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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Miscellaneous Amendments

1. Effective upon publication in the FEDERAL REGISTER, paragraph (o) (1) of § 6.101 is amended as set out below.

§ 6.101 Entire Executive Civil Service.

(o) Nonsupervisory positions of custodial laborer (levels 1, 2 and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (k) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, and Interior, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

§ 6.112 [Amendment]

2. Effective upon publication in the FEDERAL REGISTER, paragraphs (a) (1) and (l) of § 6.112 are revoked.

3. Effective upon publication in the FEDERAL REGISTER, § 6.164(a), (b), and (c) is added as set out below.

§ 6.164 Federal Aviation Agency.

(a) Caretakers and light attendants employed on emergency fields and other air navigation facilities, who are paid on a fee basis.

(b) Medical Officer positions on Canton and Wake Islands.

(c) Laborer positions on Swan Island.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 59-1820: Filed, Mar. 2, 1959; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER K—HUMANE SLAUGHTER OF LIVESTOCK

PART 180—DESIGNATION OF METHODS

Pursuant to the provisions of the Humane Slaughter Act of 1958 (Pub. Law 85-765), Chapter I of Title 9, Code of Federal Regulations, as amended, is hereby further amended by adding thereto a new Subchapter K entitled "Humane Slaughter of Livestock", including a new Part 180 entitled "Designation of Methods", to read as follows:

Sec.
180.1 Definitions.
180.5 Chemical; carbon dioxide.
180.15 Mechanical; captive bolt.
180.16 Mechanical; gunshot.
180.30 Electrical; stunning with electric current.

AUTHORITY: §§ 180.1 to 180.30 issued under Pub. Law 85-765.

§ 180.1 Definitions.

For the purpose of this part the following terms shall be construed, respectively, to mean:

(a) *The Act.* The Act of August 27, 1958 (Pub. Law 85-765) relating to humane slaughter of livestock.

(b) *Division.* Meat Inspection Division, Agricultural Research Service, United States Department of Agriculture.

(c) *Inspectors.* Inspectors of the Division.

(d) *Carbon dioxide.* A gaseous form of the chemical formula CO₂.

(e) *Carbon dioxide concentration.* Ratio of carbon dioxide gas and atmospheric air.

(f) *Exposure time.* The period of time an animal is exposed to an anesthesia-producing carbon dioxide concentration.

(g) *Anesthesia.* Loss of sensation or feeling.

(h) *Surgical anesthesia.* A state of unconsciousness measured in conformity with accepted surgical practices.

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- Title 49, Parts 91-164 (\$0.40)

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(i) *Consciousness.* Responsiveness of the brain to the impressions made by the senses.

(j) *Captive bolt.* A stunning instrument which when activated drives a bolt out of a barrel for a limited distance.

§ 180.5 Chemical; carbon dioxide.

The slaughtering of sheep and swine with the use of carbon dioxide gas and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act.

(a) *Administration of gas, required effect; handling.* (1) The carbon dioxide gas shall be administered in a chamber in accordance with this section so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

(2) The driving or conveying of the animals to the carbon dioxide chamber shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the anesthesia chamber is essential since the induction, or early phase, of anesthesia is less violent with docile animals. Among other things this requires that, in driving animals to the anesthesia chamber, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) On emergence from the carbon dioxide chamber the animals shall be in a state of surgical anesthesia and shall remain in this condition throughout shackling, sticking and bleeding. Asphyxia or death from any cause shall not be produced in the animals before bleeding.

(b) *Facilities and procedures—(1) General requirements for gas chamber and auxiliary equipment; operator.* (i) The carbon dioxide gas shall be administered in a chamber which accomplishes effective exposure of the animal. Two types of chambers involving the same principle are in common use for carbon dioxide anesthesia. They are the "U" Type chamber and the "Straight Line" Type chamber. Both are based upon the

principle that carbon dioxide gas has a higher specific gravity than air. The chambers open at both ends for entry and exit of animals and have a depressed central section. Anesthetizing carbon dioxide concentrations are maintained in the depressed central section of the chamber. Effective anesthetization is produced in this section. Animals are driven from holding pens through a pathway constructed of pipe or other smooth metal onto a continuous conveyor device which moves the animals through the chamber. They are moved onto the conveyor through a manually or mechanically operated gate. Each animal is compartmentalized on the conveyor as he enters the chamber by impellers synchronized with the conveyor. Surgically anesthetized animals are moved from the chamber by the same continuous conveyor that carried them into and through the carbon dioxide gas.

(ii) Flow of animals into and through the carbon dioxide chamber is dependent on one operator. The operation or stoppage of the conveyor is entirely dependent upon this operator. It is necessary that he be skilled, attentive, and aware of his responsibility. Overdoses and death of animals can be brought about by carelessness of this individual.

(2) *Special requirements for gas chamber and auxiliary equipment.* The ability of anesthetizing equipment to perform with maximum efficiency is dependent on its proper design and efficient mechanical operation. Pathways, compartments, gas chambers, and all other equipment used must be designed to accommodate properly the species of animals being anesthetized. They shall be free from pain-producing restraining devices. Injury of animals must be prevented by the elimination of sharp projections or exposed wheels or gears. There shall be no unnecessary holes, spaces or openings where feet or legs of animals may be injured. Impellers or other devices designed to mechanically move or drive animals or otherwise keep them in motion or compartmentalized shall be constructed of flexible or well padded rigid material. Power activated gates designed for constant flow of animals to anesthetizing equipment shall be so fabricated that they will not cause injury. All equipment involved in anesthetizing animals shall be maintained in good repair.

(3) *Gas.* Maintenance of a uniform carbon dioxide concentration and distribution in the anesthesia chamber is a vital aspect of producing surgical anesthesia. This may be assured by reasonably accurate instruments which sample and analyze carbon dioxide gas concentration within the chamber throughout anesthetizing operations. Gas concentration shall be maintained uniform so that the degree of anesthesia in exposed animals will be constant. Carbon dioxide gas supplied to anesthesia chambers may be from controlled reduction of solid carbon dioxide or from a controlled liquid source. In either case the carbon dioxide shall be supplied at a rate sufficient to anesthetize adequately and uniformly the number of animals

passing through the chamber. Sampling of gas for analysis shall be made from a representative place or places within the chamber and on a continuing basis. Gas concentrations and exposure time shall be graphically recorded throughout each day's operation. Neither carbon dioxide nor atmospheric air used in the anesthesia chambers shall contain noxious or irritating gasses. Each day before equipment is used for anesthetizing animals, proper care shall be taken to mix adequately the gas and air within the chamber. All gas producing and control equipment shall be maintained in good repair and all indicators, instruments, and measuring devices must be available for inspection by Division inspectors during anesthetizing operations and at other times. A suitable exhaust system must be provided to eliminate possible overdoses due to mechanical or other failure of equipment.

§ 180.15 Mechanical; captive bolt.

The slaughtering of sheep, swine, goats, calves, cattle, horses and mules by using captive bolt stunners and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act.

(a) *Application of stunners, required effect; handling.* (1) The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

(2) The driving of the animals to the stunning areas shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals. Among other things, this requires that, in driving animals to the stunning areas, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

(b) *Facilities and procedures—(1) General requirements for stunning facilities; operator.* (i) Acceptable captive bolt stunning instruments may be either skull penetrating or non-penetrating. The latter type is also described as a concussion or mushroom type stunner. Penetrating instruments on detonation deliver bolts of varying diameters and lengths through the skull and into the brain. Unconsciousness is produced immediately by physical brain destruction and a combination of changes in intracranial pressure and acceleration concussion. Non-penetrating or mushroom stunners on detonation deliver a bolt with a flattened circular head against the

external surface of the animal's head over the brain. Diameter of the striking surface of the stunner may vary as conditions require. Unconsciousness is produced immediately by a combination of acceleration concussion and changes in intracranial pressures. A combination instrument utilizing both penetrating and non-penetrating principles is acceptable. Energizing of instruments may be accomplished by detonation of measured charges of gunpowder or accurately controlled compressed air. Captive bolts shall be of such size and design that, when properly positioned and activated, immediate unconsciousness is produced.

(ii) To assure uniform unconsciousness with every blow, compressed air devices must be equipped to deliver the necessary constant air pressure and must have accurate, constantly operating air pressure gauges. Gauges must be easily read and conveniently located for use by the stunning operator and the inspector. For purposes of protecting employees, inspectors, and others, it is desirable that any stunning device be equipped with safety features to prevent injuries from accidental discharge. Stunning instruments must be maintained in good repair.

(iii) The stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy. All chutes, alleys, gates and restraining mechanisms between and including holding pens and stunning area shall be free from pain-producing features such as exposed bolt ends, loose boards, splintered or broken planking, and protruding sharp metal of any kind. There shall be no unnecessary holes or other openings where feet or legs of animals may be injured. Overhead drop gates shall be suitably covered on the bottom edge to prevent injury on contact with animals. Roughened or cleated cement shall be used as flooring in chutes leading to stunning areas to reduce falls of animals. Chutes, alleys, and stunning areas shall be so designed that they will comfortably accommodate the kinds of animals to be stunned.

(iv) The stunning operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness. He must use the correct detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results.

(2) *Special requirements.* Choice of instrument and force required to produce immediate unconsciousness varies, depending on kind, breed, size, age, and sex of the animal. Young swine, lambs, and calves usually require less stunning force than mature animals of the same kind. Bulls, rams, and boars usually require skull penetration to produce immediate unconsciousness. Charges suitable for smaller kinds of livestock such as swine or for young animals are not acceptably interchanged for use on larger kinds or older livestock, respectively.

§ 180.16 Mechanical; gunshot.

The slaughtering of cattle, calves, sheep, swine, goats, horses and mules by shooting with firearms and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act.

(a) *Utilization of firearms, required effect; handling.* (1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animals shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

(2) The driving of the animals to the shooting areas shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the shooting area is essential since accurate placement of the bullet is difficult in case of nervous or injured animals. Among other things, this requires that, in driving animals to the shooting areas, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding.

(b) *Facilities and procedure—(1) General requirements for shooting facilities; operator.* (i) On discharge, acceptable firearms dispatch free projectiles or bullets of varying sizes and diameters through the skull and into the brain. Unconsciousness is produced immediately by a combination of physical brain destruction and changes in intracranial pressure. Caliber of firearms shall be such that when properly aimed and discharged, the projectile produces immediate unconsciousness.

(ii) To assure uniform unconsciousness with every discharge when small-bore firearms are used, it is necessary to use hollow-pointed projectiles. Firearms must be maintained in good repair. For purposes of protecting employees, inspectors, and others, it is desirable that all firearms be equipped with safety devices to prevent injuries from accidental discharge. Aiming and discharging of firearms should be directed away from operating areas.

(iii) The provisions contained in § 180.15(b)(1)(iii) with respect to the stunning area also apply to the shooting area.

(iv) The shooting operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately direct the projectile to produce immediate unconsciousness. He must use the correct caliber firearm, powder charge and type of ammunition to produce the desired results.

(2) *Special requirements.* Choice of firearm and ammunition with respect to

caliber and choice of powder charge required to produce immediate unconsciousness varies, depending on age and sex of the animal. Bulls, rams, and boars usually require larger caliber projectiles than other cattle, calves, sheep, swine, goats, horses, and mules to produce immediate unconsciousness, and firearms and ammunition suitable for the latter group are not interchangeable for use on bulls, rams, and boars.

§ 180.30 Electrical; stunning with electric current.

The slaughtering of swine, sheep, calves, and cattle with the use of electric current and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the act.

(a) *Administration of electric current, required effect; handling.* (1) The electric current shall be administered so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the electric current in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

(2) The driving or conveying of the animals to the place of application of electric current shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the place of application is essential to insure rapid and effective insensibility. Among other things this requires that, in driving animals to the place of application, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) The quality and location of the electrical shock shall be such as to produce immediate insensibility to pain in the exposed animal.

(4) The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking and bleeding. However, the animal shall die from loss of blood resulting from the sticking and bleeding, and not from the electrical shock.

(b) *Facilities and procedures; operator—(1) General requirements for operator.* It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his responsibility. Overdosages and death of animals can be brought about by carelessness of this individual.

(2) *Special requirements for electric current application equipment.* The ability of electric current equipment to perform with maximum efficiency is dependent on its proper design and efficient mechanical operation. Pathways, compartments, current applicators, and all other equipment used must be designed to accommodate properly the species of animals being anesthetized. They shall be free from pain-producing restraining devices. Injury of animals must be prevented by the elimination of sharp projections or exposed wheels, or gears. There shall be no unnecessary holes, spaces or openings where feet or legs of

animals may be injured. Impellers or other devices designed to mechanically move or drive animals or otherwise keep them in motion or compartmentalized shall be constructed of flexible or padded material. Power activated gates designed for constant flow of animals to electrical stunning equipment shall be so fabricated that they will not cause injury. All electrical stunning and auxiliary control and other equipment shall be maintained in good repair and all indicators, instruments, and measuring devices shall be available for inspection by Division inspectors during stunning operations and at other times.

(3) *Electric current.* Each animal shall be given a sufficient application of electric current to insure unconsciousness immediately and through the bleeding operation. Suitable timing, voltage and current control devices shall be used to insure that each animal receives the necessary electrical charge to produce immediate unconsciousness. Moreover, the current shall be applied so as to avoid the production of hemorrhages or other tissue changes that would interfere with the inspection procedures of the Meat Inspection Division.

The foregoing provisions designated, as humane, methods of slaughter of livestock and handling in connection with slaughter which the Department of Agriculture has found to comply with the policy of the Humane Slaughter Act. Research is continuing to determine whether other methods comply with the policy of the Act, and if it is found hereafter, that there are other methods which qualify as humane, they will also be designated.

Ritual slaughter and the handling or other preparation of livestock for ritual slaughter are deemed by said Act to be humane and to comply with the public policy expressed in the law but they are exempted by the Act from its requirements. Accordingly, no administrative designation as humane is necessary for ritual slaughter and the handling or other preparation of livestock for ritual slaughter.

The designations have been made after consultation with the advisory committee established for this purpose, under the Act, and are required by the Act to be announced not later than March 1, 1959. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice of rule-making and other public procedure under said section with respect to the designations are impracticable, unnecessary, and contrary to the public interest.

The designations shall become effective for purposes of section 8 of the Act on June 30, 1960.

Done at Washington, D.C., this 24th day of February 1959.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59-1724; Filed, Feb. 27, 1959; 4:24 p.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-CONTAINING DRUGS)

Chlortetracycline (or Tetracycline) Hydrochloride Capsules

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), the regulations for certification of chlortetracycline and chlortetracycline-containing drugs (21 CFR 146c.204 (23 F.R. 6436)) are amended as follows:

In § 146c.204 *Chlortetracycline hydrochloride capsules* * * * paragraph (c) *Labeling* is amended in the following respects:

1. Subparagraph (1) (iv) (d) is amended by deleting the phrase "and it does not contain sodium metaphosphate,".

2. Subparagraph (1) (iv) (e) is amended by changing the number "18" to "36".

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

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

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: February 24, 1959.

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

[F.R. Doc. 59-1822; Filed, Mar. 2, 1959; 8:48 a.m.]

PART 164—CERTIFICATION OF BATCHES OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Labeling Requirements

There was published in the FEDERAL REGISTER of December 24, 1958 (23 F.R. 10186), notice of a proposed amendment to § 164.6 to require the expiration date to appear on the label of the immediate containers. No comments were filed within the 30-day period stipulated in the above-referenced notice. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 506, 701, 55 Stat. 851, 52 Stat. 1055, as

amended; 21 U.S.C. 356, 371) and the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045; 23 F.R. 9500), *It is ordered*, That § 164.6 (a) (3) and (b) (21 CFR, 1956 Supp., 164.6) be changed to read as follows:

§ 164.6 Labeling.

(a) * * *

(3) The statement "Expiration date _____," the blank being filled in with the date on which the certificate applicable to such batch expires with respect to such package, as provided in § 164.4(b) (1) or (2).

(b) On the outside container or wrapper of the retail package, the statement "Keep in a cold place, avoid freezing."

Effective date. This order shall become effective February 1, 1960.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357. Interprets or applies sec. 506, 55 Stat. 851; 21 U.S.C. 356)

Dated: February 24, 1959.

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

[F.R. Doc. 59-1813; Filed, Mar. 2, 1959; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER B—PERSONNEL

[Dept. Reg. 108.388]

PART 11—EXAMINATIONS FOR THE APPOINTMENT OF FOREIGN SERVICE OFFICERS

Designation To Take Examination

Section 11.3 *Designation to take examination* is amended by revising paragraph (c) and adding paragraph (d) as follows:

(c) To be designated for the written examination an applicant, as of the closing date for the receipt of applications, shall have been a citizen of the United States for at least 9 years and shall be at least 21 but under 31 years of age; except that an applicant who has been awarded a Bachelor's degree by a college or university, or is enrolled in the senior class at a college or university, may qualify as to age if at least 20 but under 31 years of age.

(d) Notwithstanding the provisions of (c) above, the maximum age requirement is established at under 32 years as of the closing date for the receipt of applications for designation to take any written examination that may be given during the calendar year 1959.

(Sec. 212, 60 Stat. 1001; 22 U.S.C. 827)

Dated: February 19, 1959.

For the Secretary of State.

W. K. SCOTT,
Assistant Secretary
for Administration.

[F.R. Doc. 59-1811; Filed, Mar. 2, 1959; 8:46 a.m.]

RULES AND REGULATIONS
Title 14—CIVIL AVIATION
Chapter II—Federal Aviation Agency
 [Amdt. 107]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES
Miscellaneous Alterations

The standard instrument approach procedures appearing hereinafter are adopted to become effective when indicated in order to promote safety. 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.

NOTE: Where the general classification (L/MFR, ADF, VOR, TervOR, VOR/DME, ILS, or RADAR), location, and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure, that procedure is to be substituted for the existing one, as of the effective date given, to the extent that it differs from the existing procedure; where a procedure is cancelled, the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

Part 609 is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELLED, EFFECTIVE 26 JAN 59. LFR DECOMMISSIONED.

City, Orlando; State, Fla.; Airport Name, Orlando; Elev., 115'; Fac. Class, SBMRLZ; Ident., ORL; Procedure No. 1, Amdt. 10; Eff. Date, 4 June 55; Sup. Amdt. No. 9; Dated, 11 Feb. 54

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
ORL-VOR	LOM	Direct	1300	T-dn C-dn S-dn-3L A-dn	300-1 400-1 400-1 800-2	300-1 500-1 400-1 800-2	200-½ 500-1½ 400-1 800-2

Procedure turn N side of crs, 130° Outbnd, 310° Inbnd, 1300' within 10 mi.

Minimum altitude over facility on final approach crs, 800'.

Crs and distance, facility to airport, 310°—4.2 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 mi. after passing LOM, climb to 1700' on crs of 310° within 20 mi.

City, Orlando; State, Fla.; Airport Name, Orlando; Elev., 115'; Fac. Class, LOM; Ident., OR; Procedure No. 1, Amdt. 8; Eff. Date, 21 Mar. 59; Sup. Amdt. No. 7; Dated, 1 Nov. 58

3. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SW crs Buffalo LFR via crs 052° Wolcottsville FM Buffalo VOR	LOM LOM (Final) LOM	Direct Direct Direct	2000 1900 1900	T-dn C-dn S-dn-23 A-dn	300-1 400-1 300-¾ 600-2	300-1 500-1 300-¾ 600-2	200-½ 500-1½ 300-¾ 600-2

Procedure turn N side NE crs 052° Outbnd, 232° Inbnd, 1900' within 10 mi of LOM.

Minimum altitude at glide slope int inbnd, 1900'.

Altitude of glide slope and distance to approach end of rwy at OM, 1910'—3.7; at MM, 930'—0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2000' on SW crs ILS or, when directed by ATO, climb as rapidly as possible to 2300' on W crs Buffalo LFR within 10 mi.

CAUTION: 1349' TV tower 5 mi-WNW of airport.

City, Buffalo; State, N. Y.; Airport Name, Municipal; Elev., 711'; Fac. Class, ILS; Ident., I-BUF; Procedure No. ILS-23, Amdt. 8; Eff. Date, 21 Mar. 59; Sup. Amdt. No. 7; Dated, 29 Apr. 58

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
EUG-LFR.....	LOM.....	Direct.....	2000	T-dn.....	300-1	300-1	200-1/2
EUG-VOR.....	LOM.....	Direct.....	2000	C-dn.....	500-1	500-1 1/2	500-1 1/2
Cottage Grove FM.....	LOM.....	Direct.....	3100	S-dn-16.....	300-3/4	300-3/4	300-3/4
				A-dn.....	600-2	600-2	600-2

Procedure turn E side of N crs, 338° Outbnd, 158° Inbnd, 2000' within 10 mi.
 Minimum altitude at glide slope int inbnd, 2000'.
 Altitude of G.S. and distance to appr end of rny at LOM, 1480'—3.7 mi.; at LMM, 570'—0.6 mi.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing LOM, turn right and climb to 2000' on N crs of Eugene LFR within 10 miles or, when directed by ATC, turn right and climb to 2000' on R-356 EUG VOR within 10 miles.
 NOTES: All turns to be made on the East side of the course; high terrain to West. No approach lights.

