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## Title 6—AGRICULTURAL CREDIT

### Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

#### SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[C.C.C. Grain Price Support Bulletin 1, 1959 Supp. 1, Wheat]

#### PART 421—GRAINS AND RELATED COMMODITIES

##### Subpart—1959-Crop Wheat Loan and Purchase Agreement Program

A price support program has been announced for the 1959 crop of wheat. The C.C.C. Grain Price Support Bulletin 1 (23 F.R. 9651), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1959 and subsequent years is supplemented as follows:

- Sec.
- 421.4036 Purpose.
  - 421.4037 Availability of price support.
  - 421.4038 Eligible wheat.
  - 421.4039 Warehouse receipts.
  - 421.4040 Determination of quantity.
  - 421.4041 Determination of quality.
  - 421.4042 Maturity of loans.
  - 421.4043 Determination of support rates.
  - 421.4044 Warehouse charges.
  - 421.4045 Inspection of wheat under purchase agreement.
  - 421.4046 Settlement.

**AUTHORITY:** §§ 421.4036 to 421.4046 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421.

#### § 421.4036 Purpose.

Sections 421.4036 to 421.4046 state additional specific requirements which, together with the general regulations contained in the C.C.C. Grain Price Support Bulletin 1, applicable to 1959 and subsequent crop years (§§ 421.4001 to 421.4021) apply to loans and purchase agreements under the 1959-crop wheat price support program.

#### § 421.4037 Availability of price support.

(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever wheat is grown in the continental United States, except that farm-storage loans will not be available in areas where the State committee determines that wheat cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1960, and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such date. Applicable documents include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be a producer who is in compliance with the requirements for eligibility for price support prescribed in the C.C.C. Wheat Bulletin A, in effect for the 1959-crop, and any amendments thereto. Executors, administrators, trustees, or receivers who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid. Two or more eligible producers may obtain a joint loan on eligible wheat harvested by them if stored in the same farm-storage facility. In the case of joint loans, each person signing the note shall be held jointly and severally responsible for the loan. Warehouse-storage loans may be made to a warehouseman who tenders to CCC warehouse receipts issued by him on grain produced by him only in those States where the issuance and pledge of such warehouse receipts are valid under State law. Where the county office has experienced difficulties in settling farm-

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**CFR SUPPLEMENTS**

(As of January 1, 1959)

The following supplement is now available:

Title 47, Part 30 to end (\$0.30)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 8 (\$0.35); Titles 22-23 (\$0.35); Title 25 (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50); Title 49, Parts 91-164 (\$0.40)

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storage loans with a producer the county committee shall determine that he is not eligible for a farm-storage loan. He shall be eligible, however, to obtain a warehouse-storage loan or sign a purchase agreement.

**§ 421.4038 Eligible wheat.**

Wheat to be eligible for price support, must meet all the applicable requirements set forth in this section.

(a) The wheat must have been produced in the continental United States in 1959 by an eligible producer.

(b) At the time the wheat is placed under loan or delivered under a purchase agreement:

(1) The beneficial interest in the wheat must be in the eligible producer tendering the wheat for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the wheat was harvested. Any producer who is in doubt as to whether his interest in the commodity complies with the requirements of this subpart should make available to the county committee all pertinent information, prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support.

(2) To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the for-

mer producer with respect to the farming unit on which the wheat was produced shall have been substantially assumed by the producer claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) Wheat at the time it is placed under loan, and wheat under purchase agreement which is in approved warehouse storage prior to notification by the producer of his intention to sell to CCC, must meet the following requirements:

(1) The wheat must be (i) wheat of any class grading No. 3 or better; (ii) wheat of any class grading No. 4 or 5 on the factor of "test weight" and/or because of containing "Durum" and/or "Red Durum" but otherwise grading No. 3 or better; or (iii) wheat of the class Mixed wheat, consisting of mixtures of grades of eligible wheat as specified in subdivision (i) or (ii) of this subparagraph provided such mixtures are the natural products of the field.

(2) Wheat grading Tough, Weevily, Ergoty, or Treated shall not be eligible, except that wheat represented by warehouse receipts grading "Tough" will be eligible if the warehouseman certifies on the supplemental certificate or on a statement attached to the warehouse receipt substantially as follows: "On wheat grading 'Tough' delivery will be made of the same country-run quality, quantity, grade and protein (if any), not tough, and no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of said warehouse receipt."

(3) Except as provided in subparagraph (2) of this paragraph with respect to wheat grading "Tough", wheat of the class hard red spring, durum, or red durum, shall not contain more than 14½ percent moisture, and wheat of any other class shall not contain more than 14 percent moisture.

(4) If offered as security for a farm-storage loan, the wheat must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing, unless otherwise approved by the State committee.

(d) Sanitation requirements: The sanitation requirements prescribed herein apply to wheat when placed under loan, wheat in approved warehouse storage prior to notification by the producer of his intention to sell to CCC under a purchase agreement, and wheat when delivered under loan or purchase agreement. Such wheat (1) must not contain one or more rodent pellets, or comparable amounts of other filth, per pint of wheat (liquid measure), nor 1 percent or more by weight of kernels visibly damaged by weevils or other insects, and (2) must not contain mercurial compounds or other substances poisonous to man or animals.

(e) Except as otherwise provided in § 421.4045 (a), wheat under purchase agreement stored in other than approved warehouse storage, shall not be eligible

for sale to CCC if it does not meet the requirements of paragraphs (c) (1), (2), (3) and (d) of this section on the basis of a predelivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.4045 (a) and the wheat on the basis of the inspection made at the time of delivery meets the requirements set forth in paragraphs (c) (1), (2), (3) and (d) of this section.

