unincorporated broker or dealer already registered, must file the necessary forms not later than July 31, 1953.

The forms to be used for filing the irrevocable consent to service are available on request. Persons requesting forms should state specifically which forms are needed.

Statutory basis. The rule and forms are adopted pursuant to the Securities Act of 1933, particularly section 19 (a) thereof, the Securities Exchange Act of 1934, particularly section 23 (a) thereof, the Trust Indenture Act of 1939, particularly section 319 (a) thereof, the Investment Company Act of 1940, particularly section 38 (a) thereof, and the Investment Advisers Act of 1940, particularly section 211 (a) thereof. The Commission hereby amends the title of Article 6 of the general rules and regulations under the Securities Act of 1933 to read: "Rules of General Applicability" and designates this rule to be Rule 172 under the Securities Act of 1933, Rule X-15B-7 under the Securities Exchange Act of 1934, Rule T-O-9 under the Trust Indenture Act of 1939, Rule N-6 under the Investment Company Act of 1940, and Rule R-1 under the Investment Advisers Act of 1940. The Com-

mission deems all the action taken to be necessary and appropriate in the public interest and for the protection of investors, and necessary and appropriate to carry out the provisions of and its functions and powers under said acts.

The text of the rule is as follows:

§ 275.01 *Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.* (a) Each nonresident broker or dealer registered or applying for registration pursuant to section 15 (b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer which is registered or applying for registration, shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney which (1) designates the Securities and Exchange Commission as an agent upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, where the cause of action (i) accrues on or after the effective date of this section, (ii) arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of business of a broker or dealer, and (iii) is founded, directly or indirectly, upon the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of said acts; and (2) stipulates and agrees that any such civil suit or action may be commenced by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section, and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) The required consent and power of attorney shall be furnished to the Commission within the following period of time:

(1) Each nonresident broker or dealer registered at the time this section becomes effective, and each nonresident general partner or managing agent of an unincorporated broker or dealer registered at the time this section becomes effective, shall furnish such consent and power of attorney within 60 days after such date;

(2) Each broker or dealer applying for registration after the effective date of this section shall furnish, at the time of filing such application, all the consents and powers of attorney required to be furnished by such broker or dealer and by each general partner or managing agent thereof: *Provided, however,* That where an application for registration of a broker or dealer is pending at the time this section becomes effective

such consents and powers of attorney shall be furnished within 30 days after this section becomes effective.

(3) Each broker or dealer registered or applying for registration who or which becomes a nonresident broker or dealer after the effective date of this section, and each general partner or managing agent, of an unincorporated broker or dealer registered or applying for registration, who becomes a nonresident after the effective date of this section, shall furnish such consent and power of attorney within 30 days thereafter.

(c) Service of any process, pleadings, or other papers on the Commission under this section shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings or other papers as aforesaid are served upon the Commission, it shall promptly forward a copy thereof by registered mail to the appropriate defendants at their last address of record filed with the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this section the following definitions shall apply:

(1) The term "broker" shall have the meaning set out in section 3 (a) (4) of the Securities Exchange Act of 1934.

(2) The term "dealer" shall have the meaning set out in section 3 (a) (5) of the Securities Exchange Act of 1934.

(3) The term "managing agent" shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association which is not a partnership.

(4) The term "nonresident broker or dealer" shall mean (i) in the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States; (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(5) A general partner or managing agent of a broker or dealer shall be deemed to be a nonresident if he resides in any place not subject to the jurisdiction of the United States.

Said rule shall become effective June 1, 1953.

(Sec. 23, 48 Stat. 901, as amended; 15 U. S. C. 78v. Interprets or applies sec. 19, 48 Stat. 85, as amended, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U. S. C. 77s, 77sss, 80a-37, 80b-11)

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 22, 1953.

[F. R. Doc. 53-3866; Filed, May 1, 1953; 8:47 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter A—Armed Services Procurement Regulation

PART 400—GENERAL PROVISIONS

MISCELLANEOUS AMENDMENTS

The following amendments relate to: Revocation of certain provisions relating to ineligible contractors and disqualified bidders; the place of delivery for truck shipments and the definition of a "truckload lot"; uniform policies and procedures relating to the debarment of bidders for any cause and ineligibility of bidders under section 1a of the Walsh-Healey Public Contracts Act.

1. Section 400.303 is revised as follows.

§ 400.303 *Reserved.*

2. Section 400.306-1 (17 F. R. 5646, June 24, 1952) is revised as follows.

§ 400.306-1 *Domestic shipments.* Unless there are valid reasons to the contrary (such as, but not restricted to, industry practice, applicability of state taxes, or destination unknown) the procurement of supplies from sources and for delivery within the continental limits of the United States will be in accordance with the following policy:

(a) When it is estimated that any single contract will require a shipment to a single destination which will not equal a minimum carload or truckload lot (a minimum carload or truckload lot shall be deemed to be one which weighs approximately 20,000 pounds), delivery will be made on the basis of all transportation charges paid to destination.

(b) When it is estimated that any single contract will require a shipment of a minimum carload or truckload lot, delivery shall be either on the basis of (1) f. o. b. carrier's equipment, wharf, or freight station (at the Government's option) at or near contractor's plant, at a specified city or shipping point, or (2) all transportation charges paid to destination, whichever is the more advantageous to the Government. In formally advertised procurements the Invitation for Bids shall provide that bidders may bid on either or both bases set forth in this subparagraph. Bids shall be evaluated on the basis of over-all cost to the Government.

(R. S. 161, 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup., 151-161)

3. A new Subpart F is added as follows.

SUBPART F—DEBARMENT OF BIDDERS

Sec.	
400.600	Scope of subpart.
400.600-1	Effective date.
400.601	Establishment and maintenance of a list of firms or individuals debarred or ineligible.
400.601-1	General.
400.601-2	Information contained on list.
400.601-3	Classification of list.
400.601-4	Maintenance and distribution of list.
400.601-5	Sample of list.
400.602	Basis for addition of firms and individuals on list.
400.603	Treatment to be accorded firms or individuals in debarred or ineligible status.

Sec.	
400.603-1	Total restrictions.
400.603-2	Buy American Act restrictions.
400.603-3	Ineligibility restrictions of the Walsh-Healey Act.
400.604	Causes and conditions under which Departments may debar contractors.
400.604-1	Causes for debarment.
400.604-2	Period of debarment.
400.604-3	Notice of debarment.
400.605	Suspension of bidders.
400.606	Supplemental lists.
400.607	Interchange of debarment information.
400.608	Sample of list.

AUTHORITY: §§ 400.600 to 400.603 issued under R. S. 161, 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup., 151-161.

SUBPART F—DEBARMENT OF BIDDERS

§ 400.600 *Scope of subpart.* This subpart prescribes policies and procedures relating to the debarment of bidders for any cause, and ineligibility of bidders under section 1a of the Walsh-Healey Public Contracts Act (41 U. S. C. 35a). It is applicable in negotiated or advertised procurement.

§ 400.600-1 *Effective date.* This subpart is effective on and after April 5, 1953.

§ 400.601 *Establishment and maintenance of a list of firms or individuals debarred or ineligible.*

§ 400.601-1 *General.* Each Department shall establish and maintain a consolidated list of firms and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited, in accordance with the provisions of this subpart.

§ 400.601-2 *Information contained on list.* The list shall show as a minimum the following information:

(a) The names of those firms or individuals debarred or ineligible. Names will be set forth in alphabetical order with appropriate cross reference where more than one name is involved in a single action.

(b) The basis of authority for each action.

(c) The extent of restrictions imposed.

(d) The termination date for each debarred listing.

§ 400.601-3 *Classification of list.* The list and all correspondence relating thereto shall be classified, in accordance with Departmental procedures, so as to prevent inspection of contents by non-Government personnel or by Government personnel who are not required to have access to such information.

§ 400.601-4 *Maintenance and distribution of list.* The list shall be kept current by issuance of notices of additions or deletions, and periodic reprinting. Copies of the list shall be made available to all contracting officers and other appropriate personnel within the Department concerned. Copies will also be furnished to the Chairman of the Munitions Board and to the other Departments.

§ 400.601-5 *Sample of list.* It is suggested that the list be prepared in accordance with the format of the sample set forth in § 400.608.

RULES AND REGULATIONS

§ 400.602 *Basis for addition of firms and individuals on list.* The names of firms or individuals shall be included on the list in the following categories:

(a) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Walsh-Healey Public Contracts Act (41 U. S. C. 37) which have been found by the Secretary of Labor to have violated any of the agreements or representations required by that act.

(b) Those listed by the Comptroller General in accordance with the provisions of section 3 of the Davis-Bacon Act (40 U. S. C. 276a-2 (a)) as found by the Comptroller General to have violated said act.

(c) Those which the Secretary of a Department or his authorized representative determines to debar administratively for any of the causes and under all of the conditions set forth in § 400.604.

(d) Those determined by the Secretary of a Department in accordance with section 3 (b) of the Buy American Act (Pub. Law 428, 72d Cong., 47 Stat. 1520; 41 U. S. C. 10b (b)) to have failed to comply with the provision of section 3 (a) of that Act under any contract containing the specific provisions required by said section 3 (a) and made by the Department for construction, alteration, or repair of any public building or public work.

(e) Those found by the Secretary of Labor ineligible to be awarded contracts for the reason that they do not qualify as "manufacturers" or "regular dealers" within the meaning of section 1 (a) of the Walsh-Healey Public Contracts Act (Pub. Law 846, 74th Cong., 49 Stat. 2036; 41 U. S. C. 35 (a))

§ 400.603 *Treatment to be accorded firms or individuals in debarred or ineligible status.*

§ 400.603-1 *Total restrictions.* Contracts shall not be awarded to, nor shall bids or proposals be solicited from, firms or individuals which are listed on the following bases: (a) Violation of agreements or representations required by the Walsh-Healey Public Contracts Act (see § 400.602 (a)) (b) violation of the Davis-Bacon Act (see § 400.602 (b)) and (c) debarment by the Secretary of the Department considering the proposed procurement (see § 400.602 (c)) However, with respect to paragraph (c) of this section, when it is determined to be essential in the public interest by the Secretary of a Department, or his authorized representative, an exception may be made with respect to a particular procurement action.

§ 400.603-2 *Buy American Act restrictions.* As specified in the Buy American Act (41 U. S. C. 10b (b)) contracts shall not be awarded for construction, alteration, or repair of public buildings or public works in the continental United States or elsewhere to, nor shall bids or proposals for such work be solicited from firms or individuals listed on the basis of having violated the provisions of section 3a of that act under any contract containing the specific clause thereby required. (See § 400.602 (d).)

However, firms or individuals listed on this basis may be awarded contracts and may be solicited for bids or proposals for other than the construction, alteration, or repair of public buildings or public works in the continental United States or elsewhere.