City, Eugene; State, Oreg.; Airport Name, Mahlon Sweet; Elev., 365'; Fac. Class, ILS; Ident., 1-EUG; Procedure No. ILS-16, Amdt. 13; Eff. Date, 21 Feb. 59; Sup. Amdt. No. 12; Dated 21 Feb. 59

Midland VOR.....	Radio Int#.....	Direct.....	4100	T-dn.....	300-1	300-1	*200-1/4
Int NE crs ILS and V-16.....	Tank Farm Int.....	Direct.....	5000	C-dn.....	400-1	500-1	500-1 1/4
Tank Farm Int.....	Radio Int (Final).....	Direct.....	3900	S-dn-22.....	400-1	400-1	400-1
				A-dn.....	800-2	800-2	800-2

*300-1 required Runways 16L and 34R.
 #Radio Int: Int NE crs ILS and R-117 MAF.
 Procedure turn N side of NE crs of ILS, 043° Outbnd, 223° Inbnd, 4400' within 10 mi. Beyond 10 mi NA.
 No glide slope. Altitude over Radio Int, 3900'; Crs and distance, Radio Int to Airport, 223—3.5.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.5 mi, climb to 4400' on SW crs ILS within 20 mi, or when directed by ATC, climb to 4600' on R-150 MAF or climb to 4000' on SE crs of MAF LFR within 20 mi.

City, Midland; State, Tex.; Airport Name, Air Terminal; Elev., 2867'; Fac. Class, ILS-IMAF; Ident., BVOR-MAF; Procedure No. ILS-22, Amdt. 4; Eff. Date, 21 Mar. 59 Sup. Amdt. No. 3; Dated, 28 June 58

ORL-VOR.....	LOM.....	Direct.....	1300	T-dn.....	300-1	300-1	200-1/4
				C-dn.....	400-1	500-1	500-1 1/4
				S-dn-31*.....	300-3/4	300-3/4	300-3/4
				A-dn.....	600-2	600-2	600-2

*400-3/4 required when glide slope not utilized.
 Procedure turn N side crs, 130° Outbnd, 310° Inbnd, 1500' within 10 mi.
 Minimum altitude at G.S. int inb, 1500'.
 Altitude of G.S. and distance to approach end of rny at OM, 1440'—4.2 mi; at MM, 340'—0.6 mi.
 If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 1700' on NW crs of ILS within 20 miles or, when directed by ATC, climb to 1700' on R-220 ORL-VOR within 20 miles.
 NOTE: No approach lights.

City, Orlando; State, Fla.; Airport Name, Orlando; Elev., 115'; Fac. Class, ILS; Ident., 10RL; Procedure No. ILS-31, Amdt. 8; Eff. Date, 21 Mar. 59; Sup. Amdt. No. 7; Dated, 1 Nov. 58

These procedures shall become effective on the dates indicated on the procedures.

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

E. R. QUESADA,
 Administrator.

FEBRUARY 24, 1959.

[F.R. Doc. 59-1816; Filed, Mar. 2, 1959; 8:47 a.m.]

Title 7—AGRICULTURE

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

[Lemon Reg. 779, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information

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

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

Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (ii) of § 953.886 (Lemon Regulation 779; 24 F.R. 1343) are hereby amended to read as follows:

(ii) District 2: 162,750 cartons.

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

Dated: February 26, 1959.

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

[F.R. Doc. 59-1827; Filed, Mar. 2, 1959; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS

With the exception of § 2.405-3, this entire amendment consists of a new Part 17, entitled "Extraordinary Contractual Actions to Facilitate the National Defense."

This new Part 17 implements Public Law 85-804, approved August 28, 1958, the successor to Title II of the First War Powers Act which expired June 30, 1958. Under Public Law 85-804, all authority was vested in the President; therefore, the President by Executive Order No. 10789, dated November 14, 1958, delegated the authority to the Department of Defense "Under such regulations, which shall be uniform to the extent practical, as may be prescribed or approved by the Secretary of Defense." By memorandum dated January 5, 1959, the Deputy Secretary of Defense, with the concurrence of the Military Departments, approved Part 17 for immediate use.

Part 17 contains the regulations contemplated by Executive Order 10789, and provides among other things for (i) entering into and amending or modifying of contracts without consideration to facilitate the national defense, and under certain conditions (ii) formalizing of an informal commitment, and (iii) correcting mistakes.

Notwithstanding § 1.107 of this chapter, amendment shall be effective at all applicable echelons upon receipt, and may be applied to pending requests for relief under P.L. 85-804.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

Subpart D—Opening of Bids and Award of Contract

§ 2.405 Mistakes in bids.

* * * * *

§ 2.405-3 Disclosure of mistakes after award.

When an alleged mistake in bid is disclosed after award has been made, and where other authority available to the Military Department concerned is lacking or inadequate, the case shall be processed in accordance with Part 17 of this chapter, or, where that part is inadequate, in accordance with Departmental procedures.

(R.S. 161, sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202)

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

Sec.	
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17.001	Approval of regulations and deviations.

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Sec.	
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17.203	Authority of other officers and officials.
17.204	Standards for deciding cases:
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17.205	Limitations upon exercise of authority.
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17.206	Contractual requirements.
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17.207-3	Records.
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17.208	Processing cases.
17.208-1	Investigation.
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17.208-5	Maintenance of records.
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Subpart C—Residual Powers

17.300	Scope.
17.301	Delegations of authority.
17.302	Standards for using residual powers.
17.303	Procedures.
17.304	Maintenance of records.

Subpart D—Records of Requests and Dispositions

17.400	Scope of subpart.
17.401	Preliminary records.
17.402	Final records.
17.403	Sample format for preliminary and final records.

Subpart E—Act and Executive Order

17.500	Scope of subpart.
17.501	Act of August 28, 1958 (Public Law 85-804, 50 U.S.C. 1431-1435).
17.502	Executive Order No. 10789 of November 14, 1958 (23 F.R. 8897).

AUTHORITY: §§ 17.000 to 17.502 issued under R.S. 161, sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202.

§ 17.000 Scope of Part.

As distinguished from the normal principles and procedures set forth in the other parts of this subchapter, this part establishes uniform regulations for entering into and amending or modifying contracts to facilitate the national defense under the extraordinary emergency authority granted by the Act of August 28, 1958 (Public Law 85-804); 72 Stat. 972; 50 U.S.C. 1431-1435, set forth in § 17.501, hereinafter referred to as "the Act," and Executive Order No. 10789, dated November 14, 1958 (23 F.R. 8897), set forth in § 17.502, hereinafter referred to as "the Executive Order." The Act empowers the President to authorize departments and agencies exer-

cising functions in connection with the national defense, to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense. This extraordinary authority may be exercised only in the unusual circumstances described in this part. This part does not cover advance payments (see Defense Contract Financing Regulations, AR 715-6; NAVEXOS P-1006; AFR 173-133, Part 82, Subchapter G, of this title).

§ 17.001 Approval of regulations and deviations.

The Executive Order authorizes the Secretaries of Defense, the Army, the Navy and the Air Force, respectively, under regulations prescribed or approved by the Secretary of Defense, to exercise this authority. This part has been concurred in by the Secretaries of the Army, the Navy, and the Air Force in accordance with §§ 1.101 and 1.105 of this chapter and has been approved by the Secretary of Defense. Notwithstanding § 1.105 of this chapter, any amendments to this part developed in accordance with the procedure specified in § 1.105 of this chapter and any deviations proposed to be made under the procedure specified in § 1.109 of this chapter shall be concurred in by the Secretaries of the Army, the Navy, and the Air Force, and approved by the Secretary of Defense.

Subpart A—General

§ 17.101 Previous authority.

Title II of the First War Powers Act, as amended and extended, expired June 30, 1958. Executive Order No. 10210, dated February 2, 1951; and the following joint regulations are thus no longer applicable:

(a) "Regulations Governing the Exercise of Certain Authority Granted by Title II of the First War Powers Act, as Amended, and Executive Order No. 10210, Issued Thereunder", dated February 21, 1951; and the amendment thereto dated January 12, 1954; -

(b) "Coordinated Procedures to be Applied by the Army, Navy and Air Force for the Disposition of Requests by Contractors under Title II of the First War Powers Act, as Amended by Public Law 921, 81st Congress", dated June 23, 1951; and

(c) "Regulations Governing the Authority To Contract Under Title II of the First War Powers Act, as Amended, and Executive Order No. 10210, Issued Thereunder", dated July 17, 1951.

§ 17.102 General policy.

(a) The authority conferred by the Act shall be delegated by the Secretaries of the Military Departments in a manner which will best serve the logistic functions of the Departments and, at the same time, retain control over the exercise of the authority at a level high enough to insure uniformity of action.

(b) The authority conferred by the Act shall not be utilized so as to en-

courage carelessness and laxity on the part of persons engaged in the defense effort nor be relied upon by a Military Department where other adequate legal authority exists in the Department.

(c) The actions authorized under the Act shall be processed as expeditiously as practicable consistent with the care, restraint, and exercise of sound judgment, appropriate to such extraordinary authority. The interests of other departments and agencies of the Government shall be considered.

§ 17.103 Types of actions.

Three types of actions may be taken by or pursuant to the direction of an approving authority under the Act. These are—(a) contractual adjustments such as amendments without consideration, correction of mistakes, and formalization of informal commitments (see Subpart B of this part); (b) making advance payments (not covered by this part); and (c) exercise of "residual powers," which refers to all other authority, under the Act (see Subpart C of this part).

§ 17.104 Definitions.

(a) The term "approving authority" as used in this part means a Contract Adjustment Board, or an officer or official having authority to approve actions under the Act. This authority is distinguished from authority to take appropriate contractual action pursuant to such approval.

(b) The term "Secretarial level" as used in this part means an official at or above the level of an Assistant Secretary or his Deputy, and a Contract Adjustment Board established by the Secretary concerned.

Subpart B—Requests for Contractual Adjustment

§ 17.200 Scope.

This subpart provides for the establishment of a Contract Adjustment Board within each Military Department and describes certain delegations of authority. It also sets forth standards and the procedures for disposition of requests for contractual adjustment under the Act.

§ 17.201 Authority of the Secretaries.

The Secretary of each Department may delegate in writing his authority under the Act and the Executive Order, subject to the following limitations:

(a) Authority to approve actions under the Act obligating the United States in an amount in excess of \$50,000 shall not be delegated below the Secretarial level; and

(b) Authority to approve any amendment without consideration which increases the stated contract price or unit price may not be delegated below the Secretarial level except in extraordinary cases or classes of cases as to which the Secretary involved finds that there are special circumstances clearly justifying delegation to a lower level.

The delegations described in §§ 17.202 and 17.203 shall not be construed as limiting the authority of the Secretaries to modify or make other delegations.

Copies of all delegations and successive redelegations shall be transmitted to the Assistant Secretary of Defense for Supply and Logistics at the time of issuance.

§ 17.202 Contract Adjustment Boards.

§ 17.202-1 Organization.

A Contract Adjustment Board has been established within each Military Department by the Secretary thereof. Such Boards consist of a Chairman and not less than two or more than six other members, one of whom may be designated the Vice-Chairman. A majority constitutes a quorum for any purpose and the concurring vote of a majority of the total Board membership constitutes an action of the Board. Alternates may be appointed to act in the absence of members.

§ 17.202-2 Authority.

The Contract Adjustment Board in each Department has been given authority to approve, authorize and direct appropriate action under the standards set forth in § 17.204 in any case submitted to it by an officer or official listed in § 17.203 or otherwise designated by the Secretary concerned, and to make all determinations and findings which are necessary or appropriate. Where deemed necessary to the exercise of the foregoing authority, such Boards may authorize any appropriate action not precluded by § 17.205, including the modification or release of any obligations. The decisions of such Boards shall be final, but each Board may reconsider and modify, correct, or reverse any of its previous decisions. Such Boards shall determine and adopt their own procedures and have authority to do all acts and things necessary or appropriate for the conduct of their functions.

§ 17.203 Authority of other officers and officials.

(a) The following authority has been delegated to the officers and officials listed in paragraph (b) of this section:

(1) Authority to deny any request for contractual adjustment under this subpart;

(2) Subject to the limitations set forth in § 17.205, authority to approve, authorize and direct appropriate action, and to make all determinations and findings which are necessary or appropriate, in the examples of mistake and informal commitment described in §§ 17.204-3 and 17.204-4, including, where necessary thereto, authority to modify or release unaccrued obligations of any sort and to extend delivery and performance dates; and

(3) Authority to submit to the cognizant Contract Adjustment Board for its determination, together with his recommendation—

(i) Any case where the officer or official recommends a specific adjustment which he does not have authority to approve under subparagraph (2) of this paragraph; and

(ii) Any doubtful or unusual case.

The foregoing authority may be redelegated only with the written approval of the Secretary concerned.

(b) The delegations of authority which have been made are as follows:

(1) The Army:

Deputy Chief of Staff for Logistics;
Chief, Contracts Branch, Procurement Division, Office of the Deputy Chief of Staff for Logistics;
Z.I. Army Commanders;
Commanding General, Military District of Washington, U.S. Army;
Commander in Chief, United States Army Europe;
Commanding General, United States Army Alaska;
Commanding General, United States Army Caribbean;
Commanding General, United States Army Japan;
Commanding General, Hawaii/25th Infantry Division;
Chiefs of Technical Services; and
Chief, National Guard Bureau.

(2) The Navy:

Chief of each Bureau;
Chief of Naval Research;
Aviation Supply Officer, Philadelphia;
Commander, Military Sea Transportation Service;
Commandant of the United States Marine Corps;
Executive Director, Military Medical Supply Agency, New York; and
Executive Director, Military Petroleum Supply Agency.

(3) The Air Force:

Chief of Staff; Vice Chief of Staff; and
Deputy Chief of Staff, Materiel;
Commander, Air Materiel Command;
Commander, United States Air Force, Europe;
Commander, Pacific Air Force;
Commander, Alaska Air Command;
Commander, Caribbean Air Command;
Commander, Air Materiel Force, European Area; and
Commander, Air Materiel Force, Pacific Area.

§ 17.204 Standards for deciding cases.

§ 17.204-1 General.

The mere fact that losses occur under a Government contract is not, by itself, a sufficient basis for the exercise of the authority conferred by the Act. Whether, in a particular case, appropriate action such as amendment without consideration, correction of a mistake or ambiguity in a contract, or formalization of an informal commitment, will facilitate the national defense is a matter of sound judgment to be made on the basis of all of the facts of such case. Although it is obviously impossible to predict or enumerate all the types of cases with respect to which action may be appropriate, examples of certain cases or types of cases where action may be proper are set forth in §§ 17.204-2 to 17.204-4. Even if all of the factors contained in any of the examples are present, other factors or considerations in a particular case may result in a denial of the request. These examples are not intended to exclude other cases where a Contract Adjustment Board determines that the circumstances warrant action.

§ 17.204-2 Amendments without consideration.

(a) Where an actual or threatened loss under a defense contract, however caused, will impair the productive ability of a contractor whose continued performance on any defense contracts or whose continued operation as a source of

supply is found to be essential to the national defense, the contract may be adjusted but only to the extent necessary to avoid such impairment to the contractor's productive ability.

(b) Where a contractor suffers a loss (not merely a diminution of anticipated profits) on a defense contract as a result of Government action, the character of the Government action will generally determine whether any adjustment in the contract will be made and its extent. Where the Government action is directed primarily at the contractor and is taken by the Government in its capacity as the other contracting party, the contract may be adjusted if fairness so requires; thus, where such Government action, although not creating any liability on its part, increases the cost of performance, considerations of fairness may make appropriate some adjustment in the contract.

§ 17.204-3 Mistakes.

A contract may be amended or modified to correct or mitigate the effect of a mistake, including the following examples:

- (a) A mistake or ambiguity which consists of the failure to express or to express clearly in a written contract the agreement as both understood it;
- (b) A mistake on the part of the contractor which is so obvious that it was or should have been apparent to the contracting officer; and
- (c) A mutual mistake as to a material fact.

Amending contracts to correct mistakes with the least possible delay normally will facilitate the national defense by expediting the procurement program and by giving contractors proper assurance that such mistakes will be corrected expeditiously and fairly.

§ 17.204-4 Informal commitments.

Informal commitments may be formalized under certain circumstances to permit payment to persons who have taken action without a formal contract; for example, where any person, pursuant to written or oral instructions from an officer or official of a Military Department and relying in good faith upon the apparent authority of the officer or official to issue such instructions, has arranged to furnish or has furnished property or services to a Military Department or to a defense contractor or subcontractor without formal contractual coverage for such property or services. Formalization of commitments under such circumstances normally will facilitate the national defense by assuring such persons that they will be treated fairly and paid expeditiously.

§ 17.205 Limitations upon exercise of authority.

§ 17.205-1 General limitations.

- (a) The Act is not authority for:
 - (1) The use of the cost-plus-a-percentage-of-cost system of contracting;
 - (2) The making of any contract in violation of existing law relating to limitation of profit or fees;
 - (3) The negotiation or purchases of or contracts for property or services re-

quired by law to be procured by formal advertising and competitive bidding; or

(4) The waiver of any bid, payment, performance or other bond required by law.

(b) No contracts, amendments, or modifications shall be entered into under the authority of the Act:

(1) Unless a finding is made that the action will facilitate the national defense;

(2) Unless other legal authority in the Department concerned is deemed to be lacking or inadequate; and

(3) Except within the limits of the amounts appropriated and the statutory contract authorization.

(c) No contract shall be amended or modified:

(1) Unless the request therefor has been filed before all obligations have been discharged and final payment made thereunder; and

(2) If the contract was negotiated under 10 U.S.C. 2304(a) (15), to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder.

(d) No informal commitment shall be formalized (1) unless a request for payment has been filed within six months after arranging to furnish or furnishing property or services in reliance upon the commitment and (2) unless it is found that at the time the commitment was made it was impracticable to use normal procurement procedures.

§ 17.205-2 Additional limitations upon authority below Secretarial level.

The exercise of authority by officers and officials below the Secretarial level pursuant to § 17.203(a) (2) shall be subject to the following additional limitations:

(a) The action shall not deal with or directly affect any matter which has been submitted to the General Accounting Office;

(b) The action shall not obligate the Government in an amount in excess of \$50,000;

(c) The action shall not release a contractor from performance of an obligation—

(1) Priced in excess of \$50,000; or

(2) Where reprocurement is contemplated, unless the approving authority finds that the estimated actual or potential increase in cost to the Government will not exceed \$50,000;

(d) The action shall not involve the disposal of Government surplus property;

(e) Mistakes shall not be corrected by action obligating the Government in an amount in excess of \$500 unless notice of the mistake was given to the contracting officer before completion of the contractor's work or the effective date of contract termination; and

(f) The correction of a contract because of a mistake in its making shall not result in increasing the original contract price above the next lowest responsive bid of a responsible bidder in the case of a formally advertised procurement, or the amount of the next lowest responsible proposal of a responsible offeror consid-

ered in the case of a negotiated procurement.

§ 17.206 Contractual requirements.

Every contract entered into or amended or modified pursuant to this part shall contain:

(a) A citation of the Act and Executive Order;

(b) A brief statement of the circumstances justifying the action;

(c) A recital of the finding that the action will facilitate the national defense;

(d) The contract clause, entitled "Covenant Against Contingent Fees," as set forth in § 7.103-20 of this chapter;

(e) The contract clause, entitled "Examination of Records," as set forth in § 7.104-15 of this chapter;

(f) The contract clause entitled "Non-discrimination in Employment," as set forth in § 12.802 of this chapter, wherever required under Subpart H, Part 12 of this chapter;

(g) The contract clause, entitled "Assignment of Claims" as set forth in § 7.103-8 of this chapter;

(h) If otherwise applicable, the contract clauses entitled "Walsh-Healey Public Contracts Act," "Davis-Bacon Act," "Copeland (Anti-Kickback) Act—Nonrebate of Wages," and "Eight-Hour Laws—Overtime Compensation," as set forth respectively in §§ 12.604, and 12.403 of this chapter; and

(i) Any other clauses set forth in this subchapter which are appropriate to the particular procurement.

§ 17.207 Submission of requests by contractors.

§ 17.207-1 Filing requests.

Any person seeking an adjustment under the standards set forth in § 17.204 (hereinafter called the "contractor") may file a request in duplicate with the cognizant contracting officer or his duly authorized representative. If such filing is impracticable, requests will be deemed to be properly filed if filed with the following addressees for forwarding to the cognizant contracting officer:

(a) In the Army,

Deputy Chief of Staff for Logistics
Attn: Chief, Contracts Branch
Department of the Army
Washington 25, D.C.;

(b) In the Navy,

The Navy officer or official listed in § 17.203

(b) (2) appearing to be cognizant of the contract or commitment involved; and

(c) In the Air Force,

Commander, Air Materiel Command
Attn: Readjustment Division, MCPFR
Wright-Patterson Air Force Base, Ohio

§ 17.207-2 Form of requests by contractors.

The contractor's request shall normally consist of a letter to the contracting officer stating:

(a) The precise adjustment requested;

(b) The essential facts summarized in chronological narrative form;

(c) The contractor's conclusions based on such facts and showing, in terms of the standards set forth in § 17.204, why

the contractor considers itself entitled to the adjustment requested;

(d) Whether all obligations have been discharged under the contracts involved;

(e) Whether final payment has been made under the contracts involved;

(f) Whether any proceeds from the request will be subject to any assignment or other transfer, and to whom; and

(g) Whether the contractor has sought the same, or a similar or related, adjustment from the General Accounting Office or any other part of the Government, or anticipates doing so.

§ 17.207-3 Records.

At the time the request is filed, a preliminary record as described in this subpart shall be prepared by the activity responsible for the case under § 17.203. A copy of each such record prepared during each month shall be forwarded within 30 days after the close of the month as follows:

(a) Army activities, to DCSLOG, Attn: Procurement Division;

(b) Navy activities, to the Office of Naval Material. (Navy Contract Adjustment Board); and

(c) Air Force activities, to the Air Force Contract Adjustment Board, Office of the Assistant Secretary of the Air Force (Materiel).

§ 17.207-4 Facts and evidence.