**§ 421.4039 Warehouse receipts.**

Warehouse receipts, representing wheat in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the following requirements of this section:

(a) Warehouse receipts, must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued by a warehouse for which a Uniform Grain Storage Agreement is in effect and which is approved by CCC for price support purposes or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) (1) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (i) Gross weight and net bushels, (ii) class and subclass, (iii) grade (including special grades), (iv) test weight, (v) dockage, (vi) protein content (where determined by protein analysis or station average—actual analysis and not station average shall be used if protein analysis has been made), (vii) any other grading factor(s) when such factor(s) and not test weight, determine the grade, and (viii) whether the wheat arrived by rail, truck or barge. In the case of wheat delivered by rail or barge, the grading factors, classes and subclasses, and protein content (where determined by protein analysis) on the warehouse receipt must agree with the inbound inspection and protein certificates for the car or barge if such certificates are issued.

(2) If the warehouseman has furnished a statement as provided in § 421.4038 (c) (2), the supplemental certificate must show the numerical grade and the grading factors of the wheat to be delivered. Where the grade and grading factors shown on the supplemental certificate do not agree with the warehouse receipt, the factors shown on the supplemental certificate shall take precedence.

(c) In the case of wheat delivered by rail or barge, the protein content, as determined by a recognized protein testing laboratory, must be shown on each warehouse receipt (or supplemental certificate accompanying the warehouse receipt) representing wheat of the classes hard red spring and hard red winter and the varieties Baart and Bluestem of the subclass hard white wheat, except that protein content need not be shown for the subclasses hard winter and yellow

low hard winter produced in States or areas tributary to markets where a showing of protein content is not customarily required.

(d) A separate warehouse receipt must be submitted for each grade and subclass of wheat.

(e) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.4044.

(f) Warehouse receipts representing wheat which has been shipped by rail or water from a country shipping point to a designated terminal, point, or shipped by rail or water from a country shipping point to a storage point and stored in transit to a designated terminal point, must be accompanied by registered freight bills, or by a certificate containing similar information in a form prescribed by the CSS commodity office which shall be signed by the warehouseman and which may be part of the supplemental certificate.

(g) If the receipt is issued for wheat of which the warehouseman is the owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own wheat is not valid under State law and the warehouseman elects to deliver wheat to CCC under a purchase agreement for which he is eligible under this program, the warehouse receipt shall be issued in the name of CCC.

(h) Each warehouse receipt or accompanying supplemental certificate representing grain stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall indicate that the wheat is insured, in accordance with CCC Form 25, Uniform Grain Storage Agreement. Each warehouse receipt or accompanying supplemental certificate issued on warehouses operated by Eastern common carriers and representing wheat to be placed under loan shall indicate that the wheat is insured at the full market value against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone and tornado.

#### § 421.4040 Determination of quantity.

(a) The quantity of wheat placed under farm-storage loan may be determined either by weight or by measurement. The quantity of wheat placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When the quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage. In determining the quantity of sacked wheat by weight, a deduction of  $\frac{3}{4}$  of a pound for each sack shall be made.

(c) When the quantity of wheat is determined by measurement, a bushel shall be 1.25 cubic feet of wheat testing 60 pounds per bushel. The quantity determined shall be the following percentages of the quantity determined for 60-pound wheat:

For wheat testing:	Percent
65 pounds or over	108
64 pounds or over, but less than 65 pounds	107
63 pounds or over, but less than 64 pounds	105
62 pounds or over, but less than 63 pounds	103
61 pounds or over, but less than 62 pounds	102
60 pounds or over, but less than 61 pounds	100
59 pounds or over, but less than 60 pounds	98
58 pounds or over, but less than 59 pounds	97
57 pounds or over, but less than 58 pounds	95
56 pounds or over, but less than 57 pounds	93
55 pounds or over, but less than 56 pounds	92
54 pounds or over, but less than 55 pounds	90
53 pounds or over, but less than 54 pounds	88
52 pounds or over, but less than 53 pounds	87
51 pounds or over, but less than 52 pounds	85
50 pounds or over, but less than 51 pounds	83

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the wheat in determining the net quantity available for loan or purchase. A quantity deduction for smut shall also be made in the manner provided in § 421.4041 (b).

#### § 421.4041 Determination of quality.

(a) The class, subclass, grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Wheat, whether or not such determinations are made on the basis of an official inspection: *Provided*, That determinations with respect to sanitation requirements specified in § 421.4033(d) shall be made in accordance with instructions issued by CCC.

(b) In the States of California, Idaho, New Mexico, Nevada, Oregon, Utah, Washington, and the counties in Montana where it is a normal practice to determine smut on a percentage basis, the quantity of smut shall be stated in terms of half percent when smut dockage is present in a quantity equal to less than one percent, and in terms of whole percent when present in a quantity equal to one percent or more. A fraction of a half percent shall be disregarded when smut dockage is present in a quantity equal to less than one percent, and a fraction of a percent shall be disregarded when smut dockage is present in a quantity equal to one percent or more. The quantity of smut so determined in pounds shall be deducted from the weight of the wheat after deduction of dockage. Elsewhere the smut condition of the wheat shall be determined on a degree basis. Where applicable the words "Light Smutty" or "Smutty" shall be added to, and made a part of the grade determination.

(c) The garlicky condition of the wheat shall be made a part of the grade

designation by addition of the words "Light Garlicky" or the word "Garlicky".

#### § 421.4042 Maturity of loans.

Loans mature on demand but not later than February 29, 1960, in the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia, and not later than March 31, 1960, in all other States. The maturity date for a loan shall be the maturity date for the State where the wheat is stored.

#### § 421.4043 Determination of support rates.

Basic support rates for wheat will be set forth in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Wheat. Support rates will be established for wheat stored in approved warehouse storage at designated terminal markets, and for wheat stored in approved country warehouses and in approved farm storage. The support rate for the quality of wheat placed under a loan or delivered under a purchase agreement shall be the applicable basic support rate adjusted in accordance with the provisions of this section and C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Wheat.