§ 400.603-3 *Ineligibility restrictions of the Walsh-Healey Act.* Contracts shall not be awarded to firms or individuals in any amount for those materials, supplies, articles, or equipment with respect to which the firm or individual has been found to be ineligible to be awarded a contract by the Secretary of Labor, as provided in § 400.602 (e) However, contracts may be awarded and bids or proposals may be solicited for commodities in which not declared ineligible regardless of amount.

§ 400.604 *Causes and conditions under which departments may debar contractors.* The Secretary of each Department or his authorized representative is authorized to debar in the public interest a firm or an individual for any of the causes and under all conditions set forth in § 400.604-1.

§ 400.604-1 *Causes for debarment.* (a) Conviction by or a judgment obtained in a court of competent jurisdiction for (1) commission of fraud in the obtaining of contracts or in the performance thereof; (2) violation of the Federal antitrust statutes arising out of the submission of bids or proposals; (3) commission of a criminal offense as an incident to obtaining a contract or in an attempt to obtain a contract. In the event appeal taken from such conviction or judgment results in reversal, the debarment shall be removed if the bidder so requests. (Note, however, that the foregoing do not necessarily require that the firm or individual be debarred, and that the decision to debar is still within the discretion of the Secretary of the Department concerned. The seriousness of the offense, the civil satisfaction received by or available to the Government, and all mitigating factors should be considered in making the determination to debar)

(b) Clear and convincing evidence of violation of contract provisions, as set forth in subparagraphs (1) to (4) of this paragraph when such violations are of a character regarded by the Secretary of the Department involved, to be so serious as to justify debarment actions;

(1) Wilful failure to deliver in accordance with the specifications or within the times of delivery provided in a contract.

(2) A history of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts: *Provided*, That the previous failure or failures by the Contractor are within a reasonable period of time preceding the determination to debar. Failure to perform caused by acts beyond the control of the Contractor shall not be considered.

(3) Violation of the contractual provision against contingent fees.

(4) Violation of the contractual provision against gratuities, as determined by the Secretary of a Department in

accordance with the provisions of the gratuities clause.

(c) Debarment for any of the causes stated in this section by some other military department or executive agency of the Government. Such debarment may be based entirely upon the record of facts obtained by the original debarring agency, or upon a combination of additional facts with the record of facts of the original debarring agency.

§ 400.604-2 *Period of debarment.* All debarments shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense. As a general rule, a period of debarment shall not exceed 5 years following the date of conviction of a criminal offense or criminal fraud, or 3 years following the date of debarment for any other cause.

§ 400.604-3 *Notice of debarment.* (a) The firm or individual concerned shall be furnished with written notice of the debarment, within 30 days after determination of debarment has been made. The notice shall state as a minimum (1) the period of debarment including effective dates (2) the reasons for debarment, including a statement of the specific instances of dereliction. The notice shall also provide for reasonable opportunity for the Contractor to present information for consideration upon his behalf.

(b) Copies of the notice of debarment action taken under the authority of § 400.602 (c) and (d) and of any removals from such debarments shall be furnished to the General Services Administration and the Comptroller General of the United States.

§ 400.605 *Suspension of bidders.* Pending the development of Department of Defense policy with respect to suspension of bidders, nothing in this subpart shall preclude the handling of suspensions in accordance with Departmental procedures.

§ 400.606 *Supplemental lists.* Departments are authorized to establish other lists of firms or individuals for the purpose of guidance of Contracting Officers in determining whether such firms or individuals are responsible bidders. Such lists will not require mandatory refusal of an award, nor will they authorize the Contracting Officer to omit solicitation of bids or proposals from such firms or individuals, solely by reason of the inclusion of a name on such lists. Except for firms or individuals suspended in accordance with § 400.605, no firm or individual will be listed on the consolidated list for causes or under conditions other than those set forth in this subpart.

§ 400.607 *Interchange of debarment information.* (a) The General Services Administration is charged by GSA Regulation 1-II-207.07 with compiling from the notifications of debarments furnished them by the military departments and executive agencies a combined list of such debarments, including the basis of action, and distributing a copy of such lists to all executive agencies including the military departments. In general application,

this listing will be for information purposes only and it is not intended to take the place of, or be in addition to, the lists maintained by the various agencies.

(b) Each department will notify the General Services Administration of the name and address of its central office where debarment information should be sent.

(c) Each department will check the list of debarred bidders furnished by the General Services Administration and consider firms or individuals listed thereon for inclusion upon their own lists, in accordance with the provisions of this subpart.

(d) On specific request, the General Services Administration has agreed to furnish to the military departments a copy of the notice reflecting the basis for debarment action taken by another agency for causes contained in § 400.604-1 (subsection 207.05a of GSA Regulation 1-II) or under the Buy-American Act. If desired, direct inquiry concerning any debarment case may be made to the agency which originated the action.

§ 400.608 Sample of list.

(Insert Classification)

CONSOLIDATED RESTRICTED LISTING OF FIRMS AND INDIVIDUALS DEBARRED OF INELIGIBLE

Contractor, firm or individual	Termination date	Type	Basis of action
Able Baker Charlie Co., New Orleans, La.	Nov. 21, 1954	B	Sec. 1 (c), Walsh-Healey Act—Ineligible as manufacturer in all commodities.
Charlie, A. B.			See Able B. Charlie Co.
Doe Furniture Co., Cleveland, Ohio.	Oct. 28, 1953	A	Sec. 3, Walsh-Healey Act.
Fox Construction Co., Detroit, Mich.	Mar 7, 1954	A	Sec. 3, Davis-Bacon Act.
Roe Engineering Service, Chicago, Ill.	Feb. 17, 1954	C	Sec. 3 (b) Buy-American Act (Department of the Army).
Show Furniture Co., Newark, N. J.	Apr. 12, 1953	A	Conviction for fraud (General Services tion).

(Type A listings shall not be awarded contracts and shall not be solicited by bid or proposal.)

(Type B listings shall not be awarded contracts in any amount and shall not be solicited by bid or proposal for materials, supplies, articles, or equipment in which declared ineligible. However, contracts may be awarded and bids or proposals may be solicited for commodities in which not declared ineligible regardless of amount.)

(Type C listings shall not be awarded contracts and shall not be solicited by bid or proposal for construction, alteration, or repair of public buildings or public work in the continental United States or elsewhere as specified in the Buy American Act. However, listings may be awarded contracts and may be solicited by bid or proposal for other than construction, alteration, or repair of public buildings or public work as specified in the Buy American Act.)

(Insert Classification)

J. C. HOUSTON, Jr.,
Acting Chairman,
Munitions Board.

[F. R. Doc. 53-3853; Filed, May 1, 1953; 8:45 a. m.]

PART 406—CONTRACT CLAUSES AND FORMS
MISCELLANEOUS AMENDMENTS

The following amendments relate to: The scope and applicability of the part; the "examination of records" clause in negotiated fixed-price supply contracts; the "gratuities" clause in fixed-price supply contracts.

1. Section 406.000 is revised as follows.

§ 406.000 Scope of part. This part sets forth uniform contract clauses for use in connection with the procurement of supplies and services.

2. Section 406.102 is revised as follows.

§ 406.102 Applicability. As used throughout this subpart, the term "fixed-price supply contract" shall mean any contract (a) entered into either by formal advertising or by negotiation, other than (1) purchase orders for \$5,000 or less, (2) letter contracts, (3) preliminary notices of award, and (4) amendments or modifications to contracts or purchase orders; (b) at a fixed price (with or without provision for price redetermination, escalation or other form of price revision as covered in §§ 402.402 to 402.404 inclusive of this subchapter), and (c) for supplies other than (1) the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property, (2) experimental, developmental, or research work, or (3) facilities to be provided by the Government under a "Facilities Contract" as defined in Part 412 of this subchapter (but see §§ 406.104-15 and 406.104-16 with respect to purchase orders)

3. Section 406.104-15 (17 F. R. 5648, June 24, 1952) is revised as follows.

§ 406.104-15 Examination of records. In accordance with requirements of section 4 of the act, as amended, the following clause will be inserted in all negotiated fixed-price supply contracts and purchase orders in excess of \$1,000.

EXAMINATION OF RECORDS

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract with the Government, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

4. Section 406.104-16 (17 F. R. 5648, June 24, 1952) is revised as follows:

§ 406.104-16 Gratuities. Insert the clause set forth below in all fixed price

supply contracts and purchase orders, except contracts and purchase orders with foreign governments obligating solely funds other than those contained in Department of Defense appropriation acts.

GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract: *Provided*, That the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(R. S. 161, 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. Sup., 151-161)

J. C. HOUSTON, Jr.,
Acting Chairman,
Munitions Board.

[F. R. Doc. 53-3854; Filed, May 1, 1953; 8:45 a. m.]

PART 413—INSPECTION AND ACCEPTANCE

The following is a complete revision of Part 413.

Sec.	
413.000	Scope of part.
413.001	General policy.
413.002	Effective date of part.

SUBPART A—INSPECTION

413.100	Definitions.
413.101	General.
413.102	Responsibility for inspection.
413.102-1	Inspection interchange agreements.
413.102-2	Inspection for other Government agencies.
413.103	Inspection requirements.
413.103-1	Points of inspection.
413.103-2	Inspection at source.
413.103-3	Inspection at destination.
413.104	Inspection under subcontracts.
413.105	Contract clauses.

SUBPART B—ACCEPTANCE

413.200	General.
413.201	Responsibility for acceptance.
413.203	Acceptance of supplies or services not conforming with contract requirements.
413.203	Inspection and acceptance markings.

AUTHORITY: §§ 413.000 to 413.203 issued under sec. 3, 62 Stat. 259; 50 U. S. C. App. Sup. 1193.

§ 413.000 *Scope of part.* This part sets forth general policy and the basic requirements for the inspection and acceptance of supplies and services procured by or for the Departments.

§ 413.001 *General policy.* All inspection and acceptance of supplies and services by the Departments shall be conducted in the most economical and expeditious manner consistent with the best interest of the Government, and shall conform to the provisions of this subchapter and to applicable standards, sampling procedures, statistical quality control procedures, policies relating to interchange of services, and uniform methods of interpreting specifications promulgated by the Department of Defense.

§ 413.002 *Effective date of part.* This part shall be effective on and after May 15, 1953.

SUBPART A—INSPECTION

§ 413.100 *Definitions.* "Inspection" means the examination (including testing) of supplies and services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the supplies and services conform to contract requirements, which include all applicable drawings, specifications, and purchase descriptions. "Testing" is an element of inspection and generally denotes the determination by technical means of the physical and chemical properties or elements of materials, supplies, or components thereof, involving not so much the element of personal judgment as the application of established scientific principles and procedures.