(a) The contracting officer, or any officer, official, or Contract Adjustment Board, having authority to act upon the contractor's request, may, where considered pertinent, request the contractor to furnish additional facts, and evidence, as described in this paragraph, and, in addition, where applicable, as described in paragraph (b), (c), (d), or (e) of this section (in complying with such requests, the contractor may also submit other statements and evidence which he may consider helpful to the case):

(1) If written contracts are involved, a brief description of the contracts, indicating the dates of execution and amendments thereto, the items being procured, the price or prices and delivery schedule and revisions thereof, and such other special contractual provisions as may be relevant to the request;

(2) A history of performance indicating when work under the contracts or commitments was begun, the progress made to the present, an exact statement of the contractor's remaining obligations, and the contractor's expectations regarding completion thereof;

(3) A statement of payments received, payments due, and payments yet to be received or to become due, including advance and progress payments, and amounts withheld by the Government, and information as to other obligations of the Government; if any, which are yet to be performed under the contract;

(4) A statement giving a detailed analysis of the monetary elements of the request including precisely how the actual or estimated dollar amount of the request was arrived at, the effect of approval or denial on the contractor's profits before Federal income taxes, and whether the costs for which reimbursement is requested have been included as

a part of its gross costs in statutory renegotiation proceedings, together with the contractor's renegotiation status for the relevant years;

(5) If a written contract is involved, a statement of the contractor's understanding of why the subject matter of the request cannot now be and could not at the time it arose be disposed of under the terms of the contract itself;

(6) The best evidence available to the contractor in support of any facts alleged by the contractor, including contemporaneous memoranda, correspondence, affidavits, and any other material tending to establish matters of fact;

(7) Relevant financial statements, cost analyses, or other such data, preferably certified by a certified public accountant, including such additional financial data as is necessary to explain fully and to support the monetary elements of the request for adjustment;

(8) A list of persons (within the Department of Defense, in the employ of the contractor, or otherwise connected with the contract) who have some factual knowledge of the subject matter, including where possible the name, office or title, address and telephone number of each such person;

(9) A statement and evidence of steps taken to mitigate loss and reduce claims to a minimum; and

(10) Such other statements or evidence as may be requested by the contracting officer.

(b) Amendments without consideration under § 17.204-2(a): In addition to the facts and evidence listed in paragraph (a) of this section, where a request involves possible amendment without consideration, and essentiality to the national defense is a factor, the contractor may be asked to furnish:

(1) A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

(2) A statement and evidence of the contractor's present estimate of total costs under the contracts involved if enabled to complete, broken down between costs accrued to date of request, and run-out costs, and as between costs for which the contractor has made payment and those for which it is indebted at the time of the request;

(3) A statement and evidence of the contractor's estimate of the final price of the contracts involved giving effect to all escalation, changes, extras and the like, known or contemplated by the contractor;

(4) A statement of any claims known or contemplated by the contractor against the Government involving the contracts in question, other than those stated in response to subparagraph (3) of this paragraph;

(5) An estimate of the total profit or loss under the contracts involved if enabled to complete at the final contract price (see (3) above) broken down between profit or loss to date, and runout profit or loss;

(6) An estimate of the total profits from other Government business, and all other sources, during the period from the date of the first contract involved

to the estimated date of completion of all the contracts involved;

(7) A statement of the amount of any tax refunds and an estimate of those anticipated during or for the period from the date of the first contract involved through the estimated completion date of all the contracts involved;

(8) A statement in detail as to efforts the contractor has made to obtain funds from commercial sources to enable it to complete performance of the contracts involved;

(9) A statement of the minimum amount necessary as an amendment without consideration to enable the contractor to complete performance of the contracts involved, and the detailed basis for that amount;

(10) An estimate of the time required to complete each contract, if the request is granted;

(11) A statement of the factors which have caused the loss under the contracts involved;

(12) A statement as to the course of events anticipated if the request is denied;

(13) Balance sheets, preferably certified by a certified public accountant, as of the end of the contractor's fiscal year first preceding the date of the first contract, as of the end of each subsequent fiscal year, as of the date of request, and projected as of the date of completion of all the contracts assuming the contractor is enabled to complete the contracts at the final prices estimated pursuant to subparagraph (3) of this paragraph, together with income statements for annual periods subsequent to the date of the first balance sheet. Balance sheets and income statements should be both consolidated, and by affiliates, and should show all transactions between the contractor and its affiliates, stockholders, and partners, including loans to the contractor guaranteed by any stockholder or partner; and

(14) A list of all salaries, bonuses and all other forms of compensation of the principal officers or partners and of all dividends and other withdrawals, and all payments to stockholders in any form since the date of the first contract involved.

(c) Amendments without consideration under § 17.204-2(b). In addition to the facts and evidence listed in paragraph (a) of this section, where a request involves possible amendment without consideration because of Government action, and essentiality to the national defense is not a factor, the contractor may be asked to furnish:

(1) A clear statement of the precise Government action which the contractor considers caused a loss under the contract with evidence to support each essential fact;

(2) A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances, and profit;

(3) The estimated total loss suffered under the contract, with detailed supporting analysis; and

(4) The estimated loss resulting from the Government action, with detailed supporting analysis.

(d) Correction of mistakes: In addition to the facts and evidence listed in paragraph (a) of this section, where a request involves possible correction of a mistake, the contractor may be asked to furnish:

(1) A statement and evidence of the precise mistake or error that was made, the ambiguity that exists, or the misunderstanding that arose, showing of what it consisted and how it occurred, and the intention of the parties;

(2) A statement explaining when the mistake was discovered, when notice of mistake was given to the contracting officer, and whether given before completion of work under, or the effective date of termination of, the contract;

(3) An estimate of loss or profit under the contract with detailed supporting analysis; and

(4) An estimate of the increase in cost to the Government resulting from the adjustment requested with detailed supporting analysis.

(e) Formalization of informal commitments: In addition to the facts and evidence listed in paragraph (a) above, where a request involves possible formalization of an informal commitment, the contractor may be asked to furnish:

(1) Copies of any written instructions or assurances, or a statement under oath of any oral instructions or assurances made to the contractor, with identification of the Government officer or official making such statement;

(2) A statement as to when the property or services were furnished or arranged to be furnished, and to whom;

(3) Evidence that the contractor relied upon the instructions or assurances, with a full description of the circumstances which led it so to rely, and that the contractor intended, at the time of performing the work, to be compensated directly for it by the Government and did not anticipate recovery of the costs in some other way;

(4) A cost breakdown supporting the amount claimed as a fair compensation for the work performed; and

(5) A statement and evidence of why it was impracticable to provide for the work performed in an appropriate contractual instrument.

§ 17.208 Processing cases.

§ 17.208-1 Investigation.

Officers and officials listed in § 17.203 (b) shall be responsible in all cases for making a thorough investigation of all facts and issues relevant to a request. Facts and evidence shall be obtained from contractor and Government personnel, and shall include signed statements of material facts within the knowledge of individuals where documentary evidence is lacking, and audits where considered necessary to establish financial or cost facts. The investigation shall establish (a) the facts essential to meeting the standards for deciding the particular case and (b) the essential facts as to who has authority to approve the request.

§ 17.208-2 Disposition below Secretarial level.

(a) *Disposition.* In each case where the request for relief is denied or ap-

proved finally below Secretarial level (see § 17.203), the approving authority shall sign a Memorandum of Decision, whether approving or denying the request, which memorandum shall be dated and shall contain the following:

(1) The name and address of the contractor, the contract identification, and the nature of the request;

(2) The decision reached and the actual cost or estimated potential cost, if any, of the decision;

(3) A concise description of the property or services involved;

(4) A statement of the circumstances justifying the decision;

(5) If some adjustment action is approved, a statement in substantially the following form, "I find that the action authorized herein will facilitate the national defense"; and

(6) Identification of any of the foregoing information which is classified "Confidential," including "Confidential—Modified Handling Authorized," or higher.

(b) *Records.* Each of the following documents shall be submitted to the addressees set forth in § 17.203-3 within 30 days after the close of the month during which it is executed:

(1) Two copies of the Memorandum of Decision;

(2) One copy of the contractual document implementing any decision, approving contractual action; and

(3) One copy of a final record, as prescribed in Subpart D of this part, prepared by the activity responsible for the case under § 17.203.

The item in subparagraph (2) of this paragraph will not be submitted in the case of the Army.

§ 17.208-3 Submission of cases to the Contract Adjustment Board.

(a) *Statement to Board.* Cases to be submitted for consideration of the cognizant Contract Adjustment Board shall be forwarded by means of a letter signed by the officer or official responsible for the case under § 17.203. The letter shall state:

(1) The nature of the case;

(2) The basis for the Board's authority to act under §§ 17.202 and 17.203;

(3) The findings of fact essential to the case (see § 17.207-4) arranged chronologically with cross-references to supporting enclosures;

(4) The conclusions drawn from applying the standards for deciding cases, as set forth in § 17.204, to the findings of fact; and

(5) The disposition recommended, and, if contractual action is recommended, the opinion of the signer that such action will facilitate the national defense.

The letter shall inclose copies of the contractor's request, the evidentiary materials, and all indorsements, reports and comments of cognizant Government officials. The letter and enclosure shall be in duplicate.

(b) *Amendments without consideration under § 17.204-2(a).* A letter to the Board recommending an amendment without consideration under the standards of § 17.204-2(a), should, in addition

to the requirements of paragraph (a) of this section, ordinarily cover, with supporting data as appropriate, the findings and conclusions with respect to all of the items set forth in § 17.204-4(b) and, in addition, findings as to:

(1) The contractor's performance record, including the quality of product, rate of production and promptness of deliveries;

(2) The importance to the Government, particularly to the operating forces, of the performance of the contract by contractor and the importance of the contractor to the national defense;

(3) Forecast of future contracts with the contractor; and

(4) Other available sources of supply for the supplies or services covered by the contract, and the time and cost of having contract performance completed by such other sources.

(c) *Forwarding to Boards.* Cases to be submitted to the Boards shall be forwarded through the following channels:

(1) In the Army and the Navy, normally, each case shall be sent from the Head of a Procuring Activity directly to the Board;

(2) In the Air Force, normally, each case shall be sent from Air Materiel Command, through the Deputy Chief of Staff, Materiel, Headquarters USAF, and after review there, to the Board; or if the case comes from an overseas command, it shall be sent through the Commander, Air Materiel Command, ATTN: Readjustment Division, MCPR, and after review there, to the Board through the Deputy Chief of Staff Materiel, Headquarters, USAF.

§ 17.208-4 Processing by Contract Adjustment Boards.

(a) *Disposition.* Upon receipt of cases, the Contract Adjustment Boards, each in accord with its own procedures, shall render decisions as expeditiously as practicable. The chairman shall sign a Memorandum of Decision disposing of the case, which shall be dated and shall contain the information required by § 17.208-2(a) 1 to (5). The Memorandum of Decision shall omit any information classified "Confidential," including "Confidential—Modified Handling Authorized," or higher. The Board's decision will be communicated to the appropriate officer or official for implementing action.

(b) *Records.* When the Board decisions are implemented, the documents listed in § 17.208-2(b) (2) and (3) shall be prepared and submitted to the cognizant Board, except that, in the case of the Army, the record required by § 17.208-2(b) (3) shall be forwarded to the Programs and Budget Branch, Procurement Division, DCSLOG. The activity which forwarded the case to the Board shall be responsible for the preparation and submission of these documents.

§ 17.208-5 Maintenance of records.

The records required by §§ 17.207-3, 17.208-2(b) and 17.208-4(a) and (b) shall be maintained in the Army by DCSLOG and in the Navy and Air Force, by the respective Boards.

§ 17.208-6 Interdepartmental coordination.

(a) *General.* Where a case involves matters of interest to more than one department or agency, any interested Military Department shall maintain liaison with other Military Departments and other departments and agencies of the Government and may take such joint action as may be proper under the circumstances, including holding joint meetings or hearings.

(b) *Cases involving funds of other Military Departments.* Requests for adjustment within any category, where the funds of other than the procuring Department may be required, shall not be approved by the procuring Department until advice is requested and received from the requiring Department that additional funds will be made available. The request for such advice shall disclose the following data:

- (1) Contractor's name;
- (2) MIPR number;
- (3) Contract number;
- (4) Amount of proposed relief;
- (5) Brief description of the procurement; and
- (6) Accounting classification—fund citation.

If such additional funds are made available, the action to be taken on a particular request, however, shall be solely the responsibility of the Department considering such request.

(c) *Amendments without consideration involving other Military Departments.* Requests for amendments without consideration, where essentiality to the national defense is an issue and involves another Military Department, shall not be finally determined by one Department until advice on such issue is requested and received from the other Department. When such advice is received, the responsibility for taking the appropriate action, if any, shall be with the Department considering the request.

Subpart C—Residual Powers

§ 17.300 Scope.

This subpart describes the delegations of authority, and the standards and procedures for the exercise of residual powers under the Act. The term "residual powers" as used in this subpart includes all the authority under the Act except that which is covered by subpart B of this part and the authority to make advance payments.

§ 17.301 Delegations of authority.

Authority to take actions under the residual powers of the Act is vested in the Secretary of each Department and may be defined and delegated in writing by him within his Department: *Provided, however,* That authority to approve actions obligating the United States in an amount in excess of \$50,000 shall not be delegated below the Secretarial level, and authority to approve actions obligating \$50,000 or less shall not be delegated below the Head of a Procuring Activity in the Army and the Navy, and in the Air Force, the Director of Procurement and Production, Headquarters, AMC. Copies of all delegations and successive redele-

gations shall be transmitted to the Assistant Secretary of Defense for Supply and Logistics at the time of issuance.

§ 17.302 Standards for using residual powers.

Subject to the limitations contained in § 17.205-1, the residual powers may be used in accordance with the policies set forth in § 17.102 where such use is deemed necessary and appropriate under all the circumstances.

§ 17.303 Procedures.

(a) All proposals for the exercise of residual powers shall be forwarded except as Departmental regulations may otherwise provide through normal channels within the Military Departments to the Assistant Secretary or other approving authority.

(b) The approving authority shall sign a Memorandum of Approval containing the information set forth in § 17.208-2(a).

(c) Every contract entered into or amended or modified under the residual powers shall comply with the provisions of § 17.206.

§ 17.304 Maintenance of records.

DCSLOG in the Army, and the respective Contract Adjustment Boards in the Navy and the Air Force, shall be responsible for maintaining two copies of each Memorandum of Approval required by § 17.303(b).

Subpart D—Records of Requests and Dispositions

§ 17.400 Scope of subpart.

In order that adequate records of actions by each Department pursuant to the Act may be maintained, § 17.207-3 requires the preparation of a preliminary record when each request is filed for an adjustment under the standards set forth in § 17.204, and §§ 17.208-2(b) (3) and 17.208-4(b) require the preparation of a final record indicating the disposition of the request. This subpart describes in detail the information which should be included in these records.

§ 17.401 Preliminary records.

Each preliminary record prepared pursuant to § 17.207-3 should contain the following information:

(a) *Type of record.* The fact that the record is a preliminary record should be indicated;

(b) *Date of contractor's request.* The date on the face of the contractor's request for adjustment should be inserted;

(c) *Date received by Government.* The date the request for adjustment is received in any Government office to which the contractor may properly submit his request should be inserted;

(d) *Name and address of contractor.* The full and correct name and address of the contractor filing the request should be inserted. If the contractor is a small business, this fact should be indicated;

(e) *Name and address of the contractor's representative, if any.* If a particular named person (employee, attorney, etc.) is the point of contact with the contractor, his full name and address should be inserted;

(f) *Cognizant contracting officer or office.* The contracting officer administering the contract for which an adjustment was requested or, if none, the contracting officer or office cognizant of the request should be inserted;

(g) *Procuring activity.* The name of the procuring activity with jurisdiction over the contracting officer or office referred to in paragraph (f) of this section, should be inserted;

(h) *Property or service involved.* A brief description of the item being procured or services being rendered should be inserted;

(i) *Extent of performance as of date of request.* A brief indication, as of the date of request, of the degree of completion of the contract should be inserted; whether the work is completed but final payment is yet to be made or, for example, 50 percent completed, or performance not yet begun, should be indicated;

(j) *Contract number and date.* The identifying numbers and dates of the contracts for which an adjustment is requested should be inserted. If there is no contract, then the word "None" should be inserted. If the question arises under a letter of intent, then that fact and the date of such letter should be inserted;

(k) *Advertised or negotiated.* Whether the contract was entered into pursuant to advertising or negotiation should be indicated. If negotiated, the specific authority should be indicated. Example: "Neg.—10 USC 2304(a) (14)";

(l) *Firm FP, FP Redet, or Cost.* The basic pricing characteristic of the contract or the procurement should be inserted as follows: "Firm FP" or "FP Redet" or "Cost";

(m) *Category of case.* Whether the request involves an amendment without consideration, a mistake, or an informal commitment should be inserted. If the elements of the case are mixed, then two or more categories should be indicated; however, the primary theory of the request should be indicated by the first category inserted;

(n) *Amount or description of request.* If the request is expressed in dollars, as a change in price, then that fact should be inserted as follows: "\$5,250 increase" or "\$5,250 decrease." If the request seeks an adjustment which cannot be expressed in monetary terms, then some brief description of it should be inserted, such as "Cancellation" or "Modification of Terms." The fact that an adjustment is not easily expressed in dollar terms should not deter an estimate if such an estimate is made by the contractor in his request;

(o) *Date of this record.* The date on which the record is signed and forwarded should be inserted; and

(p) *Signature.* The record should be signed by an authorized representative of the reporting authority.

§ 17.402 Final records.

Each final record prepared pursuant to §§ 17.208-2(b) (3) or 17.208-4(b) should contain the information listed in § 17.401 (b) to (p) and, in addition, should contain the following information:

RULES AND REGULATIONS

(a) *Type of record.* The fact that the record is a final record should be indicated;

(b) *Action below Secretarial level.* The disposition of the case, the office which took action, and the date thereof should be inserted. The disposition should be indicated as: "withdrawn," "denied," "approved," or "forwarded." If the request was approved in whole or in part, the dollar amount or nature of the action should be indicated in a manner similar to that described in § 17.401 (n). The date should correspond with the date of the Memorandum of Decision or of the letter forwarding the request to the Board.

(c) *Action by Contract Adjustment Board and date.* The disposition of the

case by the Contract Adjustment Board and the date thereof should be indicated in a manner similar to that described in paragraph (b) of this section; and

(d) *Implementation and date.* The contractual action or correspondence which implements the decision of the approving authority or of the Board should be inserted as follows: "amendment," "new contract," or "letter of denial."

§ 17.403 Sample format for preliminary and final records.

The preliminary and final records described in §§ 17.401 and 17.402 may be prepared in a format substantially as follows:

<input type="checkbox"/> Preliminary		RECORD OF REQUEST FOR ADJUSTMENT PUBLIC LAW 85-804		<input type="checkbox"/> Final	
Date of Request				Date Received by Government	
Contractor's Name and Address				<input type="checkbox"/> Small Business	
Name and Address of Contractor's Representative, if Any					
Cognizant Contracting Officer or Office			Procuring Agency		
Property or Service Involved			Extent of Performance as of Date Request Received		
Contract Number	Date	Advertised or Negotiated	Firm FP, FP Redet, or Cost		
Category of Case		Amount or Description of Request			
Action Below Secretarial Level				Date	
Action by CAB				Date	
Implementation				Date	
Additional Data or Remarks					
Date of This Record			Signature		

Subpart E—Act and Executive Order

§ 17.500 Scope of subpart.

This subpart sets forth in full the Act and Executive Order.

§ 17.501 Act of August 28, 1958 (Public Law 85-804, 50 U.S.C. 1431-1435).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may authorize any department or agency of the Government which exercises functions in connection with the national defense, acting in accordance with regulations prescribed by the President for the protection of the Government, to enter into contracts or into amendments or modifications of contracts heretofore or hereafter made and to make advance payments thereon, without regard to other provisions

of law relating to the making, performance, amendment, or modification of contracts, whenever he deems that such action would facilitate the national defense. The authority conferred by this section shall not be utilized to obligate the United States in an amount in excess of \$50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or an assistant head or his deputy, of such department or agency, or by a Contract Adjustment Board established therein.

SEC. 2. Nothing in this Act shall be construed to constitute authorization hereunder for—

(a) The use of the cost-plus-a-percentage-of-cost system of contracting;

(b) Any contract in violation of existing law relating to limitation of profits;

(c) The negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;

(d) The waiver of any bid, payment, performance, or other bond required by law;

(e) The amendment of a contract negotiated under section 2304(a) (15), title 10, United States Code, or under section 302(c) (13) of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377, 394), to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(f) The formalization of an informal commitment, unless it is found that at the time the commitment was made it was impracticable to use normal procurement procedures.

SEC. 3. (a) All actions under the authority of this Act shall be made a matter of public record under regulations prescribed by the President and when deemed by him not to be detrimental to the national security.

(b) All contracts entered into, amended, or modified pursuant to authority contained in this Act shall include a clause to the effect 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, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts.

SEC. 4. (a) Every department and agency acting under authority of this Act shall, by March 15 of each year, report to Congress all such actions taken by that department or agency during the preceding calendar year. With respect to actions which involve actual or potential cost to the United States in excess of \$50,000, the report shall—

(1) Name the contractor;

(2) State the actual cost or estimated potential cost involved;

(3) Describe the property or services involved; and

(4) State further the circumstances justifying the action taken.

With respect to (1), (2), (3), and (4), above, and under regulations prescribed by the President, there may be omitted any information the disclosure of which would be detrimental to the national security.

(b) The Clerk of the House and the Secretary of the Senate shall cause to be published in the Congressional Record all reports submitted pursuant to this section.

SEC. 5. This Act shall be effective only during a national emergency declared by Congress or the President and for six months after the termination thereof or until such earlier time as Congress, by concurrent resolution, may designate."