(a) *Support rates at designated terminal markets.* (1) (i) In order to be eligible for loan or purchase at the support rate established for designated terminal markets the wheat must have been shipped on a domestic interstate freight rate basis. The support rate at the designated terminal market on any wheat shipped at other than the domestic interstate freight rate, shall be reduced by the difference between the freight rate paid and the domestic interstate freight rate.

(ii) The support rates established for designated terminal markets apply to wheat which has been shipped by rail or water from a country shipping point to one of the designated terminal markets as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate, if any, from the terminal market to a recognized market as determined by CCC, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(2) (i) Notwithstanding the foregoing provisions of this paragraph, the support rate for wheat which is shipped by rail or water and stored at any designated terminal market and for which neither registered freight bills nor registered freight certificates are presented shall be equal to the terminal rate minus 12 cents per bushel.

(ii) The support rate for wheat received by truck and stored at any designated terminal market shall be determined by making a deduction from the terminal rate as follows:

Terminal located in:	Amount of deduction (cents per bushel)
Area I: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington	16½
Area II: Minnesota, Montana, North Dakota, South Dakota	16½
Area III: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin	17
Area IV: Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia	18
Area V: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee	18

(3) (i) Notwithstanding the foregoing provisions of this paragraph, the support rate for wheat shipped by rail or water and stored at any of the following terminal markets and for which neither registered freight bills nor registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall be equal to the applicable terminal rate:

- Los Angeles, San Francisco, Stockton, and Oakland, Calif.
- New Orleans, and Baton Rouge, La.
- Baltimore, Md.
- Duluth, Minn.
- Portland and Astoria, Oreg.
- Albany and New York, N.Y.
- Philadelphia, Pa.
- Galveston, Houston, Corpus Christi, and Port Arthur, Tex.
- Norfolk, Va.
- Seattle, Longview, Tacoma, and Vancouver, Wash.
- Superior, Wis.

(ii) Notwithstanding the foregoing provisions of this paragraph, the support rate for wheat received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph shall be determined by making a deduction from the terminal rate as follows:

Terminal:	Amount of deduction (cents per bushel)
Los Angeles, San Francisco, Stockton, and Oakland, California; Duluth, Minnesota; Portland and Astoria, Oregon; Seattle, Longview, Tacoma, and Vancouver, Washington; Superior, Wisconsin	4½
New Orleans and Baton Rouge, Louisiana; Baltimore, Maryland; Philadelphia, Pennsylvania; Galveston, Houston, Corpus Christi, and Port Arthur, Texas; Norfolk, Virginia; Albany and New York, New York	6

(b) Support rates for wheat in approved warehouse storage at other than designated terminal markets. (1) Except for the States designated in subparagraph (2) of this paragraph, the

support rate for wheat which is shipped by rail or water and which is stored in approved warehouses (other than those situated in the designated terminal markets) shall be determined by deducting from the rate for the appropriate designated terminal market, as determined by CCC, an amount equal to the transit balance, if any, of the through freight rate from point of origin for such wheat to such terminal market: *Provided*, That on any wheat shipped at other than the domestic interstate freight rate, the support rate shall be further reduced by the difference between the freight rate paid and the domestic interstate freight rate from the point of origin of such wheat to the point of storage: *And provided further*, That in the case of wheat stored at any railroad transit point, taking a penalty by reason of out-of-line movement to the appropriate designated market, or for any other reason, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing wheat in such position.

(2) In the States of Delaware, Kentucky, Maryland, New Jersey, North Carolina, Tennessee, Virginia and West Virginia, the CSS commodity office shall, upon request of the county committee, determine the support rate for wheat stored in approved warehouses (except those situated at designated terminal markets) which was shipped by rail in the movement of natural market direction as approved by CCC, by adding to the county rate for the county from which the wheat was shipped an amount per bushel equal to the receiving and loading-out charges computed in accordance with the applicable rates of the Uniform Grain Storage Agreement for the 1959 crop and an amount equal to the transit value of the freight paid from the points of origin to markets designated by CCC. The warehouse receipts must be accompanied by the original paid freight bills or a certificate signed by the warehouseman as set forth in § 421.4039(f). If the wheat is stored in approved warehouses located at transit points, taking a penalty by reason of backhaul, or out-of-line of normal market movements, such penalty or other costs by reason of such movement, as determined by CCC shall be deducted from the support rates as determined in this paragraph.

(c) *Discounts and premiums.* (1) The basic support rates shall be adjusted by all applicable premiums and discounts listed in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Wheat. Included in the discount schedule will be a special discount of 20 cents per bushel for the following undesirable varieties of wheat, listed by classes.

Class	Variety
Hard Red Winter	Stafford, Pawnee Sel 33, Red Chief, Chiefkan, Early Blackhull, Red Jacket, Kanking, New Chief, Blue Jacket, Furkof, Cimmarron, Red Hull, Kharkof MC 22.
Soft Red Winter	KanQueen, Kawvale, Nured, Seabreeze.

Class	Variety
Hard Red Spring	Gasser, Henry (except in Wisconsin and Washington), Spinkcota, Kinney, Premier, Sturgeon, Progress, Russell (except in Wisconsin).
Durum	Pentad, Golden Ball, Feilss.
White	Fifty Fold, Florence, Greeson, Rex, Sonora.

(2) The basic support rates in C.C.C. Grain Price Support Bulletin 1, 1959 Supplement 2, Wheat will also be subject to the following provisions applicable to wheat affected by State, District or county weed control laws: Where the State committee determines that State, district or county weed control laws, as administered, affect the wheat crop, the support rate in the case of farm storage shall be 10 cents per bushel below the applicable county support rate unless the producer obtains a certificate from the appropriate weed control official indicating that the wheat complies with the weed control laws. In the case of warehouse storage, whenever the State committee of the State in which the wheat is stored determines that State, district or county weed control laws, as administered, affect wheat stored in approved warehouses, the rate shall be 10 cents per bushel below the applicable support rate unless the producer obtains a certificate from either the appropriate State, county or district weed control official or the storing warehouseman that the wheat complies with the weed control laws, and in the case of the warehouseman, that he will save CCC harmless from loss or penalty because of the weed control laws. The certificate of the warehouseman may be in substantially the following form:

CERTIFICATION

This is to certify that the grain evidenced by warehouse receipt No. \_\_\_\_\_ issued to \_\_\_\_\_ is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that should such grain be taken over by CCC in settlement of a loan or be purchased under the purchase agreement program that the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the grain was stored under the above warehouse receipt.