§ 413.101 *General.* (a) Inspection on behalf of the Government shall be conducted in all cases prior to final acceptance, except as otherwise permitted by this part. Inspection shall be accomplished by or under the supervision of Government personnel. Except as otherwise provided in the contract, test requirements may be performed in the Contractor's or subcontractor's laboratory or any other commercial laboratory acceptable to the Government. The Contractor may be required under the terms of the contract to establish and maintain an acceptable inspection system to assure compliance with contract specifications with a minimum of Government inspection supervision. A manufacturer's certificate or other statement of quality or quantity may be considered, at the discretion of the Government, a proper element in determining whether supplies or services are in conformity with the contract. In no event, however, shall the contract preclude the right of the Government to exercise its responsibility for inspection and acceptance.

(b) The extent to which inspection shall be performed necessarily depends upon the particular needs of the pro-

urement. For example, when the nature of the procurement will not permit all required inspection or the monetary value of the supplies or services does not justify the cost of such inspection, the Government may reduce inspection to a level consistent with the circumstances. Specific requirements as to the inspection of "qualified products" are set forth in §§ 401.503-2 and 401.503-3 of this subchapter.

§ 413.102 *Responsibility for inspection.* Inspection, or the arrangement therefor, is the responsibility of the Procuring Activity effecting the procurement. Where a Department or activity utilizes the inspection services of another Department or activity, the Department or activity performing such inspection has primary inspection cognizance and its determinations relative thereto are binding on the Department or activity for which such inspection services are performed. In the case of coordinated procurement, inspection at point of manufacture or prior to shipment generally will be made by inspectors of the purchasing department or activity. However, this general rule shall not be construed to preclude the utilization of the inspectors of the requiring department or activity when they are located at or otherwise servicing the Contractor's plant. Where inspection at destination is required in instances of coordinated procurement, request may be made of the requiring Department or activity to arrange for the necessary inspection.

§ 413.102-1 *Inspection interchange agreements.* In arranging for inspection, the Departments shall, by appropriate inspection interchange agreement, utilize the inspection services of other Departments or of other Government agencies so as to assure the most economical inspection consistent with the best interests of the Government. The purpose of such inspection interchange agreements shall be to eliminate duplication, overlapping, or multiple assignments of inspection activity in any one plant. In most cases inspection interchange agreements will be initiated and completed at actual operating level in the field. Such inspection interchange agreements shall be in accordance with the following:

(a) When inspection is to be made by other procuring activities or military Departments, such inspection shall be performed without reimbursement except to the extent that reimbursement-in-kind is practicable;

(b) When inspection is to be made by other Government agencies, such inspection will be on a mutually acceptable reimbursement basis;

(c) All agreements shall include specific provision as to the following: (1) Inspection practices; (2) accomplishment of related paper work; and (3) designation of the activity which is to furnish the inspection gauges, measuring instruments, and laboratory facilities (including information on the location of such facilities as well as the

expected delivery date of inspection gauges and measuring instruments) as may be required to complete necessary inspection.

§ 413.102-2 *Inspection for other Government agencies.* Inspection for other Government agencies shall be in accordance with this subchapter and, to the extent not inconsistent herewith, with the provision of General Services Administration Regulation I-VI-4.01.01, Inspection and Testing, or any amendments thereof.

§ 413.103 *Inspection requirements.*

§ 413.103-1 *Points of inspection.* Each contract shall provide for the place of final inspection. To the extent practicable, preliminary or intermediate inspection of supplies and services shall be made at such times and places (including any stage and period of manufacture, and including subcontractors' plants) as may be necessary to determine that the supplies and services will conform to the contract requirements. Generally, as provided in § 413.103-2, inspection of supplies will be conducted at source. Where the contract provides for inspection at source, shipment may nevertheless be made prior to inspection if it is determined to be in the best interest of the Government. In such cases, to the extent appropriate, contract modification should be made prior to shipment with respect to (a) risk of loss in transit and (b) shipping and other expenses incurred in the event of rejection at destination.

§ 413.103-2 *Inspection at source.* To the extent practicable, supplies and services shall be inspected at source:

(a) Where items are in continuous volume production at a given plant;

(b) Where plants are so grouped geographically as to make visits by inspectors practicable and economical;

(c) Where quality control and inspection are closely or inseparably related to the production methods at a given plant;

(d) Where considerable expense to the Contractor or to the Government is eliminated which would otherwise result from the manufacture or shipment of unacceptable supplies or from the delay in making necessary corrections;

(e) Where defects can be located only during process of manufacture;

(f) Where special instruments, gauges, or facilities required for inspection are available only at the Contractors' plant;

(g) Where inspection at destination would destroy or require the replacement of costly special packing and packaging;

(h) Where inspection requires the use of technical personnel or special equipment and the supplies are destined for military installations or bases, or for points of embarkation for oversea shipment. However, inspection which is limited to quantity checks or quality checks not requiring the use of special personnel or equipment, may be conducted at installations or bases;

(i) When otherwise determined to be in the best interests of the Government.

§ 413.103-3 *Inspection at destination.* Supplies and services may be inspected at destination:

(a) Where off-the-shelf purchases are made from suppliers other than manufacturers;

(b) Where small purchases are made which do not require special equipment for inspection;

(c) Where the volume of procurement at a given plant is not sufficient to warrant the cost of either a full-time or part-time inspector or the increased cost of inspection at source;

(d) Where necessary specialized testing equipment is located only at destination;

(e) Where biologicals are processed under direct control of National Institute of Health or the Federal Food and Drug Administration;

(f) Where perishable subsistence supplies are purchased within the continental limits of the United States, except that perishable subsistence supplies destined for oversea shipment will normally be inspected for condition and quantity at ports of embarkation;

(g) Where brand name items are purchased for authorized resale; however, when such supplies are destined for direct oversea shipment, inspection and acceptance will be accomplished by the Contracting Officer or the official charged with such responsibility on the basis of a tally sheet evidencing receipt of shipment signed by the Port Transportation Officer or other designated official at the transshipment point;

(h) When otherwise determined to be in the best interests of the Government.

§ 413.104 *Inspection under subcontracts.* Inspection of subcontracted supplies shall be made only when required in the interest of the Government. The primary purpose of subcontract inspection is to assist the Government inspector at the prime Contractor's plant in determining the conformance of supplies with contract requirements, and does not relieve the prime Contractor of any of his responsibilities under the contract. All oral and written statements and contract provisions relating to the inspection of subcontracted supplies shall be worded so as not to (a) affect the contractual relationship between the prime Contractor and the Government or between the prime Contractor and the subcontractor, (b) establish a contractual relationship between the Government and the subcontractor, or (c) constitute a waiver of the Government's right of inspection or of rejection of supplies not meeting contract requirements.

§ 413.105 *Contract clauses.* Contract clauses covering inspection are set forth in Part 406 of this subchapter.

SUBPART B—ACCEPTANCE

§ 413.200 *General.* Acceptance is the act of an authorized agent of the Government by which the Government acknowledges and agrees that the supplies or services are in conformance with the

contract requirements, including those of quality, quantity, packaging, and marketing. Depending upon the provisions of the contract, acceptance may be effected prior to delivery, at the time of delivery, or after delivery. Generally, however, contracts shall provide that acceptance shall be accomplished as promptly as practicable after delivery. Except as may otherwise be provided in the contract, acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistakes as amount to fraud. Except as otherwise provided in this subpart, supplies and services shall not be accepted prior to inspection. Inspection, where made prior to acceptance, shall be merely for the convenience of the Government and without binding effect as to acceptance.

§ 413.201 *Responsibility for acceptance.* Acceptance, or the arrangement therefor, is the responsibility of the Procuring Activity effecting the procurement. Where a Department or activity utilizes services of another Department or activity for the purpose of acceptance, the Department or activity performing the acceptance function has primary cognizance and its determinations relative thereto are binding on the Department or activity for which such services are performed. Accordingly, where acceptance is accomplished at a point other than destination, supplies shall not be reinspected at destination for acceptance purposes.

§ 413.202 *Acceptance of supplies or services not conforming with contract requirements.* Whenever supplies or services do not conform with contract requirements, the applicable contract provisions will govern the action to be taken in each case. Where desirable for reasons of urgency or economy and when satisfactory to the requiring activity, supplies and services which fail to meet all contract requirements may be accepted, subject to equitable adjustment of the contract price or such other adjustments as may be provided in the contract.

§ 413.203 *Inspection and acceptance markings.* Stamps, tags, and other marking devices for the purpose of designating inspection and acceptance shall be in accordance with Department of Defense directives.

J. C. HOUSTON, Jr.,
Acting Chairman,
Munitions Board.

[F. R. Doc. 53-3855; Filed, May 1, 1953; 8:46 a. m.]

PART 415—PROCUREMENT FORMS

Sec.	
415.000	Scope of part.
SUBPART A—CONTRACT FORMS	
415.100	Scope of subpart.
415.101	[Reserved].
415.102	[Reserved].
415.103	[Reserved].
415.104	Order for purchase of supplies or services (DD Form 702).

Sec.	
415.104-1	General.
415.104-2	Conditions for use.
415.104-3	Use as a purchase order.
415.104-4	Use as a delivery order.
415.104-5	Forms superseded.

AUTHORITY: §§ 415.000 to 415.104-5 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151-161.

§ 415.000 *Scope of part.* This part sets forth standardized procurement forms prescribed for use in connection with the procurement of supplies and services.

SUBPART A—CONTRACT FORMS

§ 415.100 *Scope of subpart.* This subpart sets forth standardized contract forms prescribed for use in connection with the procurement of supplies and services. In using the contract forms prescribed in this part for procurement outside of the continental limits of the United States, its territories and possessions, there may be deleted such of the contract clauses as are made inapplicable to such procurement by this subchapter or departmental procedures.

§ 415.101 [Reserved.]

§ 415.102 [Reserved.]

§ 415.103 [Reserved.]

§ 415.104 *Order for purchase of supplies or services (DD Form 702).*

§ 415.104-1 *General.* (a) DD Form 702 (Order for Purchase of Supplies or Services) provides in one document a purchase order, or a delivery order under a contract, or a delivery order on Government agencies outside of the Department of Defense.

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

§ 415.104-2 *Conditions for use.* DD Form 702 shall be used either as a purchase order or as a delivery order whenever more than one delivery and one payment are initially contemplated.

§ 415.104-3 *Use as a purchase order.* DD Form 702 shall be used as a purchase order whenever the following circumstances exist:

(a) The amount involved is \$5,000 or less.

(b) The procurement is unclassified and is effected by negotiation in accordance with the provisions of Part 402 of this subchapter.

(c) No contract clauses are required other than those set forth on the reverse side of the form.

§ 415.104-4 *Use as a delivery order.* DD Form 702 shall be used without monetary limitation as a delivery order for ordering supplies or services (a) under open-end, indefinite quantity or call-type contracts, or purchase notice agreements, including such contracts or agreements made by Government agencies outside of the Department of Defense, provided the order is issued in accordance with and subject to the terms and conditions of a basic contract or agreement to which specific reference

is made in the form, or (b) from Government agencies outside of the Department of Defense.