§ 17.502 Executive Order No. 10789 of November 14, 1958 (23 F.R. 8897).

AUTHORIZING AGENCIES OF THE GOVERNMENT TO EXERCISE CERTAIN CONTRACTING AUTHORITY IN CONNECTION WITH NATIONAL DEFENSE FUNCTIONS AND PRESCRIBING REGULATIONS GOVERNING THE EXERCISE OF SUCH AUTHORITY

By virtue of the authority vested in me by the act of August 28, 1958, 72 Stat. 972, hereinafter called the act, and as President of the United States, and in view of the existing national emergency declared by Proclamation No. 2914 of December 16, 1950, and deeming that such action will facilitate the national defense, it is hereby ordered as follows:

PART I—DEPARTMENT OF DEFENSE

Under such regulations, which shall be uniform to the extent practicable, as may be prescribed or approved by the Secretary of Defense:

1. The Department of Defense is authorized, within the limits of the amounts appropriated and the contract authorization provided therefore, to enter into contracts

and into amendments or modifications of contracts heretofore or hereafter made, and to make advance payments thereon, without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts, whenever, in the judgment of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, the national defense will be facilitated thereby.

2. The Secretaries of Defense, the Army, the Navy, and the Air Force, respectively, may exercise the authority herein conferred and, in their discretion and by their direction, may delegate such authority to any other military or civilian officers or officials of their respective departments, and may confer upon any such military or civilian officers or officials the power to make further delegations of such authority within their respective commands or organizations: *Provided*, That the authority herein conferred shall not be utilized to obligate the United States in an amount in excess of \$50,000 without approval by an official at or above the level of an Assistant Secretary or his Deputy, or by a departmental Contract Adjustment Board.

3. The contracts hereby authorized to be made shall include agreements of all kinds (whether in the form of letters of intent, purchase orders, or otherwise) for all types and kinds of property or services necessary, appropriate, or convenient for the national defense, or for the invention, development, or production of, or research concerning any such property or services, including, but not limited to, aircraft, missiles, buildings, vessels, arms, armament, equipment or supplies of any kind, or any portion thereof, including plans, spare parts and equipment therefor, materials, supplies, facilities, utilities, machinery, machine tools, and any other equipment without any restriction of any kind as to type, character, location, or form.

4. The Department of Defense may by agreement modify or amend or settle claims under contracts heretofore or hereafter made, may make advance payments upon such contracts of any portion of the contract price, and may enter into agreements with contractors or obligors modifying or releasing accrued obligations of any sort, including accrued liquidated damages or liability under surety or other bonds. Amendments or modifications of contracts may be with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished hereunder, irrespective of the time or circumstances of the making, or the form, of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

5. Proper records of all actions taken under the authority of the act shall be maintained within the Department of Defense. The Secretaries of Defense, the Army, the Navy, and the Air Force shall make such records available for public inspection except to the extent that they, or their duly authorized representatives, may respectively deem the disclosure of information therein to be detrimental to the national security.

6. The Department of Defense shall, by March 15 of each year, report to the Congress all actions taken within that department under the authority of the act during the preceding calendar year. With respect to actions which involve actual or potential cost to the United States in excess of \$50,000, the report shall (except as the disclosure of such information may be deemed to be detrimental to the national security)—

- (a) name the contractor;
- (b) state the actual cost or estimated potential cost involved;

(c) describe the property or services involved; and

(d) state further the circumstances justifying the action taken.

7. There shall be no discrimination in any act performed hereunder against any person on the ground of race, religion, color, or national origin, and all contracts entered into, amended, or modified hereunder shall contain such nondiscrimination provision as otherwise may be required by statute or Executive order.

8. No claim against the United States arising under any purchase or contract made under the authority of the act and this order shall be assigned except in accordance with the Assignment of Claims Act of 1940 (54 Stat. 1029), as amended.

9. Advance payments shall be made hereunder only upon obtaining adequate security.

10. Every contract entered into, amended, or modified pursuant to this order shall contain a warranty by the contractor in substantially the following terms:

"The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona-fide employees or bona-fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee."

11. All contracts entered into, amended, or modified pursuant to authority of this order shall include a clause to the effect 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, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor or any of his subcontractors engaged in the performance of, and involving transactions related to, such contracts or subcontracts.

12. Nothing herein contained shall be construed to constitute authorization hereunder for—

(a) The use of the cost-plus-a-percentage-of-cost system of contracting;

(b) Any contract in violation of existing law relating to limitation of profits or fees;

(c) The negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding;

(d) The waiver of any bid, payment, performance, or other bond required by law;

(e) The amendment of a contract negotiated under section 2304(a)(15) of title 10 of the United States Code to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder; or

(f) The formalization of an informal commitment, unless the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the duly authorized representative of any such Secretary, finds that at the time the commitment was made it was impracticable to use normal procurement procedures.

13. The provisions of the Walsh-Healy Act (49 Stat. 2036), as amended, the Davis-Bacon Act (49 Stat. 1011), as amended, the Copeland Act (48 Stat. 948), as amended, and the Eight Hour Law (37 Stat. 137), as amended, if otherwise applicable, shall apply to contracts made and performed under the authority of this order.

14. Nothing herein contained shall prejudice anything heretofore done under Execu-

tive Order No. 9001 of December 27, 1941, or Executive Order No. 10210 of February 2, 1951, or any amendments or extensions thereof, or the continuance in force of an action heretofore taken under those orders or any amendments or extensions thereof.

15. Nothing herein contained shall prejudice any other authority which the Department of Defense may have to enter into, amend, or modify contracts, and to make advance payments.

PART II—EXTENSION OF PROVISIONS OF PARAGRAPHS 1-14

21. Subject to the limitations and regulations contained in paragraphs 1 to 14, inclusive, hereof, and under any regulations prescribed by him in pursuance of the provisions of paragraph 22 hereof, the head of each of the following-named agencies is authorized to perform or exercise as to his agency, independently of any Secretary referred to in the said paragraphs 1 to 14, all the functions and authority vested by those paragraphs in the Secretaries mentioned therein:

Department of the Treasury.
Department of the Interior.
Department of Agriculture.
Department of Commerce.
Atomic Energy Commission.
General Services Administration.
Office of Civil and Defense Mobilization.
National Aeronautics and Space Administration.

Federal Aviation Agency.
Tennessee Valley Authority.
Government Printing Office.

22. The head of each agency named in paragraph 21 hereof is authorized to prescribe regulations governing the carrying out of the functions and authority vested with respect to his agency by the provisions of paragraph 21 hereof. Such regulations shall, to the extent practicable, be uniform with the regulations prescribed or approved by the Secretary of Defense under the provisions of Part I of this order.

23. Nothing contained herein shall prejudice any other authority which any agency named in paragraph 21 hereof may have to enter into, amend, or modify contracts and to make advance payments.

24. Nothing contained in this Part shall constitute authorization thereunder for the amendment of a contract negotiated under section 302(c)(14) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 394), as amended by section 2(b) of the act of August 28, 1958, 72 Stat. 966, to increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder.

DWIGHT D. EISENHOWER

G. C. BANNERMAN,
Director for Procurement Policy, Office of Assistant Secretary of Defense (Supply and Logistics).

[F.R. Doc. 59-1814; Filed, Mar. 2, 1959; 8:46 a.m.]

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

Appendix A—Armed Services Board of Contract Appeals

Section 30.1 Appendix A has been amended to set forth the revised charter for the Armed Services Board of Contract Appeals as jointly signed by the Assistant Secretaries of the Army (Logistics), Navy (Material), and Air

Force (Materiel), and approved by the Acting Assistant Secretary of Defense (Supply and Logistics), as well as the Rules of the Armed Services Board of Contract Appeals, approved December 31, 1958, by the same three Assistant Secretaries of the Military Departments. Provision has been made for an accelerated procedure for the hearing and determination of claims under \$5,000 in amount, and to expedite the disposition of cases which formerly required the action of the full Board. The "Appendix to the Rules" relating to Depositions, remains unchanged. As noted herein, the revised charter and rules become effective on February 1, 1959. Section 30.1 as revised, now reads as follows:

§ 30.1 Appendix A—Armed Services Board of Contract Appeals.

PART I—CHARTER

1. There is hereby created, as a joint board of the Departments of the Army, Navy, and Air Force, the Armed Services Board of Contract Appeals, which shall be responsible directly to the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, jointly, for the proper performance of the delegated authority herein-after conferred. The Board shall operate under general policies established or approved by the Assistant Secretary of Defense (Supply and Logistics).

2. The Board shall consist of persons trained in the law. There shall be a president of the Board. The chairmen of the Army, Navy, and Air Force panels of the Board (as hereinafter described) shall each in that order serve as the president of the Board on a yearly rotational basis. In the absence of the president the panel chairman next in order of succession shall act as president. If it shall be determined at any time that additional members of the Board are necessary in order to process appeals with reasonable dispatch, the president of the Board, with the advice of the panel chairmen, shall recommend to the pertinent Assistant and Under Secretaries of the three Departments for appointment such additional members of the Board as are deemed necessary, and shall similarly make recommendations for the filling of any vacancy on the Board. Appointments will be made by joint action of the pertinent Assistant and Under Secretaries of the three Departments.

3. There shall be three panels of the Board. One of the panels shall be known as the Army contract appeals panel, and shall consist of such members of the Armed Services Board of Contract Appeals as shall be assigned to the panel by the Under Secretary or the Assistant Secretary of the Army, whichever is appropriate, who shall also designate the chairman of said panel; one of the panels shall be known as the Navy contract appeals panel, and shall consist of such members of the Armed Services Board of Contract Appeals as shall be assigned to the panel by the Under Secretary or the Assistant Secretary of the Navy, whichever is appropriate, who shall also designate the chairman of said panel; and one of the panels shall be known as the Air Force contract appeals panel, and shall consist of such members of the Armed Services Board of Contract Appeals as shall be assigned to the panel by the Under Secretary or the Assistant Secretary of the Air Force, whichever is appropriate, who shall also designate the chairman of said panel. The president of the Board may assign members (other than the chairman) from one panel to duty with another panel on a temporary basis as the workload of the particular panels may require. Each of the de-

partmental panels shall function under the supervision of its panel chairman.

4. The Armed Services Board of Contract Appeals is hereby designated and shall act as the authorized representative of the respective Secretaries of the Army, Navy, and Air Force in hearing, considering and determining as fully and finally as might each of the Secretaries (a) appeals by contractors from decisions on disputed questions by contracting officers or their authorized representatives or by other authorities pursuant to the provisions of armed services contracts requiring the decision of appeals by the head of a Department of the armed services or his duly authorized representative or board, or pursuant to the provisions of any directive whereby the Secretary of a Department of the armed services has granted a right of appeal not contained in the contract; (b) appeals by armed services contractors pursuant to section 13(c) (1) (1) and section 17(c) of the Contract Settlement Act of 1944. When an appeal is taken pursuant to a disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may nevertheless in its discretion hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. Unless the contract provides otherwise, when in the consideration of an appeal it appears that a claim for unliquidated damages is involved therein, the Board shall, insofar as the evidence permits, make findings of fact with respect to such claims without expressing opinion on questions of liability.

5. When a contract requires the Secretary of a Department of the armed services, personally, to render a decision on the matter in dispute, the Armed Services Board of Contract Appeals, in accordance with the procedure set forth in paragraph 6, shall make findings and recommendations to the Secretary of the Department with respect thereto.

6. The president of the Board shall be responsible for assigning appeals to the departmental panels for decision. In general, appeals shall be assigned to the panel of the Department whose contract or procurement is directly involved. Each of the three panels of the Board shall act in divisions which shall normally consist of three or more members of the panel, to be selected by the chairman of the panel. A majority of the members of a division shall constitute a quorum for the transaction of the business of the division and the decision of a majority of the division shall constitute the decision of the panel and of the Board, provided that all three panel chairmen signify that in their opinion a review by the three panel chairman is not required; if a majority of the members of a division are unable to agree on a decision, or if one or more panel chairmen do not waive review, determination of the appeal shall be made by a majority of the three panel chairmen: *Provided*, That on request of the appellant, and subject to the concurrence of the Department concerned, an appeal involving \$5,000 in amount or less shall be decided under an accelerated procedure by a single member of the Board subject to such concurrence by a division or panel as the Department may direct.

7. It shall be the bounden duty and obligation of the members of the Armed Services Board of Contract Appeals to decide appeals to the best of their knowledge and ability in accordance with applicable contract provisions, and in accordance with the law pertinent thereto.

8. The Board shall have all powers necessary and incident to the proper performance of its duties, and with the approval of the pertinent Assistant and Under Secretaries of the Army, Navy, and Air Force shall adopt its own methods of procedure, and rules and regulations for its conduct and for the preparation and presentation of appeals and is-

suance of opinions. The Board is authorized to communicate directly with any person whomsoever in regard to any matter which relates to the business of the Board. The Departments shall jointly or severally maintain an adequate staff of military and/or civilian legal and clerical personnel who shall prepare and present the contentions of the Departments in relation to appeals filed with the Board. It shall not be necessary for the Board, unless it otherwise desires, to communicate with more than one trial attorney in each of the three Departments concerning the preparation and presentation of appeals and the procurement of all Department records deemed by the Board to be pertinent thereto.

9. Any member of the Board or any examiner, designated by the president of the Board with the concurrence of the chairman of the pertinent panel, shall be authorized to hold hearings, examine witnesses, receive evidence and argument, and report the evidence and argument to the designated division of the panel for consideration and determination of the appeal.

10. A vacancy in the Board or any panel or division thereof shall not impair the powers nor affect the duties of the Board, panel, or division, nor of the remaining members of the Board, panel, or division, respectively. In the absence of a panel chairman the member present on the panel having seniority in service as a member of a Department Board of Contract Appeals shall serve as acting chairman of the panel.

11. The Board shall have a seal bearing the following inscription: "Armed Services Board of Contract Appeals". This seal shall be affixed to all authentications of copies of records, and to such other instruments as the Board may determine.

12. There shall be a recorder of the Board, who shall be a person trained in the law. He shall be appointed by the president of the Board. Each Department will provide such materials, facilities, and nonmember clerical and professional personnel to its respective panel as may be required by the panel in the performance of its duties as a panel of the Armed Services Board of Contract Appeals. The salaries of the members and of the nonmember personnel as originally assigned to the Board shall be borne by the respective Departments upon the basis of an original agreement between the three Departments. The apportionment may be reconsidered from time to time but not more often than once per year. In each case heard the expense of transcripts, travel, and per diem of members, and the expense of witnesses required by the Government shall be absorbed by the Department which executed the contract under which the appeal was taken.

13. The Board will submit to the respective Secretaries of the three Departments and the Assistant Secretary of Defense (Supply and Logistics), during the month of July of each year, a report containing an account of its transactions and proceedings for the preceding fiscal year. During each calendar month the Board shall forward a report of its proceedings for the preceding calendar month to the pertinent Assistant and Under Secretaries of the Departments and the Assistant Secretary of Defense (Supply and Logistics). Such reports shall disclose the number of appeals received, cases heard, opinions rendered, current reserve of pending matters, and such other information as shall be deemed pertinent by the president of the Board or requested by the Assistant or Under Secretaries.

14. All appeals pending before the Board under the "Charter for the Armed Services Board of Contract Appeals" which became effective on May 1, 1949 shall continue to be subject to the jurisdiction of the Board under this revised Charter.

15. This revised Charter will become effective February 1, 1959.

F. H. HIGGINS,
Assistant Secretary of the
Army (Logistics).

F. A. BANTG,
Assistant Secretary of the
Navy (Material).

DUDLEY C. SHARP,
Assistant Secretary of the
Air Force (Materiel).

Approved:

C. P. MILNE,
Acting Assistant Secretary of Defense
(Supply and Logistics)

PART II—RULES OF THE ARMED SERVICES
BOARD OF CONTRACT APPEALS

PREFACE TO RULES

The Armed Services Board of Contract Appeals is the authorized representative of the Secretaries of the Army, Navy, and Air Force in hearing, considering and determining as fully and finally as might each of the Secretaries:

(a) Appeals by contractors from decisions on disputed questions by contracting officers or their authorized representatives or by other authorities pursuant to the provisions of Armed Services contracts requiring the determination of appeals by the head of a Department of the Armed Services or by his duly authorized representative or board, or pursuant to the provisions of any directive whereby the Secretary of a Department of the armed services has granted a right of appeal not contained in the contract;

(b) Appeals by armed services contractors pursuant to section 13(c) (1) (i) and section 17(c) of the Contract Settlement Act of 1944.

When an appeal is taken pursuant to a dispute clause in a contract which provides only for appeals from decisions on questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. Unless the contract provides otherwise, when in the consideration of an appeal it appears that a claim for unliquidated damages is involved therein, the Board, insofar as the evidence permits, makes findings of fact with respect to such claims without expressing opinion on questions of liability.

When a contract requires the Secretary of a Department of the armed services personally to render a decision on the matter in dispute, the Board submits its findings and recommendations to the Secretary of the Department.

There are three panels of the Board: The Army, Navy, and Air Force panels. In general, appeals are assigned for decision to the panel of the Department whose contract or procurement is directly involved. Each of the panels acts in divisions, which normally consist of three or more members of the panel. Hearings may be held by a division, by a designated member, or by a duly authorized examiner. The decision of a majority of a division constitutes the decision of the panel and of the Board, provided that all three panel chairmen signify that in their opinion a review by the three panel chairmen is not required. If a majority of the members of a division do not agree upon a decision, or if one or more of the panel chairmen do not waive review, determination of the appeal is made by a majority of the three-panel chairmen. However, on request of the appellant and subject to the concurrence of the Department concerned, an appeal involving \$5,000 in amount or less may be decided by a single member of the Board subject to such concurrence by a division or panel of the Board as the Department concerned may direct.

No. 42—3

SCOPE OF RULES

1. *General.* Except to the extent otherwise provided pursuant to Rule 31 (Optional Accelerated Procedure for Cases Involving \$5,000 in Amount or Less), Rules 2 through 30 govern the procedure in all cases before the Board. They shall be construed for the purpose of securing just and inexpensive determination of appeals without unnecessary delay. All pleadings provided for hereunder shall be so construed as to do substantial justice.

PROCEEDINGS PRELIMINARY TO HEARINGS

2. *Appeals, how taken.* Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

3. *Notice of appeal, contents of.* A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the department and agency or bureau cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 5 may be filed with the notice of appeal.

4. *Duties of contracting officer.* When a notice of appeal in any form has been received by the contracting officer he shall endorse thereon the date of mailing or the date of receipt if otherwise filed and within 10 days shall forward the notice of appeal, and the complaint if filed therewith, to the Board. The contracting officer shall promptly thereafter compile and transmit to counsel for the Government copies of all documents pertinent to the appeal, including the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(2) The contract and pertinent plans, specifications, amendments, and change orders;

(3) Correspondence between the parties and other data pertinent to the appeal;

(4) Transcripts of any testimony taken during the course of the proceedings on the matter in dispute prior to the filing of the notice of appeal with the Board;

(5) Such additional information as the contracting officer may consider material.

When the Board has received the original notice of appeal the Board will promptly so advise the contractor and the contracting officer, and will forward to the contractor a copy of these rules.

Note: Attention is invited to Rule 31, below, providing an Optional Accelerated Procedure for cases involving \$5,000 in amount or less. It is the duty of the contracting officer to advise the contractor of the Optional Accelerated Procedure in connection with an appeal involving \$5,000 in amount or less.

5. *Complaint.* Within 30 days after receipt of notice of docketing by the Board of the appeal, or within such longer period of time as may be allowed by the Board, the appellant shall file with the Board, if not previously filed with the notice of appeal, a complaint setting forth simple, concise and direct statements of each of his claims showing that he is entitled to relief including the dollar amount claimed. If the amount claimed involves \$5,000 or less, he may, in his complaint, request that the appeal be handled under the Optional Accelerated Pro-

cedure (Rule 31). Each claim shall be stated with as much particularity as is practical. No technical form is required, but each claim should be separately identified. Documentary evidence in support of claims may be filed as exhibits to the complaint. All documents filed as exhibits to the complaint shall be plainly listed and identified in the complaint. An original and three copies of the complaint shall be filed. Upon receipt thereof the recorder of the Board shall serve a copy of the complaint on counsel for the Government.

6. *Answer.* Within 60 days after service of the complaint, or within such longer period of time as may be allowed by the Board, counsel for the Government shall prepare and file with the Board an answer thereto. The answer shall set forth simple, concise, and direct statements of the Government's defenses to each claim asserted by appellant. Each defense shall be stated with as much particularity as is practical. Defenses which go to the jurisdiction of the Board may be included in the answer, or may be raised by motion pursuant to the provisions of Rule 10. If the appellant requests recourse to the Optional Accelerated Procedure (Rule 31), the answer shall contain a statement as to whether such request is concurred in by the Department concerned. Counsel for the Government shall at the same time file with the Board the following documents, which shall be plainly listed and identified:

(1) The findings of fact if any and the decision from which the appeal is taken, and the letter or letters or documents of claim in response to which the decision was issued by the contracting officer;

(2) The contract and pertinent plans, specifications, amendments, and change orders.

Documentary evidence in support of the Government's defenses may be filed as exhibits to the answer. All documents filed as exhibits to the answer shall be plainly listed and identified in the answer. An original and three copies of the answer shall be filed with the Board. Upon receipt thereof the Recorder shall serve a copy of the answer on appellant or his attorney.

7. *Appeal file; inspection of file.* The notice of appeal, the complaint and exhibits attached thereto, the answer and exhibits attached thereto, and the documents required to be filed therewith pursuant to Rule 6, all papers filed by the parties with the Board pursuant to these rules, and all correspondence exchanged between the Board and the parties or their attorneys shall constitute the appeal file, which shall be available for inspection by appellant and Government counsel at the offices of the Board. Prior arrangements for inspection of the file should be made with the recorder of the Board.