-----  
(Signature)

-----  
(Address)

-----  
(Date)

§ 421.4044 Warehouse charges.

(a) Warehouse receipts and the wheat represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the wheat is deposited in the warehouse for storage: *Provided*, That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. Where the date of deposit (the date of the warehouse re-

celpt if the date of deposit is not shown) on warehouse receipts representing wheat stored in warehouses operating under the Uniform Grain Storage Agreement is on or before February 29, or March 31, 1960, the applicable date to

be determined in accordance with § 421.4042, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel as shown in the following table unless written evidence has been sub-

mitted with the warehouse receipt that all warehouse charges, except receiving and loading out charges, have been prepaid through February 29 or March 31, 1960, the applicable date to be determined in accordance with § 421.4042:

Amount of deduction (cents per bushel)	Area I <sup>1</sup>	Area II <sup>2</sup> and Area III <sup>3</sup>	Area IV <sup>4</sup>		Area V <sup>5</sup>
	Date of deposit (all dates inclusive)	Date of deposit (all dates inclusive)	For States having maturity dates not later than March 31, 1960; date of deposit (all dates inclusive)	For States having maturity dates not later than February 28, 1960; date of deposit (all dates inclusive)	Date of deposit (all dates inclusive)
15	Prior to May 3, 1959	Prior to May 18, 1959	Prior to June 1, 1959	Prior to May 1, 1959	Prior to May 15, 1959.
14	May 3-May 25, 1959	May 18-June 8, 1959	June 1-June 21, 1959	May 1-May 21, 1959	May 15-June 3, 1959.
13	May 26-June 17, 1959	June 9-June 30, 1959	June 22-July 12, 1959	May 22-June 11, 1959	June 4-June 23, 1959.
12	June 18-July 10, 1959	July 1-July 22, 1959	July 13-Aug. 2, 1959	June 12-July 2, 1959	June 24-July 13, 1959.
11	July 11-Aug. 2, 1959	July 23-Aug. 13, 1959	Aug. 3-Aug. 23, 1959	July 3-July 23, 1959	July 14-Aug. 2, 1959.
10	Aug. 3-Aug. 25, 1959	Aug. 14-Sept. 4, 1959	Aug. 24-Sept. 13, 1959	July 24-Aug. 13, 1959	Aug. 3-Aug. 22, 1959.
9	Aug. 26-Sept. 17, 1959	Sept. 5-Sept. 26, 1959	Sept. 14-Oct. 4, 1959	Aug. 14-Sept. 3, 1959	Aug. 23-Sept. 11, 1959.
8	Sept. 18-Oct. 10, 1959	Sept. 27-Oct. 18, 1959	Oct. 5-Oct. 25, 1959	Sept. 4-Sept. 24, 1959	Sept. 12-Oct. 1, 1959.
7	Oct. 11-Nov. 2, 1959	Oct. 19-Nov. 9, 1959	Oct. 26-Nov. 15, 1959	Sept. 25-Oct. 15, 1959	Oct. 2-Oct. 21, 1959.
6	Nov. 3-Nov. 25, 1959	Nov. 10-Dec. 1, 1959	Nov. 16-Dec. 6, 1959	Oct. 16-Nov. 5, 1959	Oct. 22-Nov. 10, 1959.
5	Nov. 26-Dec. 18, 1959	Dec. 2-Dec. 23, 1959	Dec. 7-Dec. 27, 1959	Nov. 6-Nov. 26, 1959	Nov. 11-Nov. 30, 1959.
4	Dec. 19, 1959-Jan. 10, 1960	Dec. 24, 1959-Jan. 14, 1960	Dec. 28, 1959-Jan. 17, 1960	Nov. 27-Dec. 17, 1959	Dec. 1-Dec. 20, 1959.
3	Jan. 11-Feb. 2, 1960	Jan. 15-Feb. 5, 1960	Jan. 18-Feb. 7, 1960	Dec. 18, 1959-Jan. 7, 1960	Dec. 21, 1959-Jan. 8, 1960.
2	Feb. 3-Feb. 25, 1960	Feb. 6-Feb. 27, 1960	Feb. 8-Feb. 28, 1960	Jan. 8-Jan. 28, 1960	Jan. 10-Jan. 29, 1960.
1	Feb. 26-Mar. 31, 1960	Feb. 28-Mar. 31, 1960	Feb. 29-Mar. 31, 1960	Jan. 29-Feb. 29, 1960	Jan. 30-Feb. 29, 1960.

<sup>1</sup> Area I includes: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington.

<sup>2</sup> Area II includes: Minnesota, Montana, North Dakota, South Dakota, (also Superior, Wisconsin).

<sup>3</sup> Area III includes: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin (except Superior).

<sup>4</sup> Area IV includes: Arkansas, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia.

<sup>5</sup> Area V includes: Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee.

(b) Warehouse receipts and the wheat represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission: *Provided*, That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. There shall be deducted in computing the amount of the loan or purchase price the amount of the approved tariff rates for storage (not including elevation), which will accumulate from the date of deposit through February 29, or March 31, 1960, whichever date is applicable to the point of storage as determined in accordance with § 421.4042, unless written evidence has been submitted with the warehouse receipt that the storage charge has been prepaid. The county office shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage charges to be deducted shall be reduced by the amount of the elevation charges prepaid by the producer.