§ 415.104-5 *Forms superseded.* (a) This form supersedes the following Departmental forms: (a) Department of the Army—War Department Form 18, War Department Contract Form 19, DA AGO Form 5700; (b) Department of the Navy—NAVSANDA Form 108, NAVSANDA Form 113; (c) Department of the Air Force—War Department Form 18, War Department Contract Form 19, AMC Form 98 (to the extent used in purchases of \$5,000 or less) and all other forms of the Departments used for a comparable purpose. The continued Departmental use of the replaced forms is authorized until existing printed stocks are exhausted or until 30 October 1953, whichever is earlier.

(b) Pending the final development of a form "Order and Voucher for Purchase of Supplies or Services," the continued use of the Departmental forms for this purpose is authorized.

J. C. HOUSTON, Jr.,
Acting Chairman,
Munitions Board.

[F. R. Doc. 53-3856; Filed, May 1, 1953;
8:50 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 42—TREATMENT OF DOMESTIC MAIL MATTER AT POST OFFICES OF MAILING AND AT POST OFFICES IN TRANSIT

TREATMENT OF UNPAID OR INSUFFICIENTLY PAID MATTER; TIME OF HOLDING

In § 42.16 *Treatment of unpaid or insufficiently paid matter* amend paragraph (d) to read as follows:

(d) *Time of holding.* After the addressee of unpaid or insufficiently paid matter held for postage has been notified of the amount of postage due thereon, such matter shall be held not longer than three weeks, unless the office of address be so remote from the office of mailing that the postage could not be received from the addressee within that time, in which case the matter shall be held not longer than five weeks, except that six weeks may be allowed for the notice to be dispatched and returned between any post office in the Territory of Hawaii and any other United States post office outside the Territories of Hawaii and Alaska, and 90 days for such service between any post office in the Territory of Alaska and any other United States post office not in the same Territory, also, six weeks for such service between any post office in the Canal Zone and any post office in the United States.

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

[SEAL] ROSS RIZLEY,
Solicitor

[F. R. Doc. 53-3859; Filed, May 1, 1953;
8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

POSTAGE RATES, LIMITS OF WEIGHT, AND DIMENSIONS

In § 127.1 *Postage rates, limits of weight, and dimensions* add "Brazil" in alphabetical order to the list of countries appearing in footnote 4 to table No. 2.

(R. S. 161, 396, 398; secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] ROSS RIZLEY,
Solicitor

[F. R. Doc. 53-3858; Filed, May 1, 1953;
8:46 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-80, Schedule 2, as Amended May 1, 1953]

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

SCHEDULE 2—COBALT

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

EXPLANATORY

This amended schedule affects Schedule 2, as amended October 3, 1952, to NPA Order M-80, by amending paragraph (a) of section 5 and deleting paragraph (g) of that section.

REGULATORY PROVISIONS

Sec.

1. Definitions.
2. Cobalt subject to allocation.
3. Applications for allocations.
4. Exceptions to allocation requirements.
5. Uses prohibited.
6. Communications.

AUTHORITY: Sections 1 to 6 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 16 F. R. 6105; 3 CFR, 1950 Supp., sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp., secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. Definitions. All definitions contained in NPA Order M-80 are applicable to this schedule. "Cobalt" means and includes cobalt metal, cobalt fines, cobalt oxide, cobalt powder, and all other cobalt compounds produced from ores, metals, concentrates, and/or refinery residues, as well as scrap con-

taining more than 5 percent cobalt, which are used as sources of cobalt in commercial manufacture and processing.

SEC. 2. Cobalt subject to allocation. Cobalt is subject to complete allocation.

SEC. 3. Applications for allocations. Section 10 of NPA Order M-80 forbids deliveries or use of any alloying material made subject to complete allocation, except in accordance with an allocation authorization. Persons desiring to apply for an allocation authorization shall make application on Form NPAF-114 on or before the seventh day of any month for delivery in the succeeding month.

SEC. 4. Exceptions to allocation requirements. The provisions of sections 2 and 3 of this schedule shall not apply to:

(a) Delivery to and use by any person whose total receipts from all sources during any calendar month are not thereby made to exceed 25 pounds of contained cobalt, and who delivers a signed certificate to his supplier as follows:

The undersigned, subject to statutory penalties, certifies that acceptance of delivery and use by the undersigned of the cobalt herein ordered will not be in violation of NPA Order M-80 or of Schedule 2 of that order.

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

(b) Delivery and use of cobalt-bearing scrap or cobalt ores and concentrates: *Provided*, That the use of such scrap, ores, and concentrates shall be subject to the provisions of section 5 of this schedule.

SEC. 5. Uses prohibited. No person shall use cobalt or its derivatives for:

(a) Coloring glazes, glass batches, or porcelain enamels, or for the manufacture of ceramic body stains, porcelain enamel color oxides including blacks, glaze stains, glass batch colors, or paint or plastic pigments (except where used for optical or signal glass, decolorizers for glass and white ware, artists' colors, and color stabilizers in white pigment manufacture) *Provided, however*, That the prohibitions contained in this paragraph shall not apply to the use of cobalt salts and compounds made from residues not suitable for metallurgical use.

(b) Fertilizers of any type.

(c) Manufactured feeds for poultry, dogs, and cats.

(d) Magnets used in the following:

(1) Appliances, toys, games, musical instruments, model electric trains, and novelties.

(2) Coin rejecters for juke boxes, pin-ball games, or gambling devices.

(e) Magnet steels containing more than 20 percent cobalt (except where required by rated orders bearing a pro-

gram identification consisting of the letter A, B, C, or E, and one digit, or the program identification Z-2).

(f) Cast magnets containing more than 30 percent cobalt (except where required by rated orders bearing a program identification consisting of the letter A, B, C, or E, and one digit, or the program identification Z-2)

Sec. 6. *Communications.* All communications concerning this schedule shall be addressed to the National Production Authority, Washington 25, D. C., Ref: M-80, Schedule 2.

This schedule, as amended, shall take effect May 1, 1953.

NATIONAL PRODUCTION
AUTHORITY,
By GEORGE W. AUXIER,
Executive Secretary.

[F. R. Doc. 53-3948; Filed, May 1, 1953;
11:39 a. m.]

Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 1, Amdt. 135 to Schedule A]

[Rent Regulation 2, Amdt. 133 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CERTAIN STATES

Effective May 1, 1953, Rent Regulation 1 and Rent Regulation 2 are amended so that the items indicated below of Schedules A read as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1834)

Issued this 30th day of April 1953.

WILLIAM G. BARR,
Acting Director of Rent Stabilization.

[Rent Regulation 1, Amdt. 48 to Schedule B]
[Rent Regulation 2, Amdt. 49 to Schedule B]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE B—SPECIFIC PROVISIONS RELATING TO INDIVIDUAL DEFENSE-RENTAL AREAS OR PORTIONS THEREOF

NEW JERSEY

Effective May 2, 1953, Rent Regulation 1 and Rent Regulation 2 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1834)

Issued this 29th day of April 1953.

WILLIAM G. BARR,
Acting Director of Rent Stabilization.

1. Item 89 is added to Schedule B of Rent Regulation 1—Housing, reading as follows:

89. *Provisions relating to Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area (Item 100 of Schedule A).*

With respect to housing accommodations in Monmouth County, New Jersey, section 141 of this regulation is changed to read as follows:

Sec. 141. *Alternate adjustment for increases in costs and prices.* The present maximum rent for the housing accommodations does not equal (1) 130 percent of the maximum rent in effect on June 30, 1947, or 130 percent of the maximum rent for comparable housing accommodations on June 30, 1947, if no maximum rent was in effect on that date; (2) plus or minus any increases or decreases in maximum rent ordered after June 30, 1947 under this regulation for major capital improvements or increases or decreases in living space, services, furniture, furnishings or equipment or substantial deterioration. The adjustment under this section shall be in an amount sufficient to cause the maximum rent to equal (1) 130 percent of the maximum rent in effect on June 30, 1947 for the housing accommodations or comparable housing accommodations, whichever is applicable; (2) plus or minus appropriate increases or decreases in rental value, if any, as specified herein: *Provided, however,* That the Director shall give appropriate consideration to orders issued under sections 157 or 163 decreasing maximum rents which were in effect on June 30, 1947. Adjustments under this section shall be effective automatically upon the filing of the petition if a maximum rent was in effect on June 30, 1947. In all other cases, they shall not be effective until the order is issued by the Director. All provisions of this regulation insofar as they are applicable to the territory to which this item of Schedule B relates are amended to the extent necessary to carry into effect the provisions of this item of Schedule B.

2. Item 100 is added to Schedule B of Rent Regulation 2—Rooms, reading as follows:

100. *Provisions relating to Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area (Item 100 of Schedule A)*

With respect to housing accommodations in Monmouth County, New Jersey, section 133 is added to this regulation to read as follows:

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
California				
(37) San Diego.....	A	In SAN DIEGO COUNTY, that portion lying west of the San Bernardino Meridian, except the city of Coronado.	Jan. 1, 1951	Oct. 1, 1951
New Jersey				
(190) Northeastern New Jersey.	B	In ESSEX COUNTY, the cities of East Orange, Newark, and Orange, the townships of Caldwell, Cedar Grove, Livingston, and Millburn, the towns of Belleville, Bloomfield, Irvington, Montclair, Nutley, West Orange, the boroughs of Caldwell and Verona, and the village of South Orange, and all unincorporated localities; in MIDDLESEX COUNTY the cities of New Brunswick, Perth Amboy, and South Amboy, the townships of Cranbury, East Brunswick, Madison, Monroe, North Brunswick, Piscataway, Raritan, South Brunswick, and Woodbridge, the boroughs of Carteret, Dunellen, Highland Park, Jamesburg, Metuchen, Middlesex, Sayreville, South Plainfield, and South River, and all unincorporated localities; in MONMOUTH COUNTY, except the township of Middletown, the boroughs of Allenhurst, Atlantic Highlands, Avon-by-the-Sea, Fair Haven, Farmingdale, Little Silver, Manasquan, Redbank, Seabright, and Shrewsbury, and all incorporated localities in the borough of Allentown and the townships of Howell, Millstone, and Upper Freehold; in SOMERSET COUNTY, the townships of Bridgewater and Franklin, and the boroughs of Bound Brook, Manville, Raritan, Somerville, and South Bound Brook, and all unincorporated localities; in UNION COUNTY, the cities of Elizabeth, Linden, and Rahway, the townships of Cranford, Hillside and Union, the town of Westfield, the boroughs of Garwood, Roselle, and Roselle Park, and all unincorporated localities.	Mar. 1, 1942	July 1, 1942
	O	MONMOUTH COUNTY, except the boroughs of Allenhurst, Allentown, Atlantic Highlands, Avon-by-the-Sea, Fair Haven, Farmingdale, Little Silver, Manasquan, Redbank, Roosevelt, Seabright, and Shrewsbury, and the townships of Howell, Middletown, Millstone and Upper Freehold.	Aug. 1, 1952	Nov. 6, 1952
Ohio				
(227) Cincinnati.....	B	In Ohio: in BUTLER COUNTY, the city of Hamilton, the villages of Jacksonburg, New Miami, and Seven Mile; in CLERMONT COUNTY, the villages of Amelia and Bethel; in HAMILTON COUNTY, the cities of Lincoln Heights, Norwood, Reading, and St. Bernard, and the villages of Addyston, Mariemont, Sharonville, and Terrace Park.	Mar. 1, 1942	Nov. 1, 1942
	B	In Kentucky: in CAMPBELL COUNTY, the cities of Bellevue, Dayton, and Newport; in KENTON COUNTY, the cities of Edgewood, Ludlow, and Winston Park.do.....	Do.