8. *Amendments of pleadings.* At any time before oral hearing or before submission of a case by the parties without an oral hearing the Board in its discretion may permit a party, within the proper scope of the appeal, to amend its complaint or answer, upon conditions just to both parties. The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of its complaint or answer, or to reply to an answer. When issues within the proper scope of the appeal but not raised by the complaint and answer are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised therein. Such amendment of the complaint and answer as may be necessary to cause them to conform to the evidence may be made upon motion at any time, even after decision, but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the hearing on the ground that it is not within the issues made by the complaint and answer, the hearing

member or examiner may allow the pleadings to be amended within the proper scope of the appeal and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the hearing member or examiner that the admission of such evidence would prejudice him in maintaining his case or defense upon the merits. The hearing member or examiner may, however, grant a continuance to enable the objecting party to meet such evidence.

9. *Trial briefs.* The Board in its discretion may order the submission of trial briefs prior to assignment of a case for oral hearing.

10. *Motions to dismiss.* Defenses which go to the jurisdiction of the Board may be raised by motion. Filing of motions to dismiss for lack of jurisdiction shall not be unreasonably delayed. The Board, however, has the right at any time to recognize its lack of authority to proceed in a particular case. Motions to dismiss for lack of jurisdiction shall, on application of either party, be heard and determined before oral hearing on the merits unless the Board orders that determination of the motion be deferred pending oral hearing on both the merits and the motion.

11. *Failure to state a case.* In the event, after completion of the pleadings, the Board finds that appellant has failed to state a case on which any relief could be granted by the Board, the Board may give notice to appellant to show cause why the appeal should not be dismissed on the ground that no useful purpose would be served by setting the case for oral hearing on the merits. Appellant, in such event, will be afforded the opportunity to be heard orally for the purpose of showing cause why the appeal should not be dismissed on that ground, and if appellant so desires to move to amend the complaint, within the proper scope of the appeal. If the Board thereafter finds appellant has failed to show cause, and finds that the complaint, with such amendments as may be offered by appellant, fails to state a case on which the Board could grant relief, the appeal shall be dismissed.

12. *Depositions.* Depositions which a party desires to take for the purpose of offering in evidence shall be taken in accordance with the procedure set forth in Appendix to Rules.

13. *Interrogatories to parties; inspection of documents; admission of facts.* Under appropriate circumstances, but not as a matter of course, the Board will entertain applications for permission to serve written interrogatories upon the opposing party, applications for an order to produce and permit the inspection of designated documents, and applications for permission to serve upon the opposing party a request for the admission of specified facts. Such applications shall be received and approved only to the extent and upon such terms as the Board in its discretion considers to be consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay, and essential to the proper pursuit of that objective in the particular case.

14. *Prehearing conferences.* In any case the Board in its discretion, upon its own initiative or upon the application of one of the parties, may call upon the parties or their attorneys or representatives to appear before a member or examiner of the Board for a conference to consider:

- (1) The simplification of the issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the appeal.

The presiding member or examiner, at the conclusion of such a conference, shall make such order as in his discretion is found to be appropriate with reference to action taken at the conference, amendments allowed or to be made to the pleadings, agreements made by the parties as to any of the matters considered, and limitation of issues for trial.

15. *Service of papers.* Service of papers in all proceedings pending before the Board may be made personally, or by mailing the same in a sealed envelope, registered, return receipt requested, with postage prepaid, addressed to the party upon whom service shall be made, and the date of the registry receipt shall be the date of service. Waiver of the service of any papers may be noted thereon or on a copy thereof, or on a separate paper, signed by the parties or their attorneys and filed with the Board. When any party has appeared by attorney, service upon the attorney will be deemed proper service upon such party.

HEARINGS

16. *Where and when held.* (a) Hearings will be held at the office of the Board in Washington, D.C., unless it is otherwise ordered by the Board. Hearings will not ordinarily be held elsewhere, but if a request therefor is seasonably made and good cause therefor appears, the Board may order a hearing to be held at another location. (For hearings under the Optional Accelerated Procedure, see Rule 31.)

(b) Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other factors. However, on request or motion of either party the Board, in its discretion, may advance the hearing for good cause shown.

17. *Notice of hearings.* Appellant and Government counsel shall be given at least 15 days' notice of the time and place of hearing.

18. *Submission without a hearing.* If either party does not wish to appear or be represented at a hearing, the Board shall be so advised. A party who so advises the Board may submit a brief within 20 days after the date assigned for the hearing, or within such other period of time as may be allowed by the Board. If both parties advise the Board that an oral hearing is not desired, briefs may be submitted by the parties within such period of time as may be allowed by the Board. (For submission on the record under the Optional Accelerated Procedure, see Rule 31.)

19. *Absence of parties or counsel.* The unexcused absence of a party or his authorized representative at the time and place set for the hearing will not be the occasion for delay. In such event the hearing will proceed and the case will be regarded as submitted by the absent party.

20. *Nature of hearings.* Hearings shall be as informal as may be reasonably allowable and appropriate under all the circumstances. Appellant and Government counsel may offer at a hearing on the merits such relevant evidence² as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the exercise of reasonable discretion by the presiding member or examiner in supervising the extent and manner of presentation of such evidence. Letters or copies thereof, affidavits, or other evidence, not ordinarily admissible under the generally accepted rules of evidence, may be received in evidence at the discretion of the presiding member or examiner. The weight to be attached to evidence presented in any particular form will be determined by the Board in the exercise of reasonable discretion

² For procedure to be followed in taking depositions, see "Appendix to Rules."

under all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used in evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may, however, in any case, require additional evidence.

21. *Examination of witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated or the Board member or examiner shall otherwise order. If the testimony of a witness is not given under oath the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287, 1001; section 19 of the Contract Settlement Act of 1944 (41 U.S.C. 119), and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

22. *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Briefs.* All briefs shall be filed within 20 days after conclusion of the hearing, or within such other period of time as may be allowed by the Board.

24. *Transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders except that under the Optional Accelerated Procedure the stenographic record will not be transcribed unless requested by either of the parties. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by contract between the Board and the independent reporter.

25. *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

REPRESENTATION

26. *The contractor.* An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or by an attorney at law duly licensed in any State, Commonwealth, Territory, or in the District of Columbia. The Board may authorize a contractor to appear by a duly authorized representative other than those mentioned in a special case, but for the purposes of that case only.

27. *Status of Government counsel.* Government counsel designated by the various departments to represent the departments, agencies, and bureaus cognizant of the disputes brought before the Board may in accordance with their authority represent the interests of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Government counsel may, when it appears to them that there are questions of fact as to which there is no substantial controversy, agree with appellant or his attorney as to such facts by written stipulation or otherwise. Whenever at any time it appears that

appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal in order to permit reconsideration by the contracting officer: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement the case shall be restored to the Board's calendar for hearing without loss of position.

DECISIONS

28. (a) Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be available to public inspection at the offices of the Board in Washington, D.C.

(b) Under the Optional Accelerated Procedure the decision shall be as brief as the circumstances permit and will ordinarily state only a summary of the facts and issues and the conclusions of the Board member. Such decision will not be published or distributed except to the parties and will not be regarded or cited as precedent for future cases. The Board member will also prepare a written memorandum of the basis for his decision which will not be published or distributed. Such memorandum will be available for examination by the parties.

MOTIONS FOR RECONSIDERATION

29. A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DEFINITIONS

30. (a) As used in these rules the term "contracting officer" includes any officer or other authority whose decision may be reviewed by the Board pursuant to the Board's charter.

(b) As used in these rules the term "Board" means the full Board, president of the Board, panel, chairman of a panel, member, or examiner, as may be appropriate, except that in Rule 11 the term "Board" refers to action of the Board by written decision in accordance with the procedures set forth in the Board's charter.

31. *Optional accelerated procedure for cases involving \$5,000 in amount or less.* An appeal involving \$5,000 in amount or less shall be processed under this rule at the request of the appellant, subject to the concurrence of the Department concerned. Under this rule:

(a) The appeal will be decided by a single member of the Board, designated by the chairman of the panel concerned, who shall have for this purpose all the authority and power of the full Board to hear, consider, determine and reconsider the matter, subject to such concurrence by a division or panel as the Department concerned may direct.

(b) The appeal shall be deemed submitted for decision on the record unless the appellant or the Government, within 10 days after receipt of the Government's answer by the appellant, requests the Board to schedule an oral hearing.

(c) Such oral hearing shall be fixed at such time and place as shall be agreeable to the parties and to the chairman of the panel concerned, taking into consideration any request therefor of the appellant.

(d) For the purpose of this rule, the amount involved in an appeal shall be the difference between the amount of the appellant's claim as stated in his complaint and the amount, if any, determined by the decision from which the appeal is taken.

(e) If the Board member assigned to the case under this rule determines that the amount involved exceeds or may exceed \$5,000, the parties shall be so informed, and the appeal shall be disposed of in accordance with Rules 2-30, inclusive. The determination so made shall be final and conclusive.

EFFECTIVE DATE AND APPLICABILITY

32. These revised rules shall take effect on the first day of the second month following the month in which they are approved by the cognizant Assistant Secretaries of the Department of the Army, Department of the Navy, and the Department of the Air Force. Except as otherwise directed by the Board, these rules shall not apply to appeals which have been docketed prior to their effective date.

Approved this 31st day of December 1958.

F. H. HIGGINS,
Assistant Secretary of the Army (Logistics).

F. A. BANTZ,
Assistant Secretary of the Navy (Material).

DUDLEY C. SEARP,
Assistant Secretary of the Air Force (Material).

G. C. BANNERMAN,
Director for Procurement Policy, Office of Assistant Secretary of Defense (Supply and Logistics).

[F.R. Doc. 59-1815; Filed, Mar. 2, 1959; 8:47 a.m.]

Chapter VII—Department of the Air Force

SUBCHAPTER F—RESERVE FORCES

PART 861—OFFICERS' RESERVE

PART 864—ENLISTED RESERVE

Miscellaneous Revocations

1. In Part 861, the following sections are deleted:

Sections 861.1 to 861.14 (20 F.R. 4152, June 14, 1955).

Sections 861.31 to 861.36 (22 F.R. 6410, August 10, 1957).

Sections 861.901 to 861.909 (21 F.R. 7681, October 6, 1956).

Sections 861.1001 to 861.1010 (21 F.R. 9296, November 28, 1956).

Sections 861.1101 to 861.1116 (21 F.R. 2043, March 31, 1956).

Sections 861.1151 to 861.1159 (22 F.R. 10218, December 19, 1957).

2. In Part 864, the following sections are deleted:

Sections 864.31 to 864.39 (21 F.R. 10493, December 29, 1956).

Sections 864.51 to 864.54 (22 F.R. 666, February 1, 1957).

[SEAL] CHARLES M. McDERMOTT,
Colonel, U.S. Air Force, Deputy Director of Administrative Services.

[F.R. Doc. 59-1796; Filed, Mar. 2, 1959; 8:45 a.m.]

SUBCHAPTER G—PERSONNEL

PART 881—PERSONNEL REVIEW BOARDS

Air Force Board for Correction of Military Records

1. Paragraph (a) (1) of § 881.3 is revised to read as follows:

§ 881.3 Application for correction.

(a) *General requirements*—(1) *Submission.* The application for correction should be submitted on DD Form 149, "Application for Correction of Military or Naval Record," or exact facsimile thereof, and should be addressed to Director of Administrative Services, Headquarters United States Air Force, Attention: Military Personnel Records Division, Washington 25, D.C. Forms and explanatory matter may be obtained from the Military Personnel Records Division.

2. Paragraph (f) of § 881.8 is revised to read as follows:

§ 881.8 Staff action.

* * * * *

(f) *Inspection of record of proceedings.* After the Secretary of the Air Force has taken action on the record, the applicant or his counsel is entitled upon request:

(1) To inspect the Record of Proceedings; and

(2) To receive a copy of the Board's findings, decisions, and recommendations, unless the Chairman considers that granting the request would be detrimental to the public interest.

(Sec. 1, 70A Stat. 483; 10 U.S.C. 8012. Interpret or apply secs. 1551, 1552, 70A Stat. 116; 10 U.S.C. 1551, 1552)

SOURCE: AFR 31-3A, August 1, 1958.

CHARLES M. McDERMOTT,
Colonel, U.S. Air Force, Deputy Director of Administrative Services.

[F.R. Doc. 59-1797; Filed, Mar. 2, 1959; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. Export Regs., Amdt. P.L. 9']

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

Silicon Transistors

Section 399.1 *Appendix A—Positive List of Commodities* is amended as follows:

The following entry is substituted for the third entry under Schedule B No. 70848 on the Positive List. The effect of

¹This amendment was published in Current Export Bulletin 812, dated February 26, 1959.

This revision is to add to the Positive List silicon transistors which were previously licensed for export by the Department of State. All outstanding

licenses issued prior to March 1, 1959, by the Department of State for export of silicon transistors remain valid until they expire or are revoked.

Dept. of Com., merce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar value limits	Val-dated license re-quired	Commodity lists
70348	Electronic equipment n.e.c., and parts: Transistors and related devices having any of the following characteristics: (a) designed for operation at alpha cut-off frequencies greater than 20 megacycles; (b) designed for collector dissipation in excess of 100 milliwatts at alpha cut-off frequencies greater than 500 KC; (c) designed to operate with collector voltages exceeding 40 volts; (d) designed to operate with mean collector currents greater than 3 amperes; (e) using a basic semi-conductor material other than germanium. (Specify by type number and quantity of each type.)	No.	RARA 51	50	RO	A

This amendment shall become effective as of March 1, 1959.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,

Bureau of Foreign Commerce.

[F.R. Doc. 59-1821; Filed, Mar. 2, 1959; 8:47 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs,
Department of the Interior

SUBCHAPTER P—MINING

PART 172—LEASING OF ALLOTTED LANDS FOR MINING

Execution of Mining Leases by Superintendents

On page 7045 of the FEDERAL REGISTER of September 11, 1958, a notice of intention to amend § 172.5 of 25 CFR was published. The purpose of the amendment is to authorize Superintendents of Indian reservations to execute mining leases on behalf of unknown owners of future contingent interests.

Interested persons were given 30 days from the date of publication of the notice in the FEDERAL REGISTER as an opportunity to submit their views, data, and arguments concerning the proposed amendments to the Commissioner of Indian Affairs. No objections were received.

The proposed amendment to 25 CFR, § 172.5, is hereby adopted as set forth below. This amendment is effective upon publication in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

FEBRUARY 24, 1959.

The headnote and present text of § 172.5 are amended to read as follows:

§ 172.5 Execution of leases by Superintendents.

The Superintendent shall execute leases on behalf of unknown owners of future contingent interests, and on behalf of minors and persons who are in-

competent by reason of mental incapacity.

(35 Stat. 783, as amended; 25 U.S.C. 396)

[F.R. Doc. 59-1803; Filed, Mar. 2, 1959; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,
Department of the Army

PART 207—NAVIGATION REGULATIONS

Banana River, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.171a establishing and governing the use and navigation of a naval restricted area in the Atlantic Ocean near Port Everglades, Florida, is hereby redesignated as § 207.171b and a new § 207.171a is hereby prescribed establishing and governing the use and navigation of a seaplane restricted area in Banana River, at Patrick Air Force Base, Florida, as follows:

§ 207.171a Banana River at Patrick Air Force Base, Fla.; seaplane restricted area.

(a) *The area.* Beginning at a point approximately 4 miles south of Casino at Cocoa Beach, Florida, latitude 28°15'38", longitude 80°36'40"; thence northwesterly a distance of 2,050 yards to a point latitude 28°16'12", longitude 80°37'38"; thence northeasterly a distance of 990 yards to a point latitude 28°16'41", longitude 80°37'33"; thence westerly a distance of 1,900 yards to a point latitude 28°16'41", longitude 80°38'38"; thence south a distance of 3,975 yards to a point latitude 28°14'43", longitude 80°38'38"; thence easterly a distance of 1,450 yards to a point latitude 28°14'43", longitude 80°37'49"; thence northeasterly a distance of 2,400 yards to a point latitude 28°15'53", longitude 80°37'40"; thence southeasterly a distance of 1,900 yards to a point latitude 28°15'21", longitude 80°36'49"; thence northeasterly a distance of 600 yards along the westerly edge of a prohibited area to the point of beginning.

(b) *The regulations.* (1) Watercraft may navigate, anchor, or moor within the operating area when area is not in use by seaplanes.

(2) The area may be utilized by seaplanes at any hour between 8:00 a.m. and 4:00 p.m. during Monday through Friday. Training will be limited to two hours during any one training period.

(3) The enforcing agency will send a patrol boat to warn watercraft in or near the area if impending operations. The patrol boat will utilize a power amplifier to orally request all watercraft to vacate the area.

(4) Watercraft shall promptly clear the area when seaplanes are observed approaching the area, or when requested to do so, and shall remain clear of the area while seaplanes are operating therein.

(5) The regulations shall be enforced by the Commander, Air Force Missile Test Center, Patrick Air Force Base, Florida, and such agencies as he may designate.

[Regs., February 16, 1959, 285/91 (Banana River, Fla.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

[SEAL]

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 59-1798; Filed, Mar. 2, 1959; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce
Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE
[Ex Parte No. MC-43]

PART 207—LEASE AND INTERCHANGE OF VEHICLES

Interpretation and Effect

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of February A.D. 1959.

It appearing that on November 23, 1956, the Commission made and filed in this proceeding a supplemental report, 68 M.C.C. 553, and order establishing regulations regarding the leasing and interchange of vehicles by motor carriers;

It further appearing that upon consideration of the record in the above-entitled proceeding, of a petition of Swift & Company, filed December 20, 1957, for the issuance of a declaratory order pursuant to the Administrative Procedure Act, and of replies thereto by Colonial and Pacific Frigidways, Inc., Little Audrey's Transportation, Inc., and Midwest Coast Transportation, Inc., dated February 5, 1958, and by certain class I rail carriers, dated February 5, 1958;

It further appearing that the Commission, on the date hereof, has made and filed a second supplemental report herein setting forth the basis of its conclusions and its findings with respect to said petition, which report and the prior reports herein are hereby referred to and made a part hereof;

And it further appearing that notice of the filing of the said petition was given

by publication in the FEDERAL REGISTER, January 8, 1958, and that notice of proposed rule making is not required by section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003) since this proceeding involves an interpretative rule; and good cause appearing therefor;

It is ordered, That the said proceeding be, and it is hereby, reopened for further consideration;

It is further ordered, That Part 207 (49 CFR Part 207) be, and it is hereby, amended by the addition thereto of the following section:

§ 207.10 Interpretation and effect.

(a) *Perishable products manufactured from perishable property.* Section 204(f)(1) of the Interstate Commerce Act, which, under certain conditions, exempts from the minimum duration requirements of § 207.4(3), motor vehicles of a private carrier by motor vehicle, used regularly in the transportation of perishable products manufactured from perishable property of a character embraced within section 203(b)(6) of the Act, is construed as covering the leasing of motor vehicle equipment of such private carrier used regularly in the transportation of fresh meat and other perishable products of livestock. The contract, lease or other arrangement for the use of such equipment is construed as within the exception set forth as § 207.4(a)(3)(i) and is not subject to any minimum duration. Lease and Interchange of Vehicles by Motor Carriers, Second Supplemental Report,—M.C.C.—

(49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That this order shall become effective April 16, 1959, and shall continue in effect until the further order of the Commission;

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Division of the Federal Register,

And it is further ordered, That the said petition, except to the extent granted in the said second supplemental report, be, and it is hereby, denied.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-1806; Filed, Mar. 2, 1959; 8:45 a.m.]

§ 26.1 Rates.

Weight	Kind of mail	Rate
8 ounces or less	Air postal or post cards	5 cents each.
	Letters and packages	7 cents an ounce.
	Business reply (See § 21.2(c) of this chapter):	
	Air cards	7 cents each.
	Airmail other than cards:	
	Weight not over 2 ounces	7 cents an ounce, plus 2 cents per piece.
	Weight over 2 ounces	7 cents an ounce, plus 5 cents per piece.