**§ 421.4045 Inspection of wheat under purchase agreement.**

(a) *Pre-delivery inspection.* Where the producer has given written notice within the 30-day period prior to the loan maturity date of his intent to sell his wheat stored in other than an approved warehouse under purchase agreement to CCC, the county office shall make an inspection of the wheat and obtain a sample of the wheat and submit it for grade analysis within the 30-day period or as soon as possible thereafter but prior to delivery of the wheat. If the wheat on the basis of the predelivery inspection is of a quality which meets the requirements for a farm-storage

loan, the county office shall issue delivery instructions on or after the final date of the 30-day period or the date of inspection whichever is later. The producer must then complete delivery within a 15-day period immediately following the date the county office issued delivery instructions unless the county office determines that more time is needed for delivery. The producer whose wheat is stored in other than an approved warehouse and whose wheat is not of a quality eligible for a loan at the time of predelivery inspection shall be notified in writing by the county office that his wheat is not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the wheat, or otherwise take action to make the wheat eligible and insists upon delivery of the wheat, the county office shall issue delivery instructions. In such case the producer shall be further informed that if such wheat, upon delivery and before purchase, does not meet the eligibility requirements of § 421.4038(c) (1), (2), (3) and (d) as determined on the basis of a sample taken at the time of delivery, the wheat will not be accepted for purchase by CCC. A predelivery inspection shall not be made on wheat stored commingled in warehouses not approved for storage or on wheat in an unapproved warehouse which is stored so that the identity of the producer's wheat is maintained but a predelivery inspection is not possible. When a predelivery inspection is not made such wheat at the time of delivery must meet the eligibility requirements of § 421.4038(c) (1), (2), (3) and (d).

(b) *Inspection of wheat stored by producer.* The producer may be required to retain the wheat stored in other than approved warehouse storage under purchase agreement for a period of 60 days after the loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of the wheat covered by a purchase agreement occur-

ring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions for wheat which was determined to be of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the loan maturity date, the producer may notify the county office at any time after such 60-day period that the wheat is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the wheat is going out of condition or is in danger of going out of condition and that the wheat cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

**§ 421.4046 Settlement.**

(a) *Settlement value—(1) Farm-storage loans.* In the case of eligible wheat delivered to CCC from farm storage under the loan program, settlement shall be made at the applicable support rate determined in accordance with paragraph (b) of this section. The support rate shall be for the grade and quality of the total quantity of wheat eligible for delivery. If, upon delivery, the wheat under farm-storage loan is of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the wheat placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade

and quality placed under loan and the market price of the wheat delivered, as determined by CCC: *Provided, however*, That if such wheat is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price: *And provided further*, That if upon delivery the wheat is of a quality which does not meet sanitation requirements of § 421.4038(d)(1), the wheat shall be sold for feed, or for industrial uses other than food and beverages, and in the event it does not meet the requirements of § 421.4038(d)(2), the wheat shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animal, and in each instance covered by this proviso, the settlement value shall be the same as the sales price: *Provided further*, That if CCC is unable to sell such commodity for the use specified above, the settlement value shall be the market value determined by CCC, as of the date of delivery.

(2) *Warehouse-storage loans*. Settlement for eligible wheat under warehouse-storage loans not redeemed on maturity and represented by warehouse receipts issued by an approved warehouse shall be made on the basis of weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(3) *Purchase agreements*—(i) *Delivery from farm-storage*. Settlement for wheat delivered to CCC from farm storage meeting the eligibility requirements of § 421.4038(c)(1), (2), (3) and (d), as determined by a reinspection at the time of delivery, shall be made at the applicable support rate for the grade and quality of the quantity eligible for delivery on the basis of such inspection. Such support rate shall be determined in accordance with paragraph (b) of this section. If wheat, which was determined to be eligible at the time of the predelivery inspection is, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible wheat as determined at the time of the predelivery inspection, less the difference, if any, at the time of delivery between the market price for the grade and quality of the wheat, determined by the predelivery inspection, and the market price of the wheat delivered, as determined by CCC: *Provided, however*, That if such wheat is sold by CCC in order to determine the market price, the settlement value shall not be less than such sales price: *And provided further*, That if upon delivery the wheat is of a quality which does not meet sanitation requirements of § 421.4038(d)(1), the wheat shall be sold for feed or for industrial uses other than food and beverages, and in the event it does not meet the requirements of § 421.4038(d)(2) the wheat shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals

and in each instance covered by this proviso, the settlement value shall be the same as the sales price: *Provided further*, That if CCC is unable to sell such wheat for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(ii) *Delivery from approved warehouse storage*. In the case of eligible wheat stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity for the quantity of wheat he elects to sell to CCC. Settlement for eligible wheat delivered under purchase agreement to CCC by submission of warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipt or accompanying documents at the applicable support rate determined in accordance with paragraph (b) of this section.

(iii) *Delivery from unapproved warehouse storage*. Settlement for wheat which is stored commingled, or which is stored so that the identity of the producer's wheat is maintained but a predelivery inspection is not possible, which is delivered to CCC from a warehouse not approved for storage and which meets the eligibility requirements of § 421.4038(c)(1), (2), (3) and (d) shall be made at the applicable support rate for the grade and quantity eligible for delivery. Such support rate shall be determined in accordance with paragraph (b) of this section. If a predelivery inspection of the producer's wheat can be made, settlement will be the same as for wheat delivered under a purchase agreement from farm-storage as provided in subdivision (i) of this subparagraph.