These amendments decontrol the following, based on resolutions submitted under section 204 (j) (3) of the act:

The City of Coronado in San Diego County, California, a portion of the San Diego Defense-Rental Area;

The Borough of Allenhurst in Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area; and

The City of Cincinnati in Hamilton County, Ohio, a portion of the Cincinnati Defense-Rental Area, and all unincorporated localities in the Defense-Rental Area, the said City of Cincinnati being the major portion of the Defense-Rental Area.

[F. R. Doc. 53-3915; Filed, May 1, 1953; 8:51 a. m.]

RULES AND REGULATIONS

SEC. 138. *Alternate adjustment for increases in costs and prices.* The present maximum rent for the room does not equal (1) 130 percent of the maximum rent in effect on June 30, 1947, or 130 percent of the maximum rent for comparable rooms on June 30, 1947, if no maximum rent was in effect on that date; (2) plus or minus any increases or decreases in maximum rent ordered after June 30, 1947 under this regulation for major capital improvements or increases or decreases in living space, services, furniture, furnishings or equipment or substantial deterioration. The adjustment under this section shall be in an amount sufficient to cause the maximum rent to equal (1) 130 percent of the maximum rent in effect on June 30, 1947, for the room or comparable rooms, whichever is applicable; (2) plus or minus appropriate increases or decreases in rental value, if any, as specified herein: *Provided, however* That the Director shall give appropriate consideration to orders issued under sections 157 or 160 decreasing maximum rents which were in effect on June 30, 1947. Adjustments under this section shall be effective automatically upon the filing of the petition if a maximum rent was in effect on June 30, 1947. In all other cases, they shall not be effective until the order is issued by the Director. All provisions of this regulation insofar as they are applicable to the territory to which this item

of Schedule B relates are amended to the extent necessary to carry into effect the provisions of this item of Schedule B.

[F. R. Doc. 53-3880; Filed, May 1, 1953; 8:49 a. m.]

[Rent Regulation 3, Amdt. 129 to Schedule A]

[Rent Regulation 4, Amdt. 72 to Schedule A]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CALIFORNIA AND NEW JERSEY

Effective May 1, 1953, Rent Regulation 3 and Rent Regulation 4 are amended as set forth below.

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

Issued this 30th day of April 1953.

WILLIAM G. BARR,

Acting Director of Rent Stabilization.

1. Item 27 in Schedules A of Rent Regulation 3 and Rent Regulation 4 is amended to read as follows:

Name of defense-rental area	State	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
(37) San Diego.....	California...	In SAN DIEGO COUNTY, that portion lying west of the San Bernardino Meridian, except the city of Coronado.	Jan. 1, 1951	Oct. 1, 1951

2. Item 190 in Schedule A of Rent Regulation 4 is amended to read as follows:

Name of defense-rental area	State	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
(160) Northeastern New Jersey.	New Jersey.	MONMOUTH COUNTY, except the boroughs of Allenhurst, Allentown, Atlantic Highlands, Avon-by-the-Sea, Fair Haven, Farmingdale, Little Silver, Manasquan, Redbank, Roosevelt, Seabright, and Shrewsbury, and the townships of Howell, Middletown, Millstone, and Upper Freehold.	Aug. 1, 1952	Nov. 6, 1952

These amendments decontrol the following based on resolutions submitted under section 204 (j) (3) of the act:

The City of Coronado in San Diego County, California, a portion of the San Diego Defense-Rental Area (from Rent Regulation 3 and Rent Regulation 4) and

The Borough of Allenhurst in Monmouth County, New Jersey, a portion of the Northeastern New Jersey Defense-Rental Area (from Rent Regulation 4 only).

[F. R. Doc. 53-3916; Filed, May 1, 1953; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 52]

CANNED CREAM STYLE CORN

U. S. STANDARDS FOR GRADES¹

Notice is hereby given that the United States Department of Agriculture is considering the revision, as herein pro-

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

posed, of United States Standards for Grades of Canned Cream Style Corn, pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087-7 U. S. C. 1621, et seq.) and the Department of Agriculture Appropriation Act, 1953 (Pub. Law 451, 82d Cong., approved July 5, 1952) This revision, if made effective, will be the fifth issue by the Department of grade standards for this product.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revision should file same, in duplicate, with the Chief, Processed

Products Standardization and Inspection Division, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER. The proposed revision is as follows:

§ 52.268 *Canned cream style corn.* "Canned cream style corn" means the canned product properly prepared from the clean, sound, succulent kernels of sweet corn as defined in the definition and standard of identity for canned corn (21 CFR 51.20) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(a) *Color of canned cream style corn.* (1) White.

(2) Golden or Yellow.

(b) *Grades of canned cream style corn.* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of canned cream style corn that possesses similar varietal characteristics; that is tender; that possesses a good color; that possesses a good consistency that is practically free from defects; that possesses a very good flavor and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 90 points: *Provided*, That the cream style corn may possess a reasonably good color, a reasonably good consistency, a good flavor, and may be reasonably tender, scoring not less than 26 points if the total score is not less than 90 points.

(2) "U. S. Grade B" or "U. S. Extra Standard" is the quality of canned cream style corn that possesses similar varietal characteristics; that is reasonably tender that possesses a reasonably good color that possesses a reasonably good consistency; that is reasonably free from defects; that possesses a good flavor; and that for those factors which are scored in accordance with the scoring system outlined in this section the total score is not less than 80 points: *Provided*, That the cream style corn may possess a fairly good color, scoring not less than 7 points if the total score is not less than 80 points.

(3) "U. S. Grade C" or "U. S. Standard" is the quality of canned cream style corn that possesses similar varietal characteristics; that is fairly tender; that possesses a fairly good color; that possesses a fairly good consistency; that is fairly free from defects; that possesses a fairly good flavor; and that scores not less than 70 points when scored in accordance with the scoring system outlined in this section.

(4) "Substandard" is the quality of canned cream style corn that fails to meet the requirements of U. S. Grade C or U. S. Standard and may or may not meet the minimum standards of quality for canned cream style corn issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(c) *Fill of container for canned cream style corn.* The standard of fill of container for canned cream style corn is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purpose of these grades. The standard fill of container for canned cream style

corn is a fill of not less than 90 percent of the total capacity of the container. Canned cream style corn that does not meet this requirement is "Below standard in fill."

(d) *Ascertaining the grade.* (1) The grade of canned cream style corn is ascertained by considering, in conjunction with the requirements of the respective grade, the respective ratings for the factors of color, consistency, absence of defects, tenderness and maturity, and flavor.

(2) The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each such factor is:

Factor:	Points
(i) Color.....	10
(ii) Consistency.....	20
(iii) Absence of defects.....	20
(iv) Tenderness and maturity.....	30
(v) Flavor.....	20
<hr/>	
Total score.....	100

(e) *Ascertaining the rating for the factors which are scored.* The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points)

(1) *Color* (i) Canned cream style corn that possesses a good color may be given a score of 9 or 10 points. "Good color" means that the cut kernels possess a practically uniform color typical of tender sweet corn and that the product is bright and is practically free from "off-variety" kernels.

(ii) Canned cream style corn that possesses a reasonably good color may be given a score of 8 points. "Reasonably good color" means that the kernels possess a reasonably uniform color typical of reasonably tender sweet corn, and that the product may lack brightness but not to the extent that the appearance is materially affected, and is reasonably free from "off-variety" kernels.

(iii) Canned cream style corn that possesses a fairly good color may be given a score of 6 or 7 points. Canned cream style corn that scores 7 points in this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, and if scored 6 points in this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a partial limiting rule) "Fairly good color" means that the kernels possess a fairly uniform color typical of fairly tender sweet corn and that the product may be dull, but not to the extent that the appearance is seriously affected, and is fairly free from "off-variety" kernels.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 5 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule)

(2) *Consistency.* (i) The factor of consistency refers to the viscosity of the product, to the degree of smoothness, and to the separation of free liquor.

(ii) Canned cream style corn that possesses a good consistency may be given a score of 18 to 20 points. "Good consistency" means that the canned cream style corn, after stirring and emptying from the container to a dry flat surface, possesses a heavy cream-like consistency, with not more than a slight appearance of curdling, forms a slightly mounded mass, and that at the end of two minutes after emptying on the dry flat surface there is practically no separation of free liquor.

(iii) If the canned cream style corn has a reasonably good consistency a score of 16 or 17 points may be given. "Reasonably good consistency" means that the canned cream style corn, after stirring and emptying from the container to a dry flat surface, has a reasonably good creamy consistency, with not more than a moderate appearance of curdling, may flow just enough to level off to a nearly uniform depth or may be moderately stiff and moderately mounded, and that at the end of two minutes after emptying on the dry flat surface there may be a slight separation of free liquor.

(iv) Canned cream style corn that has a fairly good consistency may be given a score of 14 to 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule) "Fairly good consistency" means that the canned cream style corn, after stirring and emptying on a dry flat surface, may be thin but not excessively thin, or thick but not excessively dry, pasty, or crumbly, or moderately but not excessively curdled, and that at the end of two minutes after emptying on the dry flat surface there may be a moderate but not excessive separation of free liquor. The approximate circular area over which the product spreads when emptied on a dry flat surface shall not exceed 12 inches: *Provided*, That when the washed, drained residue of canned cream style corn contains more than 20 percent of alcohol insoluble solids, the average diameter of the area over which the product spreads shall not exceed 10 inches.²

(v) Canned cream style corn that fails to meet the requirements of subdivision (iv) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule) and may also be graded "Below Standard in Quality" for the following reason: Excessive liquid.

(3) *Absence of defects.* (i) The factor of absence of defects refers to the degree of freedom from pieces of cob, husk, silk, or other harmless extraneous vegetable matter, and from damaged or seriously damaged kernels.