Weight over 8 ounces, and not exceeding—	Rate					
	Zones 1, 2 and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
	NOTE: Where amount is shown in italics, see Footnote 2 regarding first-class mail.					
1 pound	\$0.60	\$0.65	\$0.70	\$0.75	\$0.75	\$0.80
2 pounds	1.08	1.15	1.20	1.30	1.47	1.60
3 pounds	1.56	1.65	1.82	2.03	2.19	2.40
4 pounds	2.04	2.15	2.38	2.67	2.91	3.20
5 pounds	2.52	2.65	2.94	3.31	3.63	4.00
6 pounds	3.00	3.15	3.50	3.95	4.35	4.80
7 pounds	3.48	3.65	4.06	4.59	5.07	5.60
8 pounds	3.96	4.15	4.62	5.23	5.79	6.40
9 pounds	4.44	4.65	5.18	5.87	6.51	7.20
10 pounds	4.92	5.15	5.74	6.51	7.23	8.00
11 pounds	5.40	5.65	6.30	7.15	7.95	8.80
12 pounds	5.88	6.15	6.86	7.79	8.67	9.60
13 pounds	6.36	6.65	7.42	8.42	9.39	10.40
14 pounds	6.84	7.15	7.98	9.07	10.11	11.20
15 pounds	7.32	7.65	8.54	9.71	10.83	12.00
16 pounds	7.80	8.15	9.10	10.35	11.55	12.80
17 pounds	8.28	8.65	9.66	10.99	12.27	13.60
18 pounds	8.76	9.15	10.22	11.63	12.99	14.40
19 pounds	9.24	9.65	10.78	12.27	13.71	15.20
20 pounds	9.72	10.15	11.34	12.91	14.43	16.00
21 pounds	10.20	10.65	11.90	13.55	15.15	16.80
22 pounds	10.68	11.15	12.46	14.19	15.87	17.60
23 pounds	11.16	11.65	13.02	14.83	16.59	18.40
24 pounds	11.64	12.15	13.68	15.47	17.31	19.20
25 pounds	12.12	12.65	14.34	16.11	18.03	20.00
26 pounds	12.60	13.15	15.00	16.75	18.75	20.80
27 pounds	13.08	13.65	15.70	17.39	19.47	21.60
28 pounds	13.56	14.15	16.42	18.03	20.19	22.40
29 pounds	14.04	14.65	17.18	18.67	20.91	23.20
30 pounds	14.52	15.15	17.94	19.31	21.63	24.00
31 pounds	15.00	15.65	18.70	19.95	22.35	24.80
32 pounds	15.48	16.15	19.46	20.59	23.07	25.60
33 pounds	15.96	16.65	20.22	21.23	23.79	26.40
34 pounds	16.44	17.15	21.02	21.87	24.51	27.20
35 pounds	16.92	17.65	21.74	22.51	25.23	28.00
36 pounds	17.40	18.15	22.50	23.15	25.95	28.80
37 pounds	17.88	18.65	23.26	23.79	26.67	29.60
38 pounds	18.36	19.15	24.02	24.43	27.39	30.40
39 pounds	18.84	19.65	24.78	25.07	28.11	31.20
40 pounds	19.32	20.15	25.54	25.71	28.83	32.00
41 pounds	19.80	20.65	26.30	26.35	29.55	32.80
42 pounds	20.28	21.15	27.06	26.99	30.27	33.60
43 pounds	20.76	21.65	27.82	27.63	30.99	34.40
44 pounds	21.24	22.15	28.58	28.27	31.71	35.20
45 pounds	21.72	22.65	29.34	28.91	32.43	36.00
46 pounds	22.20	23.15	30.10	29.55	33.15	36.80
47 pounds	22.68	23.65	30.86	30.19	33.87	37.60
48 pounds	23.16	24.15	31.62	30.83	34.59	38.40
49 pounds	23.64	24.65	32.38	31.47	35.31	39.20
50 pounds	24.12	25.15	33.14	32.11	36.03	40.00
51 pounds	24.60	25.65	33.90	32.75	36.75	40.80
52 pounds	25.08	26.15	34.66	33.39	37.47	41.60
53 pounds	25.56	26.65	35.42	34.03	38.19	42.40
54 pounds	26.04	27.15	36.18	34.67	38.91	43.20
55 pounds	26.52	27.65	36.94	35.31	39.63	44.00
56 pounds	27.00	28.15	37.70	35.95	40.35	44.80
57 pounds	27.48	28.65	38.46	36.59	41.07	45.60
58 pounds	27.96	29.15	39.22	37.23	41.79	46.40
59 pounds	28.44	29.65	39.98	37.87	42.51	47.20
60 pounds	28.92	30.15	40.74	38.51	43.23	48.00
61 pounds	29.40	30.65	41.50	39.15	43.95	48.80
62 pounds	29.88	31.15	42.26	39.79	44.67	49.60
63 pounds	30.36	31.65	43.02	40.43	45.39	50.40
64 pounds	30.84	32.15	43.78	41.07	46.11	51.20
65 pounds	31.32	32.65	44.54	41.71	46.83	52.00
66 pounds	31.80	33.15	45.30	42.35	47.55	52.80
67 pounds	32.28	33.65	46.06	42.99	48.27	53.60
68 pounds	32.76	34.15	46.82	43.63	48.99	54.40
69 pounds	33.24	34.65	47.58	44.27	49.71	55.20
70 pounds	33.72	35.15	48.34	44.91	50.43	56.00

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 26—AIR MAIL

Miscellaneous Amendments

Regulations of the Post Office Department are amended as follows:

a. Section 26.1, *Rates* as amended by Federal Register Document 58-5875, 23 F.R. 5762, is further amended to read as follows:

EXCEPTIONS:
 1. Parcels weighing less than 10 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 10 pound parcel for the zone to which addressed.
 2. Parcels containing first-class matter for which postage at the rate of 4 cents for each ounce or fraction thereof.

FIRST CLASS ONLY

Zones	Weighting over--	But not over--	Pay
Zone 1, 2, and 3.	15 ounces	1 pound	\$0.64
	1 pound, 11 ounces	2 pounds	4 cents each ounce.
	2 pounds, 7 ounces	3 pounds	Do.
	3 pounds, 3 ounces	4 pounds	Do.
Zone 4.	1 pound, 12 ounces	2 pounds	Do.
	2 pounds, 8 ounces	3 pounds	Do.
	3 pounds, 4 ounces	4 pounds	Do.
	4 pounds, 2 ounces	5 pounds	Do.
Zone 5.	1 pound, 15 ounces	2 pounds	\$1.28
	2 pounds, 13 ounces	3 pounds	4 cents each ounce.
	3 pounds, 11 ounces	4 pounds	Do.
	4 pounds, 9 ounces	5 pounds	Do.
	5 pounds, 7 ounces	6 pounds	Do.
	6 pounds, 5 ounces	7 pounds	Do.
	7 pounds, 3 ounces	8 pounds	Do.
	8 pounds, 1 ounce	70 pounds	Do.

Title 43—PUBLIC LANDS: INTERIOR

Chapter 1—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1792]
 [80709]

MONTANA

Reservoir Site Restoration No. 31; Partially Revoking Departmental Order of August 18, 1894, Which Reserved Public Lands in Reservoir Site No. 34

Correction.

In F.R. Doc. 59-1563, appearing at page 1346 of the issue for Saturday, February 21, 1959, the land description for Sec. 35 should read "Sec. 35, S $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$."

[Public Land Order 1804]
 [Fairbanks 018168]
ALASKA

Withdrawing Lands for Use of the Department of the Army for Training Purposes

By virtue of the authority vested in the President and pursuant to Executive

NOTE: The corresponding Postal Manual section is 136.1.

(R.S. 161, as amended, 396, as amended, secs. 1, 3, 62 Stat. 1097, 1098; 5 U.S.C. 22, 369, 39 U.S.C. 475)

§ 26.2 [Amendment]
 b. In § 26.2 *Classification* amend subparagraph (1) of paragraph (c) to read as follows:

(1) Postage is charged on airmail (except postal and post cards) according to weight at the rates in § 26.1 regardless of the class of mail, except that when first-class mail is enclosed, the rate may not in any instance be less than 4 cents an ounce.

NOTE: The corresponding Postal Manual section is 136.231.
 (R.S. 161, as amended, 396, as amended, secs. 1, 3, 62 Stat. 1097, 1098; 5 U.S.C. 22, 369; 39 U.S.C. 475)

§ 26.5 [Amendment]
 c. In § 26.5 *Additions and enclosures* insert "See § 26.2(c) (1)" immediately following the first sentence therein.

NOTE: The corresponding Postal Manual section is 136.5.
 (R.S. 161, as amended, 396, as amended, secs. 1, 3, 62 Stat. 1097, 1098; 5 U.S.C. 22, 369; 39 U.S.C. 475)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-1825; Filed, Mar. 2, 1959; 8:48 a.m.]

Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws including the mining but not the mineral leasing laws nor disposals of materials, and reserved for use of the Department of the Army, for training purposes:

Black Rapids Area

A tract of land located near Mile 226 on the Richardson Highway near Black Rapids, more particularly described as follows:

Beginning at a point from which the approximate intersection of latitude 63°28'37" N., and longitude 145°50'54" W., 1927 N.A.D. on the East right-of-way boundary of the Richardson Highway bears West 5,280 feet, thence: East 6,562 feet, South 3,281 feet, West 6,562 feet, North 3,281 feet, to the point of beginning, containing 494.26 acres.

ROGER ERNST,
Assistant Secretary of the Interior.
 FEBRUARY 25, 1959.

[F.R. Doc. 59-1804; Filed, Mar. 2, 1959; 8:45 a.m.]

[Public Land Order 1805]

[1965478]
 [22620]

ALASKA

Revoking Public Land Order No. 207 of February 3, 1944; Partially Revoking Public Land Order No. 868 of October 21, 1952

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

Public Land Order No. 207 of February 3, 1944, which withdrew public lands in Alaska for use of the War Department for military purposes, and Public Land Order No. 868 of October 21, 1952, which withdrew lands for classification, are hereby revoked so far as they affect the following-described lands:

PARCEL NO. 1
 Beginning at corner No. 7 of U.S. Survey No. 176 about one-half mile northeasterly from Skagway, Alaska, thence, S. 62°15' W., 565.69 ft., to corner No. 8; S. 13°26' W., 340.10 ft., to corner No. 9;

N. 37°51.5' E., 857.6 ft., to corner No. 7 and the place of beginning, containing 1.38 acres.

PARCEL NO. 2
 Beginning at a point on line 2-3, U.S. Survey No. 176, about one-half mile northeasterly from Skagway, Alaska, from which corner No. 2 bears S. 30°03' W. 600 feet. Thence, N. 5°38' E., 362.4 ft.; N. 54°28' E., 362.4 ft.; S. 30°03' W., 660.0 ft., to the place of beginning (now described as U.S. Survey 3312, Tract C, Lot 10A), containing 1.14 acres.

The lands have been disposed of as surplus to the needs of the United States, pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended.

ROGER ERNST,
Assistant Secretary of the Interior.
 FEBRUARY 25, 1959.

[F.R. Doc. 59-1805; Filed, Mar. 2, 1959; 8:45 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

17 CFR Part 52.1

CHILLED ORANGE JUICE¹

United States Standards for Grades

Proposed United States Standards for Grades of Chilled Orange Juice were previously published in the FEDERAL REGISTER on December 24, 1955 (20 F.R. 9970). After careful study of all written data, views, and arguments which were submitted and because of changes in methods of manufacturing of the product, a second notice is hereby given that the U.S. Department of Agriculture is considering the issuance of United States Standards for Grades of Chilled Orange Juice pursuant to the authority con-

¹ Compliance with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

tained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.). These standards, if made effective, will be the first 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 standards should file same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

- | PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES | |
|--|---|
| Sec. | |
| 52.2761 | Product description. |
| 52.2762 | Types of chilled orange juice. |
| 52.2763 | Styles of chilled orange juice. |
| 52.2764 | Grades of chilled orange juice. |
| FILL OF CONTAINER | |
| 52.2765 | Recommended fill of container. |
| FACTORS OF QUALITY | |
| 52.2766 | Ascertaining the grade of a sample unit. |
| 52.2767 | Ascertaining the rating for the factors which are scored. |
| 52.2768 | Color. |
| 52.2769 | Defects. |
| 52.2770 | Flavor. |

EXPLANATIONS AND METHODS OF ANALYSES

- 52.2771 Definitions of terms and methods of analyses.

LOT INSPECTION AND CERTIFICATION

- 52.2772 Ascertaining the grade of a lot.
- SCORE SHEET
- 52.2773 Score sheet for chilled orange juice.

AUTHORITY: §§ 52.2761 to 52.2773 issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES

§ 52.2761 Product description.

Chilled orange juice is the unfermented juice initially obtained from sound, mature fruit of the sweet orange group (*Citrus sinensis*) and Mandarin group (*Citrus reticulata*), except tangerines, which fruit was prepared by sorting and by washing prior to extraction of the juice to assure a clean and sanitary product. Chilled orange juice is prepared by removal of seeds, undesirable pulp and without chemical preservatives, acids, or similar additives, but may be packed with the addition of a nutritive sweetening ingredient or other ingredients permissible under the provisions of the Federal Food, Drug and Cosmetic Act. Chilled orange juice applicable to these standards is prepared in accordance with one or the other of the types described herein. The prepared orange juice is chilled quickly, packaged in accordance with good commercial practice and is maintained at temperatures necessary for marketing of the product.

§ 52.2762 Types of chilled orange juice.

(a) *General*. (1) The type of chilled orange juice is not a factor of quality for

the purpose of these grades. Types are given here only for the purpose of identification.

(2) "Treated to improve stability" means treated by heat or otherwise treated in whole or in part to reduce bacterial or enzymatic action.

(b) *Type I*. Prepared from freshly extracted single-strength orange juice, untreated except for chilling and the removal of seeds and undesirable pulp. The addition of a sweetening ingredient (Style II) is not permitted under this type.

(c) *Type II*. Prepared from freshly extracted single-strength orange juice which has been treated to improve stability.

(d) *Type III*. Prepared from frozen single-strength orange juice or from a blend of freshly extracted and frozen single-strength juices and may or may not have been treated to improve stability.

(e) *Type IV*. Prepared from concentrated orange juice(s) (except canned or with added chemical preservatives) with or without the addition of water, and freshly extracted and/or frozen orange juice(s).

(f) *Type V*. Prepared from concentrated orange juice(s) (except canned or with added chemical preservatives) reconstituted solely with water.

§ 52.2763 Styles of chilled orange juice.

- (a) Style I, unsweetened.
- (b) Style II, sweetened.

§ 52.2764 Grades of chilled orange juice.

(a) "U.S. Grade A" (or U.S. Fancy) is the quality of chilled orange juice that shows no coagulation or no material separation and possesses the appearance of fresh orange juice; that possesses a very good color; that is practically free from defects; that possesses a very good flavor; and that scores not less than 85 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or U.S. Choice) is the quality of chilled orange juice that shows no coagulation but may show some separation and possesses the appearance of fresh orange juice; that possesses a good color; that is reasonably free from defects; that possesses a good flavor; and that scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of chilled orange juice that fails to meet the requirements of U.S. Grade B.

FILL OF CONTAINER

§ 52.2765 Recommended fill of container.

The recommended fill of container 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. It is recommended that the container be as full of chilled orange juice as practicable.

FACTORS OF QUALITY

§ 52.2766 Ascertaining the grade of a sample unit.

In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

- (1) *Factors not rated by score points*.
 - (i) Degree of coagulation;
 - (ii) Separation;
 - (iii) Appearance of fresh orange juice.

(2) *Factors rated by score points*. 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 such factors are:

Factors:	Points
Color -----	40
Defects -----	20
Flavor -----	40
Total score -----	100

§ 52.2767 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, "17 to 20 points" means 17, 18, 19, or 20 points).

§ 52.2768 Color.

(a) (A) *classification*. Chilled orange juice that possesses a very good color may be given a score of 34 to 40 points. "Very good color" means a very good yellow to yellow-orange color that is bright and typical of good-colored fresh orange juice.

(b) (B) *classification*. If the chilled orange juice possesses a good color, a score of 28 to 33 points may be given. Chilled orange juice that falls into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Good color" means that the color is the yellow to yellow-orange color typical of fresh orange juice which may be dull but is not off color for any reason.

(c) (SStd.) *classification*. Chilled orange juice that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.2769 Defects.

(a) *General*. The factor of defects refers to the degree of freedom from seeds and portions thereof, from excessive juice cells and pulp, and from other defects.

(1) *Pulp*. "Pulp" means particles of membrane, core, and peel.

(b) (A) *classification*. Chilled orange juice that is practically free from defects may be given a score of 17 to 20 points. "Practically free from defects" means that there may be present:

- (1) Not more than 0.030 percent by volume of recoverable oil;
- (2) Practically no small seeds or portions thereof that could not pass readily through round perforations 1/8 inch in diameter, and only such other seeds or

portions thereof as do not materially affect the appearance or drinking quality of the juice;

(3) Pulp and juice cells only in such amounts as do not materially detract from the appearance or drinking quality of the juice; and

(4) Other defects that are not more than slightly objectionable.

(c) (B) *classification*. If the chilled orange juice is reasonably free from defects a score of 14 to 16 points may be given. Chilled orange juice that falls into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that there may be present:

(1) Not more than 0.040 percent by volume of recoverable oil;

(2) Practically no small seeds or portions thereof that could not pass readily through round perforations 1/8 inch in diameter, and only such other seeds or portions thereof as do not seriously affect the appearance or drinking quality of the juice;

(3) Juice cells and pulp that do not seriously detract from the appearance or drinking quality of the juice; and

(4) Other defects that are not materially objectionable.

(d) (SStd.) *classification*. Chilled orange juice that fails to meet the requirements of paragraph (c) of this section 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).

§ 52.2770 Flavor.

(a) (A) *classification*. Chilled orange juice that possesses a very good flavor may be given a score of 34 to 40 points. "Very good flavor" means that the flavor is fine, distinct, and substantially typical of orange juice extracted from fresh, mature sweet oranges; is free from off flavors of any kind; and meets the following additional requirements for the applicable stye as qualified in regard to source of soluble solids:

(1) Style I, unsweetened, when the soluble solids of the product are derived solely from single-strength juice(s):

(i) Brix—not less than 11.0 degrees;

(ii) Brix-acid ratio—not less than 12 to 1 nor more than 18 to 1.

(2) Style I, unsweetened, when the soluble solids of the product are derived wholly or in part from concentrated orange juice(s):

(i) Brix—not less than 11.7 degrees;

(ii) Brix-acid ratio—not less than 12.5 to 1 nor more than 18 to 1.

(3) Style II, sweetened:

(i) Brix—not less than 12.5 degrees;

(ii) Brix-acid ratio—not less than 12 to 1 nor more than 14 to 1;

(iii) Soluble orange solids per gallon of finished product:

(a) When derived solely from single-strength juices 0.866 pounds (equivalent to 10.0 degrees Brix);²

(b) When derived wholly or in part from concentrated orange juice(s) 1.0195 pounds (equivalent to 11.7 degrees Brix).

(b) (B) *classification*. If the chilled orange juice possesses a good flavor a

score of 28 to 33 points may be given. Chilled orange juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Good flavor" means that the flavor is fairly typical of orange juice extracted from fresh, mature sweet oranges; is free from off flavors of any kind; and meets the following additional requirements for the applicable style:

(1) Style I, unsweetened, when the soluble solids of the product are derived solely from single-strength juice(s):

(i) Brix—not less than 10.5 degrees;

(ii) Brix-acid ratio—not less than 11.5 to 1 nor more than 22 to 1.

(2) Style I, unsweetened, when the soluble solids of the product are derived wholly or in part from concentrated orange juice(s):

(i) Brix—not less than 11.7 degrees;

(ii) Brix-acid ratio—not less than 12 to 1 nor more than 22 to 1.

(3) Style II, sweetened:

(i) Brix—not less than 12.5 degrees;

(ii) Brix-acid ratio—not less than 11 to 1 nor more than 15 to 1;

(iii) Soluble orange solids per gallon of finished product:

(a) When derived solely from single-strength juices 0.866 pounds (equivalent to 10 degrees Brix);²

(b) When derived wholly or in part from concentrated orange juice(s) 1.0195 pounds (equivalent to 11.7 degrees Brix).

(c) (SStd.) *classification*. Chilled orange juice that fails to meet the requirements of paragraph (b) of this section, or is off flavor for any reason, may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS AND METHODS OF ANALYSES

§ 52.2771 Definitions of terms and methods of analyses

(a) *Brix*. "Brix" means the degrees Brix of chilled orange juice when tested with a Brix hydrometer calibrated at 20 degrees C. (68 degrees F.) and to which any applicable temperature correction has been made. The degrees Brix of chilled orange juice may be determined by any other method which gives equivalent results.

(b) *Acid*. "Acid" means the grams of total acidity, calculated as anhydrous citric acid, per 100 ml. of chilled orange juice. Total acidity is determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(c) *Recoverable oil*. "Recoverable oil" is determined by the following method:

(1) *Equipment*. (i) Oil separatory trap similar to either of those illustrated in Figure 1³ or Figure 2.³

(ii) Gas burner or hot plate.

(iii) Ringstand and clamps.

(iv) Rubber tubing.

(v) Three-liter narrow-neck flask.

(2) *Procedure*. (i) Exactly two liters of juice are placed in a three liter flask. Close the stopcock, place distilled water in the graduated tube, run cold

² Provided the juice meets maturity requirements of the State where packed.

³ Filed as part of the original document.

water through the condenser from bottom to top, and bring the juice to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute.

(ii) By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

(iii) The number of milliliters of oil recovered divided by 20 equals the percent by volume of recoverable oil.

LOT INSPECTION AND CERTIFICATION

§ 52.2772 Ascertaining the grade of a lot.

The grade of a lot of chilled orange juice covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (§§ 52.1 to 52.87).

SCORE SHEET

§ 52.2773 Score sheet for chilled orange juice.

Size and kind of container.....	
Container mark (packages).....	
Identification (cases).....	
Label (including ingredient statement, if any).....	
Liquid measure (fluid ounces).....	
Style.....	
Brix (degrees).....	
Acid (grams/100 ml.: calculated as anhydrous citric acid).....	
Brix-acid ratio (.....)	
Recoverable oil (% by volume).....	
Degree of coagulation.....	{ } None { } Slight { } Serious

Factors	Score points
Color.....	40 { (A) 34-40 { (B) 128-33 { (SStd.) 10-27
Defects.....	20 { (A) 17-20 { (B) 14-16 { (SStd.) 10-13
Flavor.....	40 { (A) 34-40 { (B) 128-33 { (SStd.) 10-27
Total score.....	100
Grade.....	

¹ Indicates limiting rule.

Dated: February 26, 1959.

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

[F.R. Doc. 59-1813; Filed, Mar. 2, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 240, 250, 270]
INTENTION TO ANNOUNCE INTERPRETATION OF ADMINISTRATIVE POLICY

Postponement of Public Hearing and Further Extension of Time for Submitting Comments

On December 30, 1958, the Securities and Exchange Commission, in Securities

Act Release No. 4010 and related releases under the Acts administered by the Commission, invited all interested persons to file written views and comments on a proposed interpretation of administrative policy on financial statements regarding balance sheet treatment of the accumulated credit arising from the recognition in such statements of the deferral to future periods of current reductions in income taxes. On January 28, 1959, in Securities Act Release No. 4023, pursuant to requests the Commission extended the time for submitting such views and comments to February 28, 1959, and announced that a public hearing would be held on March 25, 1959.