(iv) *Wheat ineligible for delivery inadvertently accepted by CCC*. The settlement provisions hereof shall apply to the following categories of wheat ineligible for delivery which is inadvertently accepted by CCC and which CCC determines it is not in a position to reject: (a) Wheat which was of an ineligible grade or quality both at the time of predelivery inspection and at the time of delivery as determined by a reinspection; (b) wheat of an ineligible grade or quality which is delivered to CCC in excess of the maximum quantity stated in the purchase agreement; and (c) wheat in a warehouse not approved for storage which is stored commingled or stored so that the identity of the producer's wheat is maintained but a predelivery inspection is not possible, and which at the time of delivery does not meet the eligibility requirements of § 421.4038(c)(1), (2), (3) and (d). The settlement value shall be the market price for the grade, quality, and quantity of such ineligible wheat delivered as determined by CCC: *Provided, however*, That if such wheat is sold by CCC in order to determine its market price, the settlement value shall not be less than

the sales price: *And provided further*, That if upon delivery, the wheat is of a quality which does not meet sanitation requirements of § 421.4038(d)(1) the wheat shall be sold for feed, or for industrial uses other than food and beverages, and in the event it does not meet the requirements of § 421.4038(d)(2) shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel, or industrial uses where the end product will not be consumed by man or animals, and in each instance covered by this proviso, the settlement value shall be the same as the sales price: *Provided further*, That if CCC is unable to sell such wheat for the use specified above, the settlement value shall be the market value, as determined by CCC as of the date of delivery. If wheat delivered is of an eligible grade and quality but in excess of the maximum quantity stated in the purchase agreement and such wheat is inadvertently accepted by CCC, the settlement value shall be the sales price if the wheat is immediately sold. If the wheat is not immediately sold, the settlement value shall be the applicable support rate or the market price, as determined by CCC, whichever is lower.

(b) *Applicable support rate for settlement of loans and purchase agreements*.

(1) In the case of wheat stored in an approved warehouse, settlement shall be made at the applicable support rate for the county in which the warehouse is located, except as otherwise provided in subparagraphs (3), (4), and (5) of this paragraph.

(2) In the case of wheat delivered from other than approved warehouse storage, settlement shall be made at the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except as otherwise provided in subparagraphs (3), (4) and (5) of this paragraph.

(3) If the producer is directed to deliver his wheat to a terminal market for which a support rate is established, settlement shall be based on the support rate for such terminal market.

(4) If two or more approved warehouses are located at the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point, and the same settlement rate shall apply even though such warehouses are not all located in the same county. Such settlement rate shall be the highest support rate of the counties involved.

(5) In the case of wheat stored in an approved warehouse or delivered to CCC under loan or purchase agreement from other than approved warehouse storage, if the wheat is produced in the commercial wheat-producing area, and stored or delivered outside the commercial wheat-producing area, or if the wheat is produced in the non-commercial wheat-producing area and stored or delivered in the commercial wheat-producing area, settlement shall be made at the support rate for the county or terminal where the wheat is stored or delivered adjusted to the percentage level of price support for the area where the wheat was produced.

(c) *Storage deduction for early delivery.* No deduction for storage shall be made for farm-stored wheat under loan or purchase agreement authorized to be delivered to CCC prior to the loan maturity date, except where it is necessary to call the loan through fault or negligence on the part of the producer or where the producer requests early delivery and the county committee approves the early delivery and determines such early delivery is solely for the convenience of the producer. The deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges in § 421.4044.

(d) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading-out charges on wheat under loan or purchase agreement stored in a warehouse under the Uniform Grain Storage Agreement, the producer shall, upon delivery of the wheat to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Uniform Grain Storage Agreement provided, the producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid.

(e) *Storage payment where CCC is unable to take delivery of wheat stored in other than an approved warehouse under loan or purchase agreement.* The producer may be required to retain wheat stored in other than an approved warehouse under loan or purchase agreement for a period of 60 days after the maturity date without any cost to CCC. However, if CCC is unable to take delivery of such wheat within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the wheat to CCC: *Provided, however,* That a storage payment shall be paid a producer whose wheat is stored in other than an approved warehouse under purchase agreement only if he has properly given notice of his intention to sell the wheat to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the following rates per bushel per day for the wheat accepted for delivery or sale to CCC:

Area I, \$0.00043; Area II, \$0.00045; Area III, \$0.00046; Area IV, \$0.00047; Area V, \$0.00049.

(f) *Track-loading payment.* A track-loading payment of 3 cents per bushel shall be made to the producer on wheat delivered to CCC on track at a country point.

(g) *Compensation for hauling.* If the producer is directed by the county office to deliver his wheat to a point other than his customary shipping point, the producer shall be allowed compensation (as determined by CCC, at not to exceed the

common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the wheat any distance greater than the distance from the point where the wheat is stored by the producer to the customary shipping point: *Provided,* That if the producer is directed to deliver his wheat to a terminal market for which a support rate is established, no compensation shall be allowed for hauling.

(h) *Method of payment under purchase agreement settlements.* When delivery of wheat under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

Issued this 27th day of February 1959.

[SEAL] FOREST W. BEALL,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[F.R. Doc. 59-1938; Filed, Mar. 4, 1959;  
8:54 a.m.]

## Title 7—AGRICULTURE

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

[Amdt. 2]

#### PART 730—RICE

#### Rice Acreage Allotments for 1959 and Subsequent Crops; Miscellaneous Amendments

The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended, to provide for the acceptance of the release of all or any part of the farm rice acreage allotment for a farm which is covered in whole or in part by a soil bank conservation reserve contract or for which an application for a conservation reserve contract is pending, but prohibits the reapportionment of such released acreage to other farms. This amendment is considered necessary to comply with section 115 of the Soil Bank Act (7 U.S.C. 1803) and to obtain uniformity in the release and reapportionment provision of the regulations applicable to cotton and peanut acreage allotments.

Since rice acreage allotments are now being released to county committees for reapportionment, it is imperative that they be informed of this amendment as soon as possible. Accordingly, it is hereby found that compliance with the public notice, procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is impractical and contrary to the public interest, and this amendment shall become effective upon the date of its publication in the FEDERAL REGISTER.