² Determined as outlined in the Standard of Quality for Canned Sweet Corn (21 CFR 51.21) promulgated under the Federal Food, Drug, and Cosmetic Act.

(a) "Damaged kernel" means any kernel or piece of kernel damaged by brown or black discoloration, pathological injury, insect injury, or damaged by other means to such an extent that the aggregate damaged area materially affects the appearance or eating quality of the kernel or piece of kernel.

(b) "Seriously damaged kernel" means any kernel or piece of kernel damaged to such an extent that the aggregate damaged area seriously affects the appearance or eating quality of the kernel or piece of kernel.

(ii) Canned cream style corn that is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that:

For each 20 ounces of net weight there may be present:

- Not more than 0.5 cubic centimeter of pieces of cob; and
- Not more than ½ square inch (½" by 1") of husk; and that,

For each 10 ounces of net weight there may be present:

- Not more than 4 damaged and seriously damaged kernels: *Provided*, That not more than 1 of such kernels may be seriously damaged: *And further provided*, That the presence of pieces of cob, husk, silk, or other harmless extraneous vegetable matter, and damaged and seriously damaged kernels do not more than slightly affect the appearance or eating quality of the product.

(iii) If the canned cream style corn is reasonably free from defects a score of 16 or 17 points may be given. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a limiting rule) "Reasonably free from defects" means that:

For each 20 ounces of net weight there may be present:

- Not more than 0.75 cubic centimeter of pieces of cob; and
- Not more than ¾ square inch (½" by 1½") of husk; and that,

For each 10 ounces of net weight there may be present:

- Not more than 8 damaged and seriously damaged kernels: *Provided*, That not more than 3 of such kernels may be seriously damaged: *And further provided*, That the presence of pieces of cob, husk, silk, or other harmless extraneous vegetable matter, and damaged and seriously damaged kernels do not materially affect the appearance or eating quality of the product.

(iv) Canned cream style corn that is fairly free from defects may be given a score of 14 or 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that:

For each 20 ounces of net weight there may be present:

- Not more than 1 cubic centimeter of pieces of cob; and
- Not more than 1 square inch (1" x 1") of husk; and that,

For each 10 ounces of net weight there may be present:

Not more than 15 damaged and seriously damaged kernels: *Provided*, That not more than 5 of such kernels may be seriously damaged;² and that,

For each 1 ounce of net weight there may be present:

Not more than 6 inches of silk:² *Provided*, That the presence of pieces of cob, husk, silk, or other harmless extganeous vegetable matter, and damaged and seriously damaged kernels do not seriously affect the appearance or eating quality of the product.

(v) Canned cream style corn that fails to meet the requirements of subdivision (iv) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule) and may also be graded "Below Standard in Quality" for the following applicable reasons:

- Excessive discolored kernels.
- Excessive cob.
- Excessive husk.
- Excessive silk.

(4) *Tenderness and maturity.* (i) Canned cream style corn that is tender may be given a score of 27 to 30 points. "Tender" means that the kernels are in the milk, early cream, or middle cream stage of maturity have a tender texture, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the milk, early cream, or middle cream stage of maturity.

(ii) If the canned cream style corn is reasonably tender a score of 24 to 26 points may be given. Canned cream style corn that scores less than 26 points in this classification shall not be graded above U. S. Grade B or U. S. Extra Standard, regardless of the total score for the product (this is a partial limiting rule) "Reasonably tender" means that the kernels are in the middle cream stage to late cream stage of maturity, have a reasonably tender texture, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the middle cream to late cream stage of maturity.

(iii) Canned cream style corn that is fairly tender may be given a score of 22 or 23 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule) "Fairly tender" means that the kernels are in the early dough or dough stage of maturity, may be firm but not hard or tough, and that pieces of the interior portions of corn kernels or ground kernels are characteristic of sweet corn in the early dough or dough stage of maturity. The weight of the alcohol insoluble solids of the washed, drained material² does not exceed 27 percent of the weight of such material.

² Determined as outlined in the Standard of Quality for Canned Sweet Corn (21 CFR 51.21) promulgated under the Federal Food, Drug, and Cosmetic Act.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 21 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule), and may also be graded "Below Standard in Quality."

(5) *Flavor* The factor of flavor refers to the palatability of the product. The natural flavor of the sweet corn and the effects of added sugar (sucrose) and salt are considered in evaluating this factor.

(i) Canned cream style corn that possesses a very good flavor may be given a score of 18 to 20 points. "Very good flavor" means that the product including added seasoning ingredients has a very good characteristic flavor and odor typical of tender canned sweet corn.

(ii) If the canned cream style corn possesses a good flavor a score of 16 or 17 points may be given. "Good flavor" means that the product including added seasoning ingredients has a good characteristic flavor and odor typical of reasonably tender canned sweet corn.

(iii) Canned cream style corn that possesses a fairly good flavor may be given a score of 14 or 15 points. Canned cream style corn that falls into this classification shall not be graded above U. S. Grade C or U. S. Standard, regardless of the total score for the product (this is a limiting rule) "Fairly good flavor" means that the product may be lacking in good flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

(iv) Canned cream style corn that fails to meet the requirements of subdivision (iii) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule)

(f) *Tolerances for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of canned cream style corn the grade for such lot will be determined by averaging the total scores of the containers comprising the sample, if, with respect to those factors which are scored:

(i) Not more than one-sixth of the containers fails to meet the grade indicated by the average of such total scores;

(ii) None of the containers falls more than 4 points below the minimum score for the grade indicated by the average of such total scores;

(iii) None of the containers falls more than one grade below the grade indicated by the average of such total scores;

(iv) The average score of all containers for any factor subject to a limiting rule must be within the score range of that factor for the grade indicated by the average of the total scores of the containers comprising the sample; and

(2) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(g) *Score sheet for canned cream style corn.*

Number, size, and kind of container.....		
Container marks or identification.....		
Label.....		
Net weight (ounces).....		
Vacuum reading (inches).....		
Color (White or Yellow).....		
<hr/>		
Factors		Score points
I. Color.....	10	(A) 9-10 (B) 8 (C) 10-7 (SStd.) 10-5 (A) 18-20 (B) 10-17 (C) 14-16 (SStd.) 10-13
II. Consistency.....	20	(A) 18-20 (B) 10-17 (C) 14-16 (SStd.) 10-13
III. Absence of defects.....	20	(A) 18-20 (B) 10-17 (C) 14-16 (SStd.) 10-13
IV. Tenderness and maturity.....	30	(A) 27-30 (B) 14-20 (C) 22-23 (SStd.) 10-21
4. Flavor.....	20	(A) 18-20 (B) 10-17 (C) 14-16 (SStd.) 10-13
Total score.....	100	
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Grade.....		

¹ Indicates partial limiting rule.
² Indicates limiting rule.

Issued at Washington, D. C., this 29th day of April 1953.

[SEAL] GEORGE A. DICE,
Deputy Assistant Administrator,
Production and Marketing
Administration.

[F. R. Doc. 53-3882; Filed, May 1, 1953;
8:50 a. m.]

[7 CFR Part 723]

CIGAR-FILLER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

NOTICE OF FORMULATION OF REGULATIONS RELATING TO MARKETING OF CIGAR-FILLER AND BINDER TOBACCO, COLLECTION OF MARKETING PENALTIES, AND RECORDS AND REPORTS, 1953-54 MARKETING YEAR

Pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301, 1311-1314, 1372-1375), the Secretary of Agriculture is preparing to formulate marketing quota regulations covering the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of Cigar-Filler and Binder tobacco, types 42-44 and 51-55, inclusive, for the 1953-54 marketing year.

It is proposed that the regulations for the 1953-54 marketing year be substantially the same as the regulations which were in effect for the 1951-52 marketing year (16 F. R. 5149, 5314), except as discussed below.

The rule of fractions used in determining the harvested acreage of tobacco on a farm would be changed, and the har-

vested acreage would be expressed to the nearest tenth acre instead of dropping all fractions of less than one-tenth acre.

This change would be made by amending paragraph (a) of § 723.433 (which appears as § 723.233 in the regulations for the 1951-52 marketing year) to read as follows:

(a) The acreage of tobacco harvested on a farm in 1953 shall be expressed in tenths, rounding upward all fractions of six hundredths of an acre or more and dropping all fractions of five hundredths of an acre or less. For example, 4.56 acres would be 4.6 acres and 4.55 acres would be 4.5 acres.

Prior to the final adoption and issuance of such regulations, consideration will be given to any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. All submissions must be postmarked not later than fifteen days from the date of publication of this notice in the FEDERAL REGISTER in order to be considered.

Issued at Washington, D. C., this 29th day of April 1953.

[SEAL] HOWARD H. GORDON,
Administrator

[F. R. Doc. 53-3881; Filed, May 1, 1953;
8:49 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 -CFR Part 20]

[Docket No. FDC-34 (a)]

ICE CREAM, FROZEN CUSTARD, SHERBET, WATER ICES, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

ORDER EXTENDING TIME FOR FILING WRITTEN ARGUMENTS

On December 31, 1952, the presiding officer conducting the hearing in the matter of fixing and establishing definitions and standards of identity for ice cream, frozen custard, sherbet, water ices, and related foods fixed a period of time ending May 5, 1953, for interested persons to file written arguments.

The Secretary of Health, Education, and Welfare, having been petitioned by interested persons who appeared at the hearing to extend the period of time for filing such written arguments, and good cause therefor appearing: *It is ordered*, That the time for filing such documents be hereby extended to August 3, 1953, and that said extension shall apply to any interested person whose appearance was filed at the hearing.

Dated: April 30, 1953.

[SEAL] OVETA CULP HOBBY,
Secretary.

[F. R. Doc. 53-3914; Filed, May 1, 1953;
8:51 a. m.]

NOTICES

DEPARTMENT OF DEFENSE

Office of the Secretary

SURPLUS PERSONAL PROPERTY

NOTICE TO EDUCATIONAL ACTIVITIES OF SPECIAL INTEREST TO DEPARTMENT

I. This directive sets forth the policy of the Secretary of Defense with respect to the donation of surplus personal property to educational activities of special interest to the Department of Defense and the designation of such activities under the provisions of section 203 (j) (3) Public Law 152, 81st Congress, as amended.

II. Policies and procedures contained in this directive are prescribed for implementation by the military departments.

III. The military departments will individually nominate those educational activities that should be designated as being of special interest to the Department of Defense. Recommendations with brief justification will be submitted to the Munitions Board for coordination and referred to the Secretary of Defense for approval. All such educational activities which have been designated by the Secretary of Defense as eligible recipients of surplus personal property held by the military departments, will be recognized by each military department.