At the request of interested persons, the Commission is further extending until March 25, 1959, the date upon which any person may submit, in triplicate, a written statement of his views and comments on the proposed interpretation of administrative policy. The date for public hearing is also postponed until April 8, 1959, at 10:00 a.m. in Room 193 at the offices of the Commission at 425 Second Street NW., Washington, D.C. Except where it is requested that views and comments not be disclosed, they will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

FEBRUARY 24, 1959.

[F.R. Doc. 59-1810; Filed, Mar. 2, 1959; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration
[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerances for Residues of O,O-Dimethyl S-(4-oxo-1,2,3-Benzotriazinyl-3-Methyl) Phosphorodithioate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a (d) (1)), the following notice is issued:

A petition has been filed by Chemagro Corporation, P.O. Box 4913, Hawthorn Road, Kansas City 20, Missouri, proposing the establishment of a tolerance of 2.0 parts per million for residues of O,O-dimethyl S-(4-oxo-1,2,3-benzotriazinyl 3-methyl) phosphorodithioate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, cherries, onions, plums (fresh prunes), strawberries.

The analytical method proposed in the petition for determining residues of O,O-dimethyl S-(4-oxo-1,2,3-benzotriazinyl-3-methyl) phosphorodithioate consists of suitable cleanup and extraction pro-

cedures varying with the raw agricultural commodity, followed by alkaline hydrolysis in absolute isopropanol. The hydrolysate is colorimetrically determined by diazotization and coupling with N-(1-naphthyl-ethylenediamine by the Averill and Norris procedure (Analytical Chemistry, Volume 20, page 753 (1948)).

Dated: February 24, 1959.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological
and Physical Sciences.

[F.R. Doc. 59-1823; Filed, Mar. 2, 1959; 8:48 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Office of the Secretary

VOLUNTARY OIL IMPORT PROGRAM

The President has requested that action be taken to continue the Voluntary Oil Import Program in effect through March 10, 1959 in order that he may have time to consider the findings and recommendations of the Director of the Office of Civil and Defense Mobilization resulting from the current study of the effect of imports of crude oil and its derivatives on the national security. Accordingly, the following amendments are made to the rules on Government Purchases of Crude Petroleum and Petroleum Products and to the administrative provisions on Unfinished Gasolines and Other Unfinished Oils.

1. The rules on Government Purchases of Crude Petroleum and Petroleum Products, as amended (23 F.R. 10389), are further amended by the substitution of "March 10, 1959" for "February 28, 1959" wherever the latter appears in section 6.1, paragraph (c); section 7.1, paragraph (e); and section 10, paragraphs (a) and (c).

2. The administrative provisions on Unfinished Gasolines and Other Unfinished Oils, as amended (23 F.R. 10389), are further amended by substituting "March 10, 1959" for "February 28, 1959" wherever the latter appears in section 1 and section 2, paragraph (b).

M. V. CARSON, Jr.,
Administrator,

Voluntary Oil Import Program.

MARCH 2, 1959.

[F.R. Doc. 59-1907; Filed, Mar. 2, 1959; 12:15 p.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case No. 255]

ENGLER LTD.

Order Revoking Export Licenses and Denying Export Privileges

In the matter of Engler Ltd., Stadt-hausquai 7, Zurich, Switzerland, Case No. 255; Respondent.

Engler Ltd., of Zurich, Switzerland, the respondent herein, was charged by the Investigation Staff, Bureau of Foreign Commerce of the United States Department of Commerce, with having violated the Export Control Act of 1949.

as amended, in that, as alleged, it obtained goods from the United States upon false representations and thereafter, contrary to notices accompanying said goods to the effect that they might not be shipped to destinations other than the destinations for which their exportation had been licensed, it transshipped them to Communist China. It failed to answer the charging letter.

In accordance with the practice, the case was referred to the Compliance Commissioner, who has reported that the evidence supports the charges and that the respondent should be denied export privileges so long as export controls remain in effect.

Now, after considering the entire record consisting of the charges, the evidence submitted in support thereof, and the Report and Recommendation of the Compliance Commissioner, I hereby make the following findings of fact:

1. At all times hereinafter mentioned, Engler Ltd. was and now is engaged in the import and export business in Zurich, Switzerland.

2. On or about the 22d day of October 1956, it ordered from a supplier in the United States certain metallographic laboratory equipment having a net value of \$5,341.37.

3. Thereafter, in response to an inquiry from its supplier, it represented and stated to the supplier that its purchaser of the goods was a firm in Warsaw, Poland, and that the country of final destination was Poland.

4. In reliance upon said representation and statement, the supplier applied to the Bureau of Foreign Commerce for a validated export license authorizing it to ship the said equipment to Engler Ltd. for ultimate sale and delivery to the purchaser in Warsaw, Poland, and said license was granted in due course.

5. The supplier then exported the said equipment from the United States and, in connection with said exportation, caused to be endorsed upon the bill of lading and the invoice therefor a destination control notice putting all persons on notice that, by United States law, the goods were licensed for exportation to Poland as the country of ultimate destination and that diversion contrary to United States law was prohibited, which bill of lading and invoice it thereafter transmitted to Engler Ltd.

6. On or about the 15th day of May 1957, Engler Ltd. ordered from another supplier in the United States three crankshaft grinders, valued at \$983.72 and, by failing to disclose to said supplier that it was not in fact the ultimate purchaser thereof, led the supplier

to believe that it was the ultimate purchaser and that the country of final destination was Switzerland.

7. Said grinders were subject to General License GRO and, in compliance with the order from Engler Ltd., the supplier thereafter exported the grinders from the United States to Engler Ltd. at Zurich, Switzerland, naming in the shipper's export declaration Antwerp as an intermediate port of unloading and Engler in Zurich, Switzerland, as the ultimate consignee and ultimate destination.

8. It then caused to be delivered to Engler Ltd. the original bill of lading and its invoices therefor, on all of which there had been endorsed notices to the effect that the commodities so exported from the United States were licensed for delivery to Switzerland as the country of ultimate destination and that diversion contrary to United States law was prohibited.

9. Although Engler Ltd. was so notified as to the restrictions upon delivery, the metallographic laboratory equipment being restricted to Poland as the country of ultimate destination and the grinders being restricted to Switzerland as the country of ultimate destination, it nevertheless and in disregard of said notices caused all of the said goods to be transhipped at Antwerp via Gdynia to Shanghai, in Communist China.

And from the foregoing, I have concluded that the respondent, Engler Ltd., made false representations to and concealed material facts from its supplier and the Bureau of Foreign Commerce in connection with the exportation of goods from the United States, that it received and disposed of goods exported from the United States with knowledge that, with respect to the exportations, violations of the Export Control Law and Regulations were about to and were intended to occur, and that it knowingly diverted and transhipped goods exported from the United States to a person and destination contrary to the provisions of the export control documents under which the goods had been exported and contrary to its representations made to induce said exportations, all in violation of §§ 381.2, 381.4, 381.5, and 381.6 of the Export Regulations.

Having concluded that the recommended action is fair, just, and necessary to achieve effective enforcement of the law: *It is hereby ordered:*

I. All outstanding validated export licenses in which the respondent, Engler Ltd., appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

II. Henceforth, and so long as export controls shall be in effect, the said respondent be, and it hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed.

Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by it, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the obtaining or using of any validated or general export license or other export control document, (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (d) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

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

IV. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, shall, on behalf of or in any association with the respondent, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity or (b) order, receive, buy, use, sell, dispose of, finance, transport, or forward any commodity heretofore or hereafter exported from the United States. Nor shall any person do any of the foregoing acts with respect to any such commodity or exportation in which the respondent may have any interest of any kind or nature, direct or indirect.

Dated: February 26, 1959.

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

[F.R. Doc. 59-1824; Filed, Mar. 2, 1959;
8:48 a.m.]

Federal Maritime Board

[Docket Nos. 725, 751]

MEMBER LINES OF NORTH ATLANTIC FREIGHT CONFERENCE ET AL.

Notice of Further Proceedings

The Secretary of Agriculture of the United States v. North Atlantic Continental Freight Conference, et al., Docket No. 725; in the matter of the statement of the Member Lines of the North Atlantic Continental Freight Conference filed under General Order 76; Docket No. 751.

At a session of the Federal Maritime Board held February 24, 1959, the following order was entered:

Whereas, the Federal Maritime Board on February 29, 1956, ordered that the complaint of the Department of Agricul-

ture, docketed as No. 725, be dismissed and, with specified exceptions, approved under section 15 of the Shipping Act, 1916, the exclusive patronage contract/non-contract rate system which was the subject of the investigation docketed as No. 751, and ordered said investigation discontinued; and

Whereas, the United States Court of Appeals for the District of Columbia, in *Ezra Taft Benson v. United States of America and Federal Maritime Board*, Nos. 13,316 and 13,373, in an order dated January 21, 1959, remanded to the Board the cases which were the subject of Dockets 725 and 751;

It is ordered, That Dockets 725 and 751 be, and they hereby are, reopened, as a consolidated proceeding, for the following purposes, as ordered by the Court.

1. To consider the impact on the dual-rate system here involved of the decision of the Supreme Court in *Federal Maritime Board v. Isbrandtsen Co.*, 356 U.S. 481 (1958), with due regard to the Act of August 12, 1958, 72 Stat. 574, Public Law 85-626, 85th Cong., 2d Sess., and

2. To consider the application to the dual-rate system here involved of section 15 of the Shipping Act, 1916, as amended, in the light of the "unless and until" clause of said Act of August 12, 1958.

It is further ordered, That a prehearing conference in this proceeding be held before an Examiner of the Board's Hearing Examiners' Office for the purpose of further delineating the issues in the reopened proceedings and determining whether new evidence should be taken. The prehearing conference will be held at a date and place to be determined and announced by the Chief Examiner. Following the close of the prehearing conference, the Examiner will issue an interlocutory report framing the issues and procedure to be followed in the reopened proceedings. Any person desiring to file exceptions to the Examiner's interlocutory report may within fifteen (15) days from the service thereof, apply to the Board for leave to do so; and

It is further ordered, That all persons (including individuals, corporations, associations, firms, partnerships, and public bodies) who were parties to Dockets 725/751 on February 29, 1956, the date of the Board's order in these cases, be continued as parties in the same capacity and be served with a copy of this order, and that notice of such order and the reopening of the proceeding herein be published in the FEDERAL REGISTER.

All other persons having an interest in this proceeding and desiring to intervene should notify the Secretary of the Board in writing in triplicate, and file petitions for leave to intervene in accordance with Rule 5(n) of the Board's rules of practice and procedure by the close of business on March 16, 1959.

Dated: February 24, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-1826; Filed, Mar. 2, 1959;
8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

LOANS TO NONPROFIT PRIVATE SCHOOLS UNDER TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

Under section 305 of the National Defense Education Act of 1958 (Pub. Law 85-864, 72 Stat. 1590), the Commissioner of Education is authorized to make loans to nonprofit private schools for the acquisition of equipment suitable for use for providing education in science, mathematics or modern foreign languages in elementary or secondary schools and for minor remodeling of laboratory and other space used for such equipment. The application form for such loans at this time is in two parts: Part I provides information for a preliminary determination of eligibility; Part II consists primarily of the proposal for the loan and financial information.

In order to apply for a loan under section 305 at this time, Part I of the application should be submitted to:

Dr. John R. Ludington, Director, Aid to State and Local Schools Branch, Division of State and Local Schools System, Office of Education, Department of Health, Education, and Welfare, Washington 25, D.C.

on or before March 15, 1959. Applications received by mail will be considered filed as of the date of postmark. Applications submitted after such date will be considered for approval only to the extent that funds remain after the approval of applications filed by such date.

After the filing of Part I of the application, applicants will be given an opportunity to file Part II, containing the proposal for a loan.

Nonprofit private schools may secure forms and instructions for making application for loans under section 305 by writing to the above address.

Applications already filed may be amended or superseded by a new application at any time on or before the above filing date without loss of priority.

Dated: February 26, 1959.

[SEAL] RALPH C. M. FLYNT,
Acting Commissioner of Education.

Approved: February 27, 1959.

BERTHA S. ADKINS,
Acting Secretary.

[F.R. Doc. 59-1875; Filed, Mar. 2, 1959; 9:35 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. SR-2301]

HERBERT T. ALLEN; SAFETY ENFORCEMENT

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958 that oral argument in the above-entitled proceeding is assigned to be held

on March 18, 1959, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board. The Administrator has been allotted 30 minutes and the respondent 30 minutes to be presented in that order. The Administrator may reserve one-quarter of his allotted time for rebuttal.

Dated at Washington, D.C., February 26, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-1812; Filed, Mar. 2, 1959; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-8]

NORTH CAROLINA STATE COLLEGE

Notice of Proposed Issuance of Construction Permit and Facility License

Please take notice that the Atomic Energy Commission proposes to issue to North Carolina State College, Raleigh, North Carolina, a construction permit substantially as set forth below to authorize the removal of the applicant's Raleigh Research Reactor to another location on its campus unless within fifteen (15) days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by the Commission's rules of practice (10 CFR, Part 2). In its application dated November 12, 1958, North Carolina State College requested an amendment to its facility license, No. R-1, for this purpose. However, since a material alteration of the facility is involved, it is necessary that a construction permit be issued to permit the alteration, pursuant to § 50.91 of the Commission's regulations, 10 CFR Part 50, prior to the issuance of the facility license amendment. For further details see (1) the application submitted by North Carolina State College, and (2) a memorandum prepared by the Division of Licensing and Regulation which summarizes the principal factors considered in reviewing the application for license, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Notice is also hereby given that if the Commission issues the construction permit, the Commission may without further prior public notice, amend Facility License No. R-1, as amended, to permit operation of the reactor if it is found that the alterations have been made in compliance with the terms and conditions contained in the construction permit and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission that the granting of such license

would not be in accordance with the provisions of the Act.

Dated at Germantown, Md., this 27th day of February 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

Proposed Construction Permit

By application dated November 12, 1958 (hereinafter referred to as "the application"), North Carolina State College requested authorization to construct and operate at a new location on the North Carolina State College campus at Raleigh, North Carolina, the 100-watt aqueous, homogeneous, graphite-reflected, training and research reactor (hereinafter referred to as "the reactor"), which North Carolina State College is presently authorized to operate at another location on the campus under License No. R-1, as amended. In view of the fact that the application requests a material alteration of the facility a construction permit is required prior to the issuance of an amendment to the facility license, a Class 104 license as defined in § 50.21, 10 CFR Part 50, "Licensing of Production and Utilization Facilities".

The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that as relocated:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. The reactor will be used in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended, (hereinafter referred to as "the Act").

C. North Carolina State College is financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter I, CFR; to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

D. North Carolina State College is technically qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter I, CFR.

E. North Carolina State College has submitted sufficient information to provide reasonable assurance that the reactor can be operated at the proposed new location without undue risk to the health and safety of the public.

F. The issuance of a construction permit to North Carolina State College will not be inimical to the common defense and security or to the health and safety of the public.

Pursuant to the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to North Carolina State College to construct the reactor in accordance with the specifications contained in the application. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

1. The earliest completion date of the reactor is March 18, 1959. The latest date for completion is May 13, 1959. The term "completion date" as used herein means the date on which construction of the reactor is completed except for the introduction of the fuel material.

2. The reactor shall be constructed and located at the new location on the campus of North Carolina State College in Raleigh, North Carolina, specified in the application.

Upon completion of the construction of the reactor in accordance with the terms and conditions of this permit, and upon finding that the reactor authorized has been constructed and will operate in conformity with the construction permit and in conformity with the provisions of the Act and of the rules and regulations of the Commission, the Commission will amend the Class 104 license issued to North Carolina State College pursuant to section 104c of the Act, which license shall expire on July 1, 1964.

Pursuant to § 50.60 of the regulations in Title 10, Chapter I, CFR, Part 50, the Commission has allocated to North Carolina State College, for use in connection with the facility 50 grams, in addition to the 800 grams previously allocated, of uranium 235 contained in uranium enriched to approximately 93 percent in the isotope uranium 235.

Date of issuance:

For the Atomic Energy Commission.

[F.R. Doc. 59-1853; Filed, Mar. 2, 1959; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[Agency Order 1]

BASIC ORGANIZATION STRUCTURE

1. *Purpose.* The purpose of this order is to prescribe the basic organization and assignment of functions in the Federal Aviation Agency.

2. *Basic organization.* The Federal Aviation Agency shall consist of the organization units prescribed in sections 3, 4 and 5 of this order with the functions defined therein.

3. *Headquarters organization.* The headquarters of the Federal Aviation Agency shall consist of the following Offices:

3.1 *Office of the Administrator.* The functions of the Office of the Administrator shall be as follows:

a. Promulgates the basic programs, policies, plans, and public rules required to accomplish the objectives of the Federal Aviation Act of 1958 and any other authority vested in the Administrator of the Federal Aviation Agency;

b. Directs, coordinates, and controls the execution of the Federal Aviation Agency's programs; and

c. Prescribes the organization structure and the assignment of responsibilities within the Agency.

3.2 *Office of Management Services.* Under the general direction of the Assistant Administrator for Management Services, the Office of Management Services shall:

a. Assist the Administrator in all matters pertaining to management policy, budgetary and fiscal management, program evaluation, organization and methods planning and analysis, property and supply management, administrative services, records and forms management and Agency issuances; and

b. Direct and supervise the Agency's budgeting, accounting and auditing, management analysis, and general services activities.

3.3 *Office of Personnel and Training.*

Under the general direction of the Assistant Administrator for Personnel and Training, the Office of Personnel and Training shall:

a. Assist the Administrator in all matters pertaining to personnel management, internal security, and training; and

b. Direct and supervise the Agency's recruitment, position classification and wage administration, employee relations, technical and administrative training, and internal security activities.

3.4 *Office of Plans and Requirements.* Under the general direction of the Assistant Administrator for Plans and Requirements, the Office of Plans and Requirements shall:

a. Assist the Administrator in the development of long-range national aviation policies, goals, requirements, and programs relating to the Agency's functions;

b. Assist the Administrator on mobilization planning and radio frequency management; and

c. Conduct economic and statistical studies required to plan the Agency's programs, provide for the collecting and dissemination of the Agency's official statistics, and prescribe the standards governing the Agency's statistical activities.

3.5 *Office of the General Counsel.* Under the general direction of the General Counsel, the Office of the General Counsel shall:

a. Provide all legal counsel and advice to the Office of the Administrator and other organization components of the Federal Aviation Agency on matters pertaining to the functions of the Agency;

b. Direct and supervise all legal work of the Agency, including enforcement of law and regulation, the legal phases of rule-making, and drafting of legislation; and

c. Represent the Administrator in dealing with other Departments and Agencies on all matters relating to the formal negotiation of international agreements affecting the Agency.

3.6 *Office of the Civil Air Surgeon.* Under the general direction of the Civil Air Surgeon, the Office of the Civil Air Surgeon shall:

a. Assist the Administrator on the establishment of standards for and rules and regulations governing the mental and physical fitness of airmen, air traffic controllers, and other persons whose health affects safety in flight.

b. Administer examination, inspection and certification programs relating to the Agency's standards, rules, and regulations regarding mental and physical fitness;

c. Advise the Administrator with respect to research needed in any aspect of medicine affecting civil aviation; and

d. Evaluate the health and medical programs for Agency personnel and advise the Administrator and the heads of other organization components of the Agency with respect to such programs.

3.7 *Office of Congressional Liaison.* Under the general direction of the Congressional Liaison Officer, the Office of Congressional Liaison shall:

a. Assist the Administrator on all matters pertaining to the Agency's relations with the Congress; and

b. Arrange for appropriate liaison for the Agency with Members and Committees of the Congress on legislative items and inquiries.

3.8 *Office of Public Affairs.* Under the general direction of the Chief, the Office of Public Affairs shall:

a. Assist the Administrator and the heads of other organization components of the Agency on all matters involving the Agency's public relations and the dissemination of information to the public regarding the Agency's programs;

b. Maintain liaison with the press and other media for the dissemination of information; and

c. Provide editorial counsel and assistance in the preparation of Agency publications released to the public.

3.9 *Office of International Coordination.* Under the direction of the Chief, the Office of International Coordination shall:

a. Provide for representation of the Administrator on aviation aspects of negotiations with other U.S. agencies, foreign governments, the International Civil Aviation Organization and other international organizations on international aviation matters;

b. Coordinate the Agency's civil aviation technical assistance activities under the U.S. foreign aid program, including the technical aeronautical training of foreign nationals in the United States; and

c. Assist the Administrator in connection with the exchange of aeronautical information with foreign governments and the development of civil aeronautics and air commerce abroad.

4. *Bureaus.* The principal programs of the Federal Aviation Agency shall be executed by the following Bureaus under the general direction of the Office of the Administrator and the supervision of the Director of the Bureau:

4.1 *Bureau of Research and Development.* The Bureau of Research and Development shall:

a. Develop, modify, test and evaluate systems, procedures, facilities and devices to meet the needs for safe and efficient navigation and traffic control of all civil and military aviation (except those needs peculiar to air warfare and primarily of military concern);

b. Recommend to the Administrator the systems, procedures, facilities and devices that will best serve the needs of the common civil-military system of aids to air navigation, air traffic control, and aeronautical communication with the maximum coordination of traffic control and air defense systems;

c. Assist the Administrator with respect to (1) the technical evaluation of research and development projects of military agencies that may have potential application to the needs of, or possible conflict with, the common civil-military system and (2) determining whether the Federal Aviation Agency or a military agency shall have responsibility for such projects;

d. Direct or supervise any research and development undertaken by the

Agency with respect to aircraft, aircraft engines, propellers, or appliances; and
 e. Direct and supervise the activities of the National Aviation Facilities Experimental Center, located at Atlantic City, New Jersey, and any other research and development operations of the Agency.