1. In the second sentence of § 730.1024 (a) immediately following the word "may" and preceding the words "be reapportioned", enter the following language: "except as provided in paragraph (e) of this section,".

2. Section 730.1024 is further amended by adding the following new paragraph (e):

(e) Notwithstanding any other provision of this section, any rice acreage allotment released by the owner or the operator of a farm which is covered in whole or in part by a soil bank conservation reserve contract or for which an application is pending for a conservation reserve contract, shall not be reapportioned by the county committee to any other farm.

3. In the first sentence of § 730.1033 (a) immediately following the word "may" and preceding the words "be reapportioned", enter the following language: "except as provided under paragraph (e) of this section,".

4. Section 730.1033 is further amended by adding the following new paragraph:

(e) Notwithstanding any other provision of this section, any rice acreage allotment released by the owner or the operator of a farm which is covered in whole or in part by a soil bank conservation reserve contract or for which an application is pending for a conservation reserve contract, shall not be reapportioned by the county committee to any other farm.

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply sec. 353, 52 Stat. 61, as amended, sec. 115, 70 Stat. 196; 7 U.S.C. 1353, 1803)

Issued this 27th day of February 1959.

[SEAL] TRUE D. MORSE,  
Acting Secretary.

[F.R. Doc. 59-1911; Filed, Mar. 4, 1959;  
8:50 a.m.]

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 7259]

#### PART 13—DIGEST OF CEASE AND DESIST ORDERS

##### Kirby Center of Washington

Subpart—*Misrepresenting oneself and goods*—Goods: § 13.1695 *Old, second-hand, reclaimed or reconstructed as new.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1880 *Old, used, reclaimed, or reused as unused or new.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, James Bugg trading as Kirby Center of Washington, Washington, D.C., Docket 7259, January 30, 1959]

*In the Matter of James Bugg, an Individual, Trading and Doing Business as Kirby Center of Washington*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a dealer in Washington, D.C., engaged in selling vacuum cleaners by door-to-door salesmen and in his retail store, with selling as new, machines which in many instances have been previously used.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on January 30 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered.* That respondent James Bugg, an individual, trading and doing business as Kirby Center of Washington, or trading and doing business under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of vacuum cleaners, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that vacuum cleaners, or any other merchandise, which have been repossessed, exchanged, used for teaching purposes or as rentals, are new.
2. Failing to clearly reveal that vacuum cleaners, or any other merchandise, which have been repossessed, exchanged, used for teaching purposes, or as rentals, are repossessed, exchanged, have been used for teaching purposes or as rentals, as the case may be.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered.* That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: January 30, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-1881; Filed, Mar. 4, 1959;  
8:45 a.m.]

[Docket 7241]

### PART 13—DIGEST OF CEASE AND DESIST ORDERS

#### Dein-Bacher, Inc., and Louis J. Bacher

Subpart—*Advertising falsely or misleadingly*: § 13.130 *Manufacture or preparation*: Fur Products Labeling Act; § 13.155 *Prices*: Exaggerated as regular and customary. Subpart—*Misbranding or mislabeling*: § 13.1212 *Formal regulatory and statutory requirements*: Fur Products Labeling Act; § 13.1255 *Manufacture or preparation*: Fur Products Labeling Act. Subpart—*Misrepresenting oneself and goods*—*Prices*: § 13.1805 *Exaggerated as regular and customary*. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1845 *Composition*: Fur Products Labeling Act; § 13.1865 *Manufacture or preparation*: Fur Products Labeling Act; § 13.1900 *Source or origin*: Fur Products Labeling Act; *Place*.

No. 44—2

(Sec 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Dein-Bacher, Inc., et al., New York, N.Y., Docket 7241, Feb. 3, 1959]

#### *In the Matter of Dein-Bacher, Inc., a Corporation, and Louis J. Bacher, Individually and as an Officer of Said Corporation*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in New York City with violating the Fur Products Labeling Act by failing to label certain fur products as required; by improper use of the term "blended" in labeling and advertising; and by advertising in newspapers which failed to disclose the names of animals producing certain furs, the country of origin of imported furs, or the fact that some products contained artificially colored fur, and represented sale prices as reduced from purported regular prices which were in fact fictitious.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 3 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered.* That respondent Dein-Bacher, Inc., a corporation, and its officers, and Louis J. Bacher, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or manufacture for introduction into commerce, or the sale, offering for sale, advertising, transportation, or distribution of fur products in commerce, or in connection with the sale, offering for sale, advertising, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as the term "commerce", "fur", and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

- A. Misbranding fur products by:
  1. Failing to affix labels to fur products showing:
    - (a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;
    - (b) That the fur product contains or is composed of used fur, when such is a fact;
    - (c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;
    - (d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;
    - (e) The name or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or

transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

2. Setting forth on labels attached to fur products the term "blended" as a part of the required information to describe the pointing, dyeing, or tip-dyeing of furs.

B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products and which:

1. Fails to disclose:
  - (a) The name or names of the animal or animals producing the fur or furs contained in the fur products, as set forth in the Fur Products Name Guide and as prescribed by the rules and regulations;
  - (b) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;
  - (c) The name of the country of origin of imported furs contained in fur products.
2. Uses the term "blended" to describe the pointing, dyeing, or tip-dyeing of furs.
3. Represents that the regular or usual price of any fur product is in an amount which is in excess of the price at which the respondents have usually and customarily sold such products in the regular course of their business.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered.* That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 3, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-1882; Filed, Mar. 4, 1959;  
8:45 a.m.]