The educational activities listed below are a part of this directive and are hereby designated as being of special interest to the armed services within the meaning of section 203 (j) (3) of Public Law 152, 81st Congress, as amended. Addition to or deletion from the below listed activities will be made from time to time as each such change is approved by the Secretary of Defense.

The military departments will (i) individually determine whether surplus personal property (reportable and non-reportable) under their control is usable and necessary for designated educational activities, (ii) individually allocate such reportable surplus personal property for transfer by the Administrator of General Services Administration to such educational activities, (iii) individually allocate such non-reportable surplus personal property to such educational activities and (iv) individually require designated educational activities to furnish the following data as the minimum information necessary to support approval of applications for donable property excess to the Department of Defense.

1. Name of designated educational activity.

2. Complete identification of personal property requested.

3. Certification by the designated educational activity that personal property requested is usable and necessary to it.

4. Authorization by the owning military department that the excess personal property requested is approved for donation if and when the property becomes surplus to the Government.

The requirements of all military departments will be considered paramount to the needs of educational activities of special interest to the Department of Defense.

The military departments are authorized to donate surplus personal property to designated educational activities in accordance with the provisions of regulations of the General Services Administration and existing regulations, policies and procedures contained in this directive.

IV. Each military department will proceed with the revision of regulations, procedures and instructions as necessary to implement the provisions hereof without prior approval and will submit such revised regulations, procedures and instructions (either permanent or interim) in duplicate to the Munitions Board within 60 days after the date of this directive.

V. Educational activities of special interest to the Department of Defense are:

Admiral Billard Academy, New London, Conn.

Admiral Farragut Academy, Pine Beach, N. J.

Admiral Farragut Academy, St. Petersburg, Fla.

Augusta Military Academy, Fort Defiance, Va.

Bolles School, Jacksonville, Fla.

Bordentown Military Institute, Bordentown, N. J.

Brown Military Academy, San Diego, Calif.
California Maritime Academy, Vallejo, Calif.

Castle Heights Military Academy, Lebanon, Tenn.

Columbia Military Academy, Columbia, Tenn.

Culver Military Academy, Culver, Ind.
Fishburne Military School, Waynesboro, Va.

Fork Union Military Academy, Fork Union, Va.

Greenbrier Military School, Lewisburg, W. Va.

Howe Military School, Howe, Ind.
Kamehameha School for Boys, Honolulu, T. H.

Kentucky Military Institute, Lyndon, Ky.

La Salle Military Academy, Oakdale, Long Island, N. Y.

Maine Maritime Academy, Castine, Maine.

Marmion Military Academy, Aurora, Ill.

Massachusetts Maritime Academy, State Pier, Buzzard's Bay, Mass.

Massanutten Military Academy, Woodstock, Va.

Missouri Military Academy, Mexico, Mo.

Morgan Park Military Academy, Chicago, Ill.

National Headquarters, Civil Air Patrol, Inc., Bolling Air Force Base, Washington, D. C.

National Headquarters, Boy Scouts of America, 2 Park Avenue, New York 16, N. Y.

National Headquarters, Girl Scouts of America, 155 East Forty-fourth Street, New York 17, N. Y.

New York State Maritime Academy, Ft. Schuyler, Bronx, New York, N. Y.

New York Military Academy, Cornwall-on-Hudson, N. Y.

Northwestern Military and Naval Academy, Walworth, Wis.

Oak Ridge Military Institute, Oak Ridge, N. C.

Porter Military Academy, Charleston, S. C.
Riverside Military Academy, Gainesville,
Ga.

Sewanee Military Academy, Sewanee, Tenn.
Shattuck School, Faribault, Minn.

Staunton Military Academy, Staunton, Va.
St. John's Military Academy, Delafield, Wis.

St. Joseph's College and Military Academy,
Hays, Kans.

St. Thomas Military Academy, St. Paul,
Minn.

Tabor Academy, Marion, Mass.
Tennessee Military Institute, Sweetwater,
Tenn.

Texas Military Institute, San Antonio, Tex.
The Manlius School, Manlius, N. Y.

Western Military Academy, Alton, Ill.

ROGER M. KYES,
Acting Secretary of Defense.

APRIL 27, 1953.

[F. R. Doc. 53-3852; Filed, May 1, 1953;
8:45 a. m.]

DEPARTMENT OF COMMERCE

National Production Authority

[Suspension Order 60; Docket No. 69]

BERNARD MARTIN AND ALVIN EDWARD
SHULMAN

SUSPENSION ORDER

A hearing having been held in the above-entitled matter on the 24th day of March 1953 before Philip E. Hoffman, a hearing commissioner of the National Production Authority on a statement of charges by the General Counsel of the National Production Authority, in accordance with its General Administrative Order No. 16-06, as amended (16 F. R. 8628), and Rules of Practice 1, Revised March 17, 1953 (18 F. R. 1592) and

The respondents, Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, with offices at 347 Fifth Avenue, Borough of Manhattan, City and State of New York, and individually, having been duly apprised of the specific violations charged and the action which may be taken, and having been fully informed of the rules and procedures which govern these proceedings; and

The respondents having filed an answer containing a general denial of the charges herein; and

The National Production Authority appearing by Herbert L. Saunders, attorney, and respondents appearing by Blaisdell and Dunne of New York, N. Y., William D. Dunne, of counsel; and

On motion of the National Production Authority, Charge 1 of the statement of charges was amended to correct the figure indicating the quantity of material alleged to have been ordered and to indicate the quantity of material delivered, and said amendment to Charge 1 was consented to by the attorney for respondents; and testimony and evidence having been offered and received in support of the charges and in opposition thereto; and the hearing commissioner having been advised in the premises, it is hereby determined:

Findings of fact. 1. Martin Enterprises placed an order dated July 16, 1952, with

Whitehead Metal Products Company, Inc., of New York, N. Y., for 11,000 pounds of nickel-bearing stainless steel sheets containing a DO-N9 rating, and 11,502 pounds of said material was delivered to Cohara Co., Inc., of Brooklyn, N. Y., a storage warehouse, on or about July 29, 1952, and July 30, 1952, for the account of said Martin Enterprises.

2. Martin Enterprises placed an order dated July 28, 1952, with Whitehead Metal Products Company, Inc., of New York, N. Y., for 2,000 pounds of nickel-bearing stainless steel sheets containing a DO-N9 rating, and 2,117 pounds of said material was delivered to Cohara Co., Inc., of Brooklyn, N. Y., a storage warehouse, on or about July 30, 1952, for the account of said Martin Enterprises.

3. Martin Enterprises placed an order dated July 18, 1952, with Mapes and Sprowl Steel Co., of Union, New Jersey, for 8,000 pounds of nickel-bearing stainless steel sheets containing a DO-N9 rating, and 8,059 pounds of said material was delivered to Cohara Co., Inc., of Brooklyn, N. Y., a storage warehouse, on or about July 29, 1952, for the account of said Martin Enterprises.

4. Martin Enterprises placed an order dated July 28, 1952, with the Kenilworth Steel Company of Kenilworth, New Jersey, for 1,300 pounds of nickel-bearing stainless steel sheets containing a DO-N9 rating, and 1,352 pounds of said material was delivered to Cohara Co., Inc., of Brooklyn, N. Y., a storage warehouse, on or about July 30, 1952, for the account of said Martin Enterprises.

5. Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, and individually were unauthorized to apply or extend rating DO-N9 on the orders hereinbefore described.

Conclusion. The facts found hereinabove constitute the acquisition by respondents Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, and individually, of a total of 23,030 pounds of nickel-bearing stainless steel sheets by the purported application of authorized controlled material orders containing an official National Production Authority symbol, DO-N9, in violation of National Production Authority Reg. 2, dated October 3, 1950 (15 F. R. 6632) as amended September 13, 1951 (16 F. R. 9413) section 8 (f) thereof, and of CMP Regulation No. 1, dated May 3, 1951 (16 F. R. 4127) as amended November 23, 1951 (16 F. R. 11860) section 19 (f) thereof.

It is accordingly ordered. 1. That all priority assistance for the purchase of nickel-bearing stainless steel controlled materials, including authorization to place rated and authorized controlled material orders for the same, be, and hereby are, withdrawn and withheld from Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, and individually, their successors and assigns, during the effective period of this suspension order.

2. That all allocations and allotments of nickel-bearing stainless steel controlled materials be, and hereby are,

withdrawn and withheld from Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, and individually, their successors and assigns, during the effective period of this suspension order.

3. That Bernard Martin and Alvin Edward Shulman, doing business as Martin Enterprises, and individually, their successors and assigns, be, and hereby are, prohibited from acquiring, selling, transferring, or delivering to any person during the effective period of this suspension order, nickel-bearing stainless steel controlled materials.

4. The effective period of this suspension order shall commence with the issuance of said suspension order and shall terminate on June 30, 1953.

Issued this 17th day of April 1953.

NATIONAL PRODUCTION
AUTHORITY,
By PHILIP E. HOFFMAN,
Hearing Commissioner

[F. R. Doc. 53-3940; Filed, May 1, 1953;
11:39 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-2156]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION

APRIL 28, 1953.

Take notice that Hope Natural Gas Company (Applicant) a West Virginia corporation with its principal place of business in Clarksburg, West Virginia, filed on April 15, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of natural gas facilities subject to the jurisdiction of the Federal Power Commission, as follows:

Establishment of the Kennedy Storage Area with a storage capacity of approximately 20,000,000,000 cubic feet of natural gas comprising about 6,000 acres and including approximately 15.2 miles of 6-inch, 8-inch, 10-inch, 12-inch and 16-inch pipelines in the system thereof, together with a pipeline of 12 $\frac{3}{4}$ -inch O. D. and 3.73 miles in length.

Applicant proposes to operate the facilities and area as a storage pool, changing its present status as a small producing field to a storage field, and to recondition 46 present wells and redrill 15 abandoned wells.

The estimates total over-all capital cost of the proposed facilities is \$1,236,000 which Applicant proposes to pay for from cash on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 18th day of May 1953. The application is on file with the Commission for public inspection.

[SEAL]

LEON M. FUGUAY,
Secretary.

[F. R. Doc. 53-3857; Filed, May 1, 1953;
8:46 a. m.]

[Project No. 838]

W B. HAMILTON

NOTICE OF ORDER ISSUING NEW LICENSE
(MINOR)

APRIL 28, 1953.

Notice is hereby given that on March 30, 1953, the Federal Power Commission issued its order entered March 26, 1953, issuing new license (Minor) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 53-3870; Filed, May 1, 1953;
8:48 a. m.]

[Project No. 1967]

WHITING-PLOVER PAPER CO.

NOTICE OF ORDER AMENDING LICENSE
(MAJOR)

APRIL 28, 1953.

Notice is hereby given that on March 18, 1953, the Federal Power Commission issued its order entered March 17, 1953, amending license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 53-3871; Filed, May 1, 1953;
8:48 a. m.]