4.2 *Bureau of Flight Standards.* The Bureau of Flight Standards shall:

a. Develop and recommend to the Office of the Administrator the minimum standards and the rules and regulations required to promote the national security and the safety of flight of civil aircraft, except those relating to mental and physical fitness and general air traffic rules;

b. Provide for the issuance of airman, aircraft, air carrier operating and air agency certificates and the administration of rules and regulations pertaining thereto, except those relating to mental and physical fitness;

c. Administer rules and regulations governing the maintenance of equipment used in civil aircraft, including the inspection of aircraft, aircraft engines, propellers, and equipment and components as required for safe operation of civil aircraft;

d. Perform on behalf of the Administrator such investigations of aircraft accidents and prepare such reports as may be required pursuant to the administrator's responsibilities and authorities under Title VII of the Federal Aviation Act of 1958; and

e. Provide for the flight inspection and technical evaluation of aids to air navigation and aeronautical communications and establish standards for their utilization in the movement of air traffic.

4.3 *Bureau of Air Traffic Management.* The Bureau of Air Traffic Management shall:

a. Develop plans for, and recommend to the Office of the Administrator policies with respect to the use of the navigable airspace and allocation of airspace, including terms, conditions, and limitations on its use;

b. Develop and recommend to the Office of the Administrator air traffic rules and regulations deemed necessary for the safe and efficient utilization of the navigable airspace;

c. Plan, direct and supervise the operation of the Agency's air traffic control and aeronautical communications systems and facilities; and

d. Assist the Administrator in connection with (1) the security control of air traffic and (2) the investigation of aircraft accidents with respect to the Agency's air traffic control or aeronautical communications facilities.

4.4 *Bureau of Facilities.* The Bureau of Facilities shall:

a. Provide for the acquisition, establishment, installation, maintenance, and improvement of air navigation facilities, including the related real estate, plant, utilities, and electronic or other equipment needed for the common civil-military system of aids to air navigation, air traffic control, and aeronautical communications;

b. Develop and recommend to the Office of the Administrator rules and regulations governing the administration of the Administrator's functions and responsibilities under the Federal Airport Act;

c. Assist the Administrator with respect to the construction of the Washington International Airport, and the operation, maintenance, and improvement of the Washington National Airport and Federally-owned airports in Alaska; and

d. Assist the Administrator in the investigation of aircraft accidents with respect to (1) the functioning or maintenance of the Agency's aids to air navigation or (2) the construction or design of airports.

5. *Field organization.* The major field organizations of the Federal Aviation Agency shall be as follows:

5.1 *Regional Offices.* The Regional Offices of the Agency shall, under the general direction of the Regional Administrators:

a. Execute the Agency's programs in the Regions in accordance with the policies and directives of the Office of the Administrator and the Washington Offices and Bureaus;

b. Establish, maintain, and operate the common civil-military system of air traffic control, aeronautical communications, and aids to air navigation;

c. Execute the Agency's airport program in the Regions, including negotiations with public airport sponsors and advice to the public on site selection planning, acquisition, development, maintenance, and approach protection for airports; and

d. Conduct inspection, examination and certification activities relating to airmen, aircraft, air agencies, fixed base operators, air carriers, and general aircraft operators.

5.2 *Aeronautical Center.* The Aeronautical Center, located at Oklahoma City, Oklahoma, shall:

a. Conduct training courses for Federal Aviation Agency employees and others required to establish and maintain proficiency for the execution of the Agency's programs;

b. Modify, assemble, and distribute equipment and materials for installation and establishment of the Agency's facilities and aids to air navigation;

c. Provide central repair and modification service for aircraft owned and operated by the Federal Aviation Agency; and

d. Provide a centralized supply service for maintenance, operations, and administrative activities of the Agency.

5.3 *Washington National Airport.* The Washington National Airport shall:

a. Provide terminal airport facilities for the Washington, D.C., metropolitan area;

b. Provide, maintain, and protect space and operating facilities for air carriers and other aeronautical operations at the Airport; and

c. Furnish, or provide through concessionaires, various services required by air carriers, passengers, tenants, governmental agencies, and the public using the Airport.

6. *Effective date.* This order is effective January 15, 1959. All other orders or instructions or parts thereof issued prior to the effective date of this order that are inconsistent with or in conflict with this order are amended or superseded accordingly.

Adopted: January 15, 1959.

E. R. QUESADA,
 Administrator.

[F.R. Doc. 59-1799; Filed, Mar. 2, 1959; 8:45 a.m.]

[Amdt. 25]

ORGANIZATION AND FUNCTIONS

Changes in Address of Aircraft Engineering, Air Carrier Safety and General Safety District Offices

In accordance with the public information requirements of the Administrative Procedure Act, section 22(b), of the Organization and Functions of the Federal Aviation Agency as published on December 24, 1957, 22 F.R. 10499, and amended on August 7, 1958, 23 F.R. 6004, and October 10, 1958, 23 F.R. 7864, is further amended to add one new Aircraft Engineering District Office to Region 1, and to revise addresses for certain district offices:

1. Region 1, establishment of a new Aircraft Engineering District Office at Wood-Ridge, New Jersey, mailing address: c/o Wright Aeronautical Division, Building 2 Mezzanine, Suite "J", Wood-Ridge, New Jersey.

2. Region 1, relocation of the Aircraft Engineering District Office at the International Airport, Jamaica, Long Island, New York, to Bethpage, Long Island, New York, mailing address: c/o Grumman Aircraft Engineering Corporation, Plant I, Bethpage, Long Island, New York.

3. Region 3, consolidation of the Aircraft Engineering District Offices at Beech Aircraft Corporation, Wichita, Kansas, and Cessna Aircraft Company, Wichita, Kansas, and relocation to Room 212, Administration Building, Municipal Airport, Wichita, Kansas, mailing address: P.O. Box 2497, West Wichita Station, Wichita, Kansas.

4. Region 3, relocation of the Air Carrier Safety District Office from Administration Building, Lambert Field, to Young Aviation Hangar, Lambert Field, P.O. Box 6127, Saint Louis 21, Missouri.

5. Region 5, relocation of the Air Carrier Safety District Office from the McKinley Building, Juneau, Alaska, to Room 110, Juneau Airport Terminal Building, Juneau Municipal Airport, Juneau, Alaska.

6. Region 5, relocation of the General Safety District Office from the McKinley Building, Juneau, Alaska, to Room 109, Juneau Airport Terminal Building, Juneau Municipal Airport, Juneau, Alaska.

Issued in Washington, D.C., on February 24, 1959.

E. R. QUESADA,
 Administrator.

[F.R. Doc. 59-1817; Filed, Mar. 2, 1959; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-16113]

PHILLIPS PETROLEUM CO.

Order for Hearing and Suspending Proposed Change in Rate

FEBRUARY 20, 1959.

Phillips Petroleum Company (Phillips) on January 22, 1959, tendered the following designated filing proposing tax changes to its previously submitted rate increase:

Description: Notice of Change, dated January 20, 1959.

Purchaser: Arkansas Louisiana Gas Company.

Rate schedule designation: Supplement No. 23 to Phillips' FPC Gas Rate Schedule No. 31.

In its filings, Phillips requested that Supplement No. 21 to its FPC Gas Rate Schedule No. 31 be amended to reflect the tax reimbursement resulting from the suspension of the Louisiana gas gathering tax and the increase in the Louisiana gas severance tax as set forth in said supplement No. 23. The Commission in its order issued August 29, 1958, suspended Supplement No. 21 until February 26, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

The Commission finds:

(1) It is necessary and in the public interest that the aforementioned supplement be permitted to be filed.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 23 to Phillips' FPC Gas Rate Schedule No. 31 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) The aforementioned supplement is hereby permitted to be filed.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 23 to Phillips' FPC Gas Rate Schedule No. 31.

(C) Pending such hearing and decision thereon, said Supplement No. 23 is suspended and the use thereof deferred until February 26, 1959, or until the date upon which Supplement No. 21 to Phillips' FPC Gas Rate Schedule No. 31 is made effective in the manner prescribed by the Natural Gas Act.

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

(E) The issuance of the order shall constitute full notice of the filing and publication of the proposed change in rate insofar as its effective date is concerned.

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

By the Commission,

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-1800; Filed, Mar. 2, 1959;
8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

PYRETHRUM HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 53 Stat. 811, as amended, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 66,000 pounds of pyrethrum (20%) extract now held in the national stockpile.

The Office of Civil and Defense Mobilization has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act that there is no longer any need for stockpiling this quantity of pyrethrum and requested General Services Administration to take action to dispose of this stockpile inventory. The revised determination was by reason of obsolescence of the stockpiled pyrethrum for use in time of war and was based upon the finding of the Office of Civil and Defense Mobilization that new and better materials, within the meaning of section 3(e) (2) of the Act, have been developed for the main uses for which this material was stockpiled.

General Services Administration proposes to channel the pyrethrum to be disposed of to pyrethrum processors at current market prices over a twelve month period.

It is believed that this plan of disposition will protect the United States against avoidable loss on the sale or transfer of such material and will also protect producers, processors and consumers against avoidable disruption of their usual markets.

It is proposed to make the pyrethrum covered by this notice available for sale beginning six months after the date of publication of this notice in the FEDERAL REGISTER.

Dated: February 24, 1959.

FRANKLIN FLOETE,
Administrator of General Services.

[F.R. Doc. 59-1801; Filed, Mar. 2, 1959;
8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-X-7 (Rev. 1)]

BRANCH MANAGER, OKLAHOMA CITY, OKLAHOMA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 4), as amended (22 F.R. 5811, 8197, 23 F.R. 557, 1768), there is hereby delegated to the Branch Manager, Oklahoma City Branch Office, Small Business Administration, the authority:

A. Specific.

FINANCIAL ASSISTANCE

To take the following actions in accordance with the limitations of such delegations set forth in SBA-500, financial Assistance Manual:

1. To approve but not decline the following types of loans:

a. Direct business loans in an amount not exceeding \$20,000;

b. Participation loans in an amount not exceeding \$100,000.

2. To approve disaster loans in an amount not exceeding \$50,000; to decline original disaster loan applications not exceeding \$50,000, but not reconsiderations of such applications.

3. To approve or decline Limited Loan Participation loans.

4. To take the following actions in all disbursed loans which by type and amount could be approved under authority contained in Delegation of Authority No. 30-X-7, Amendment 1, dated June 2, 1958; except those loans previously classified as "problem loans" or "in liquidation":

a. Waive amounts due under net earnings clause.

b. Approve requests to exceed fixed assets limitations and waive violations of this limitation.

c. Approve payment of cash or stock dividends, payment of bonuses, increases in salaries, employment of new personnel, and waivers of violations of salary and bonus limitations, provided the loan is current in all respects at the time the payment is made, or the waiver approved, and if the payment is reasonable and will not impair borrower's cash position.

d. Waive violations of agreements to maintain working capital of a fixed amount or ratio.

e. Approve or reject substitutions of accounts receivable and inventories as "exchangeable collateral."

f. Release, or consent to the release of all collateral when loan is paid in full.

g. Release dividends on life insurance policies held as collateral for loans, and approve application of same against premiums due on such policies.

h. Release, or consent to the release of insurance settlement funds covering loss or damage to property securing a loan in aggregate amount not exceeding \$1,000.00 for any one specific loss or damage occurrence, and execute the endorsement of S.B.A. on checks and drafts representing such funds.

i. Release, or approve the release of real or personal property securing a loan for the purpose of sale, provided the sale proceeds are applied as a principal payment on the loan in inverse order of maturity.

j. Release, or approve the release of machinery and equipment, furniture and fixtures, securing a loan for the purpose of allowing borrower to trade the property for other machinery or equipment, furniture and fixtures, useful in the operation of borrower's business, provided the newly acquired property is hypothecated to secure the loan subject only to purchase money lien, if any exists.

k. To take peaceable custody of collateral, as mortgagees in possession thereof or otherwise, whenever such action becomes necessary to protect the interests of or a loan made by S.B.A.; to take all steps necessary for the preservation and protection of the property, pending foreclosure of the lien and sale of the collateral; and, to obligate the Administration in an amount not in excess of a total of \$1,000 for any one loan, for those expenditures as may be required to accomplish these purposes.

5. To develop with Government procurement agencies required local procedures for implementing established inter-agency policy agreements, including but not limited to steps such as determining joint set-asides and representation at procurement centers.

6. To administer oaths of office.

7. To approve annual and sick leave for employees under his supervision.

8. To administratively approve all types of vouchers, invoices and bills submitted by public creditors of the Agency for articles or services rendered.

B. *Correspondence.* To sign all non-policy making correspondence, including Congressional correspondence, relating to the functions of the Branch Office.

II. The specific authority delegated in I.A. may not be redelegated. The specific authority delegated in I.B. may be redelegated limiting such redelegation to routine correspondence only.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Branch Manager.

IV. All previous authority delegated by the Regional Director to the Branch Manager, Oklahoma City, Oklahoma, is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: January 28, 1959.

C. W. FERGUSON,
Regional Director,
Region X.

[F.R. Doc. 59-1818; Filed, Mar. 2, 1959;
8:47 a.m.]

BRANCH MANAGER, LUBBOCK, TEXAS

[Delegation of Authority 30-X-18]

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation No. 30 (Revision 4) as amended, (22 F.R. 5811, 8197; 23 F.R. 557, 1768) there is hereby delegated to the Branch Manager, Lubbock Branch Office, Small Business Administration, the authority:

A. *Specific.*

FINANCIAL ASSISTANCE

To take the following actions in accordance with the limitations of such delegations set forth in SBA-500, Financial Assistance Manual:

1. To approve but not decline the following type of loans:

a. Direct business loans in an amount not exceeding \$20,000;

b. Participation loans in an amount not exceeding \$100,000.

2. To approve disaster loans in an amount not exceeding \$50,000; to decline original disaster loan applications not exceeding \$50,000, but not reconsiderations of such applications.

3. To approve or decline Limited Loan Participation loans.

PROCUREMENT AND TECHNICAL ASSISTANCE

To take the following actions in accordance with the limitations of such delegations as set forth in SBA-400, Agency Policy Manual, and SBA-600, Procurement and Technical Assistance Manual:

4. To develop with government procurement agencies required local procedures for implementing established inter-agency policy agreements, including but not limited to steps such as determining joint set-asides and representation at procurement centers.

ADMINISTRATIVE

5. To administer oaths of office.

6. To approve annual and sick leave for employees under his supervision.

7. To administratively approve all types of vouchers, invoices and bills submitted by public creditors of the Agency for articles of services rendered.

C. *Correspondence.* To sign all non-policy making correspondence, including Congressional correspondence, relating to the functions of the Branch Office.

II. The specific authority delegated in I.A. may not be redelegated. The specific authority delegated in I.B. may be redelegated, limiting such redelegation to routine correspondence only.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Branch Manager.

IV. All previous authority delegated by the Regional Director to the Branch Manager, Lubbock, Texas, is hereby rescinded without prejudice to actions

taken under all such delegations of authority prior to the date hereof.

Dated: February 11, 1959.

C. W. FERGUSON,
Regional Director,
Region X.

[F.R. Doc. 59-1819; Filed, Mar. 2, 1959;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 91]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 26, 1959.

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

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61782. By order of February 19, 1959, the Transfer Board approved the transfer to White's Motor Express, Francis and River Streets, Decorah, Iowa, of Certificate in No. MC 13420 Sub 3 issued May 1, 1957, to Bernard L. White, doing business as White's Motor Transport, Francis and River Streets, Decorah, Iowa, authorizing the transportation of: General commodities, excepting household goods, commodities in bulk, and the other usual exceptions between Williamstown, Iowa, and New Hampton, Iowa; and between Waterloo, Iowa and Decorah, Iowa.

No. MC-FC 61789. By order of February 19, 1959, the Transfer Board approved the transfer to James J. Foley, Clarence A. Hall and James D. Sheridan, a partnership, doing business as Suburban Delivery Service, Bryn Mawr, Pa., of Certificate in No. MC 89032, issued October 25, 1957, to James J. Foley and Clarence A. Hall, a partnership, doing business as Suburban Delivery Service, Bryn Mawr, Pa., authorizing the transportation of: *Antique furniture*, between Ardmore, Pa., on the one hand, and, on the other, specified points in New Jersey; and *Household furniture* from the first day of June to the 30th day of September, between the same points. Ralph C. Busser, Jr., Esquire, 1609 Morris Building, Philadelphia, Pa., for applicants.

No. MC-FC 61937. By order of February 19, 1959, the Transfer Board approved the transfer to Capwell Trucking, Inc., Norristown, Pa., of Certificate No.

MC 65509, issued June 16, 1949, to H. W. Shillingsburg and Ralph B. Bolger, a partnership, doing business as Bolger Parker Company, Philadelphia, Pa., authorizing the transportation of: Such commodities, as contractor's equipment, heavy and bulky articles, machinery and machine parts; and articles, requiring specialized handling and rigging, between Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in New Jersey, Delaware, and Maryland. Jacob Polin, 314 Old Lancaster Road, Merion, Pa., for applicants.

No. MC-FC 61956. By order of February 19, 1959, the Transfer Board approved the transfer to Helen S. Schlicher, doing business as Scofield Furniture Store, New Canaan, Connecticut, of the operating rights in Certificate No. MC 40889, issued by the Commission, September 18, 1940, to H. L. Scofield, New Canaan, Conn., authorizing the transportation, over irregular routes, of household goods, between New Canaan, Conn., and points in Connecticut and New York within 15 miles of New Canaan, on the one hand, and, on the other, points in Connecticut, Massachusetts, Vermont, New Hampshire, Rhode Island, New Jersey, New York, and Pennsylvania. John C. Sturges, 53 Elm Street, New Canaan, Conn., for applicants.

No. MC-FC 61971. By order of February 19, 1959, the Transfer Board approved the transfer to Joseph Sabatini, Philadelphia, Pa., of Certificate No. MC 103131 issued May 22, 1957, to Sara Blume, Philadelphia, Pa., authorizing the transportation over irregular routes of household goods and tinware and tin articles, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland; and new furniture, uncrated, finished or unfinished, from Philadelphia, Pa., to points in New York, New Jersey, Delaware, and Maryland. Jacob Polin, 314 Old Lancaster Road, Merion, Pa., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-1808; Filed, Mar. 2, 1959;
8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 26, 1958.

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

LONG-AND-SHORT HAUL

FSA No. 35258: *Substituted service—C. & N.W. Ry., for motor carrier.* Filed by Associated Motor Carriers Tariff Bureau (No. 7), for the North Western Railway Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Butler, Wis. (Milwaukee) and St. Paul, Minn., on traffic originating at or destined to points on motor carriers beyond the named interchange points.

Grounds for relief: Motor-truck competition.

Tariff: Associated Motor Carriers Tariff Bureau, A. R. Fowler, Agent, tariff MF-I.C.C. No. A-83.

FSA No. 35259: *Vegetables from and to points in southern territory and border points.* Filed by O. W. South, Jr., Agent (No. SFA A3775), for interested rail carriers. Rates on vegetables, fresh or green (not cold-packed nor frozen), straight or mixed carloads from specified points in southern states named in the schedule listed below to specified points in southern states, Ohio and Mississippi River crossings, points in Virginia and West Virginia, and Washington, D.C., as named or described in the application.

Grounds for relief: Modified short-line distance formula, grouping, different bases of rates, and relief-line arbitraries.

Tariff: Supplement 38 to Southern Freight Association tariff I.C.C. 1558.

FSA No. 35260: *Substituted service—C. & O. Ry., for motor carriers.* Filed by Central States Motor Freight Bureau, Inc. (No. 21), for The Chesapeake and Ohio Railway Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., on the one hand, and Cincinnati, Ohio, and Detroit, Mich., on the other, on traffic originating at or des-

tinued to points on motor carriers beyond the named interchange points.

Grounds for relief: Motor truck competition.

Tariff: Central States Motor Freight Bureau, Inc., Agent, MF I.C.C. 917.

FSA No. 35261: *Substituted service—Pa. R.R., for motor carriers.* Filed by Central States Motor Freight Bureau, Inc. (No. 22), Agent, for The Pennsylvania Railroad Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Cleveland, Ohio, on the one hand, and Chicago or East St. Louis, Ill., on the other, on traffic originating at or destined to points on motor carriers beyond the named interchange points.

Grounds for relief: Motor truck competition.

Tariff: Central States Motor Freight Bureau, Inc., Agent, Tariff MF—I.C.C. No. 917.

FSA No. 35262: *Vegetables from and to Points in western territories.* Filed by Western Trunk Line Committee, Agent (No. A-2043), for interested rail carriers. Rates on vegetables, carloads, of varying minima from specified points in Colorado, Idaho, New Mexico, Utah and Wyoming to points in states in western trunk line territory including Illinois.

Grounds for relief: Market competition with producing points in Arizona and California.

Tariff: Supplement 158 to Western Trunk Line Committee tariff I.C.C. A-3511.

FSA No. 35263: *Iron and steel articles, Texas ports to Chicago, Ill.* Filed by Southwestern Freight Bureau, Agent (No. B-7494), for interested rail carriers. Rates on iron and steel articles, straight or mixed carloads as described in the application from Galveston and Houston, Tex., to Chicago, Ill.

Grounds for relief: Motor truck competition.

Tariff: Supplement 25 to Southwestern Freight Bureau tariff I.C.C. 4308.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-1807; Filed, Mar. 2, 1959;
8:46 a.m.]