[Project No. 2088]

OROVILLE-WYANDOTTE IRRIGATION
DISTRICTNOTICE OF ORDER AMENDING LICENSE
(MAJOR)

APRIL 28, 1953.

Notice is hereby given that on March 9, 1953, the Federal Power Commission issued its order entered March 3, 1953, amending license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 53-3872; Filed, May 1, 1953;
8:48 a. m.]OFFICE OF DEFENSE
MOBILIZATION

[ODM (DPA) Request 13-DPAV-5 (a)]

WITHDRAWAL OF REQUEST TO PARTICIPATE
IN VOLUNTARY AGREEMENT RELATING TO
SUPPLY OF PETROLEUM TO FRIENDLY
FOREIGN NATIONS, AS REVISED

Pursuant to section 708 of the Defense Production Act of 1950, as amended, the request published in 16 F. R. 8375, on August 22, 1951, to participate in a voluntary agreement, as revised, entitled "Voluntary Agreement Relating to the Supply of Petroleum to Friendly Foreign Nations" dated June 25, 1951, transmitted to and accepted by those companies listed in 16 F. R. 8375, on August 22, 1951, is hereby withdrawn.

The immunity from prosecution under the Federal antitrust laws and the

Federal Trade Commission Act heretofore granted to these companies is likewise withdrawn, except as to those acts performed or omitted by reason of the request which occurred prior to this withdrawal.

(Sec. 708, 64 Stat. 818, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2158; E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp., as amended by E. O. 10433, Feb. 4, 1953, 18 F. R. 761)

Dated: April 30, 1953.

ARTHUR S. FLEMMING,
Director.[F. R. Doc. 53-3913; Filed, Apr. 30, 1953;
2:56 p. m.]SECURITIES AND EXCHANGE
COMMISSION

[File No. 70-2829]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM
ORDER APPROVING SALE OF CERTAIN PROP-
ERTIES OF EASTERN NEW YORK POWER
CORPORATION

APRIL 28, 1953.

Bartholomew A. Brickley, Trustee of International Hydro-Electric System ("IHES") a registered holding company, having filed Amendment No. 4 (as modified) to his application-declaration herein pursuant to sections 11 (d) and 12 (d) of the Public Utility Holding Company Act of 1935 ("the act") and Rule U-44 thereunder, requesting approval of two certain contracts of sale dated March 24, 1953, as modified, wherein he has agreed to cause Eastern New York Power Corporation ("ENYP"), a wholly owned subsidiary of IHES, (1) to sell and convey to the Trustees of Dartmouth College ("Dartmouth") for a consideration of \$9,790,000 certain water-power properties in the States of New York and Maine, now leased to International Paper Company, together with certain other undeveloped or partially developed properties in said States and ENYP's 55.29 percent interest in the common stock of The Indian River Company, a water storage corporation operating in the State of New York; and (2) to sell and convey to Paul Smith's Electric Light and Power and Railroad Company ("Paul Smith's"), a non-affiliate, for a consideration of \$350,000, ENYP's water-power properties covered by the so-called Piercefield Lease together with all other properties owned by ENYP in the drainage area of the Raquette River in St. Lawrence and Franklin counties, New York; said conveyances to be made subject to the further approval of the Public Service Commission of the State of New York, insofar as said commission may have jurisdiction over the transactions, and to the final approval of the United States District Court for the District of Massachusetts ("the Court") and

The Trustee further proposing to apply the proceeds of said sales, together with the proceeds of other sales heretofore approved by the Commission, first, to the retirement of ENYP's First Mortgage Bonds, 3¼ percent Sinking Fund Series due 1961 (\$7,886,000 principal

amount at December 31, 1952) secondly, to the retirement of ENYP's preferred stock (\$3,000,000 par value) the balance to be paid as a distribution to IHES and to be used for the payment of its bank debt (\$5,500,000 balance due) and for other proper purposes; and

A public hearing having been duly held on said Amendment No. 4 to the application-declaration, and briefs having been filed and oral argument heard; and

The Commission having considered the record and having made and filed its findings and opinion herein:

It is ordered, That Amendment No. 4 (as modified) to the original application-declaration filed by the Trustee herein be, and the same hereby is, approved and permitted to become effective for submission to the Court for final approval, subject to the provisions of Rule U-24 and to the further condition that the Trustee shall file herein a copy of the order or orders of the Public Service Commission of the State of New York approving said sales (or an opinion of counsel stating that such approval is not required by the laws of said State) prior to the final consummation thereof:

It is further ordered and recited, That the transactions hereinafter specified and itemized, which are proposed by the Trustee and herein approved, are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

(1) The sale by ENYP to Dartmouth of the properties included in the agreement dated March 24, 1953, on the terms set forth in said agreement.

(2) The sale by ENYP to Paul Smith's of the properties included in the agreement dated March 24, 1953, on the terms set forth in said agreement, as modified.

(3) The application of the proceeds of the aforesaid sales by ENYP to the payment of its outstanding First Mortgage Bonds and the call premium thereon.

(4) The application of the proceeds of said sales by ENYP to the retirement of its outstanding preferred stock.

(5) The distribution to IHES, in liquidation, of the residual proceeds of said sales by ENYP.

(6) The application by the Trustee of said residual proceeds to the payment of the said bank loan and other proper indebtedness of IHES.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.[F. R. Doc. 53-3860; Filed, May 1, 1953;
8:47 a. m.]INTERSTATE COMMERCE
COMMISSION

[4th Sec. Application 28023]

CEMENT FROM HOUSTON, TEX., TO
MONONGAHELA, PA.

APPLICATION FOR RELIEF

APRIL 28, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul

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provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Cement, carloads.

From: Houston, Tex.

To: Monongahela, Pa.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3934, Supp. 35.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3830; Filed, Apr. 30, 1953;
8:51 a. m.]

[4th Sec. Application 28025]

BEANS, LIMA OR STRING, FROM FLORIDA TO CANADA

APPLICATION FOR RELIEF

APRIL 28, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Beans, lima or string, carloads.

From: Points in Florida.

To: London, Ottawa, and Toronto, Ont., Montreal and Quebec, Que., Canada, and intermediate points in the United States.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1195, Supp. 48.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the mat-

ters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3832; Filed, Apr. 30, 1953;
8:51 a. m.]

[4th Sec. Application 28028]

SCRAP IRON AND STEEL FROM POINTS IN SOUTHERN TERRITORY TO AVIS, PA.

APPLICATION FOR RELIEF

APRIL 28, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to the schedule listed below.

Commodities involved: Scrap iron and steel, carloads.

From: Points in southern territory.

To: Avis, Pa.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1329, Supp. 7.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3835; Filed, Apr. 30, 1953;
8:52 a. m.]

[4th Sec. Application 28031]

HORSES AND MULES FROM SOUTHERN TERRITORY TO ROCKFORD, ILL.

APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-

haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Horses and mules, valuable only for slaughtering purposes, carloads.

From: Points in southern territory.

To: Rockford, Ill.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1087, Supp. 53.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-3873; Filed, May 1, 1953;
8:48 a. m.]

[4th Sec. Application 28032]

IRON AND STEEL ARTICLES BETWEEN ILLINOIS TERRITORY AND THE SOUTH

APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by L. S. Schuldt, Agent, for carriers parties to his tariff I. C. C. No. 4527.

Commodities involved: Iron and steel articles, carloads.

Territory: Between points in Illinois territory, including certain points in Indiana, on the one hand, and points in southern territory, on the other.

Grounds for relief: Rail competition, circuitous routes, and to apply rates over various routes based on lowest combination over any route.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters

involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-3874; Filed, May 1, 1953;
8:48 a. m.]

[4th Sec. Application 28033]

RUBBER TIRES FROM INDIANAPOLIS, IND.,
AND MIDDLETOWN, OHIO, TO MEMPHIS,
TENN., AND POINTS IN LOUISIANA

APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to Agent L. C. Schuldt's tariff I. C. C. No. 4367, pursuant to fourth-section order No. 16101.

Commodities involved: Rubber tires, pneumatic, and parts, carloads.

From: Indianapolis, Ind., and Middletown, Ohio.

To: Memphis, Tenn., New Orleans, Baton Rouge, and North Baton Rouge, La.

Grounds for relief: Competition with rail carriers, circuitous routes, and operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-3875; Filed, May 1, 1953;
8:48 a. m.]

[4th Sec. Application 28034]

VARIOUS COMMODITIES FROM SOUTHERN
TERRITORY TO SOUTHERN AND OFFICIAL
TERRITORIES

APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application

No. 85—4

for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to tariffs listed in exhibit A of the application, pursuant to fourth-section order No. 17220.

Commodities involved: Various commodities.

From: Southern territory.

To: Southern and official territories.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-3876; Filed May 1, 1953;
8:49 a. m.]

[4th Sec. Application 28035]

SAND FROM TENNESSEE TO THE SOUTHWEST
APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Sand, carloads.
From: Camden, Hollow Rock, Lexington, Lape, and Sawyers Mill, Tenn.

To: Points in Arkansas, Louisiana, Oklahoma, and Texas.

Grounds for relief: Rail competition, circuitous routes, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3736, Supp. 220.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without

further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-3877; Filed, May 1, 1953;
8:49 a. m.]

[4th Sec. Application 28036]

HIDES, PELTS AND SKINS FROM MEMPHIS,
TENN., AND NEW ORLEANS, LA., TO
ENDICOTT, N. Y.

APPLICATION FOR RELIEF

APRIL 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to Agent W. P. Emerson, Jr.'s tariff I. C. C. No. 413 and Agent C. A. Spaninger's tariff I. C. C. No. 1324, pursuant to fourth-section order No. 16101.

Commodities involved: Hides, pelts and skins, carloads.

From: Memphis, Tenn., and New Orleans, La., and points taking the same rates.

To: Endicott, N. Y.

Grounds for relief: Competition with rail carriers, circuitous routes, and operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-3878; Filed, May 1, 1953;
8:49 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 14]

NEW YORK, CHICAGO AND ST. LOUIS
RAILROAD CO.

REROUTING AND DIVERSION OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, The New York, Chicago and St. Louis Railroad Company, account pend-

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ing work stoppage, is unable to transport traffic routed over its line: *It is ordered, That:*

(a) *Rerouting traffic:* The New York, Chicago and St. Louis Railroad Company being unable to transport traffic routed over its line, because of pending work stoppage, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of the routing shown on the way bill. 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:* Each carrier 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 shipment 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 pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date:* This order shall become effective at 4:00 p. m., April 24, 1953.

(g) *Expiration date:* This order shall expire at 4:00 p. m., April 25, 1953, 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, Division of the FEDERAL REGISTER.

Issued at Washington, D. C., April 24, 1953.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W TAYLOR,
Agent.

[F. R. Doc. 53-3879; Filed, May 1, 1953; 8:49 a. m.]