[Docket 7168]

### PART 13—DIGEST OF CEASE AND DESIST ORDERS

#### Whitley Tailleurs, Inc., et al.

Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Fur Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1212 *Formal regulatory and statutory requirements*: Fur Products Labeling Act; § 13.1255 *Manufacture or preparation*: Fur Products Labeling Act; § 13.1325 *Source or origin*: Place: Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Whitley Tailleurs, Inc., et al., New York, N.Y., Docket 7168, February 3, 1959]

*In the Matter of Whitley Tailleurs, Inc., a Corporation, and Charles A. Leeds, Individually and as President of Said Corporation, and Sidney Levy, Individually and as Vice President, Secretary and Treasurer of Said Corporation*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in New York City with violating the Fur Products Labeling Act by labeling dyed fur as natural and imported furs as domestic, and by failing to comply with other labeling requirements of the Act.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 3 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered*, That respondents, Whitley Tailleurs, Inc., a corporation, and its officers, and Charles A. Leeds and Sidney Levy, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or manufacture for introduction into commerce, or the sale, advertising, or offering for sale, transportation or distribution in commerce, of any fur product, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Falsely or deceptively labeling or otherwise identifying any such fur product as "natural" furs, when they are, in fact, bleached, dyed or otherwise artificially colored;

B. Falsely or deceptively labeling or otherwise identifying any such fur products as to the name of the country of origin of the imported furs contained therein;

C. Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of, bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed, in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(5) The name or other identification registered by the Commission of one or more persons who manufactured such fur products for introduction into commerce, introduced into commerce, and advertised, or offered for sale in commerce;

(6) The name of the country of origin of any imported furs used in the fur products; and

(7) The item number or mark assigned to a fur product.

D. Setting forth on the labels affixed to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder mingled with non-required information.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed, in whole or in substantial part, of paws, tails, bellies or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoice;

(6) The name of the country of origin of any imported furs used in a fur product;

(7) The item number or mark assigned to a fur product.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered*, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 3, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-1883; Filed, Mar. 4, 1959; 8:46 a.m.]

[Docket 7269]

**PART 13—DIGEST OF CEASE AND DESIST ORDERS**

**Mawson DeMany Forbes, Inc., et al.**

Subpart—*Advertising falsely or misleadingly*: § 13.155 *Prices*: Forced or sacrifice sales; percentage savings; sales below cost.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended;

sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Mawson DeMany Forbes, Inc., et al., Philadelphia, Pa., Docket 7269, Feb. 3, 1959]

*In the Matter of Mawson DeMany Forbes, Inc., a Corporation, and Morris B. Marks, Barrie A. Marks, and David Marks, Individually and as Officers of Said Corporation*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging furriers in Philadelphia, Pa., with violating the Fur Products Labeling Act by deceptive pricing and savings claims for fur products, including false representations in advertising in newspapers that prices were "Below original cost" and "Below wholesale"; that purchasers could "Save one-third and more", could save money because of "tremendous buying power" and "a half-million dollars' worth of \* \* \* inventory \* \* \* being liquidated"; and that fur products offered were from the stock of a liquidating business.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 3 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered*, That Mawson DeMany Forbes, Inc., a corporation, and its officers, and Morris B. Marks, Barrie A. Marks, and David Marks, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Represents, directly or by implication, that fur products are offered for sale at prices which are below the cost to respondents, when such is not the fact.

B. Represents, directly or by implication, that fur products are offered for sale at prices which are below wholesale prices, when such is not the fact.

C. Represents, directly or by implication, that price concessions of fur products have been obtained due to buying power, or for any other reason, when such is not the fact.

D. Represents, directly or by implication, that respondents' inventory of fur products advertised and offered for sale is in excess of the actual inventory.

E. Represents, directly or by implication, through percentage savings claims, that the regular or usual retail prices

charged by respondents for fur products in the recent regular course of business were reduced in direct proportion to the amount of savings stated, when contrary to fact.

F. Represents, directly or by implication, that any such products are the stock of a business in a state of liquidation, when contrary to fact.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered*, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 3, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-1884; Filed, Mar. 4, 1959;  
8:46 a.m.]

[Docket 7196]

### PART 13—DIGEST OF CEASE AND DESIST ORDERS

#### Keller Fur Co.

Subpart—*Advertising falsely or misleadingly*: § 13.155 *Prices*: Usual as reduced, special, etc. Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Fur Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition*: Fur products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*: Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1845 *Composition*: Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements*: Fur Products Labeling Act; § 13.1865 *Manufacture or preparation*: Fur Products Labeling Act; § 13.1886 *Quality, grade or type of product*; § 13.1900 *Source or origin*: Fur Products Labeling Act; *Place*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Abe Keller trading as Keller Fur Company, Kansas City, Mo., Docket 7196, February 4, 1959]

*In the Matter of Abe Keller, an Individual Trading as Keller Fur Company*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Kansas City, Mo., with violating the Fur Products Labeling Act by tagging certain fur products with the name of an animal in addition to that of the animal producing the fur; by failing to conform to the labeling and invoicing requirements of the Act; and by advertising in newspapers which failed to disclose the names of animals producing the fur in certain products, the country of origin of imported furs, and the fact that fur products contained artificially colored or

cheap or waste fur, and which represented falsely that his regular prices were greater than the advertised sale prices.

Following acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 4 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered*, That the respondent Abe Keller, an individual trading as Keller Fur Company, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(6) The name of the country of origin of any imported furs used in the fur product;

(7) The item number or mark assigned to a fur product;

(b) Setting forth on labels the name of an animal in addition to the name of the animal that produced the fur;

(c) Setting forth on labels attached to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder which is intermingled with non-required information;

(3) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting;

(4) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in improper sequence;

(d) Affixing to fur products labels that are inconspicuous;

2. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoices;

(6) The name of the country of origin of any imported furs contained in the fur product;

(7) The item number or mark assigned to the fur product;

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

(a) Fails to disclose the name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations;

(b) Fails to disclose that the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(c) Fails to disclose that the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(d) Fails to disclose the name of the country of origin of the imported furs contained in fur products;

(e) Represents, directly or by implication, through the use of percentage savings claims or any other means, that any savings are afforded from respondent's regular prices unless the amount for which they are offered constitutes a reduction from the price at which said fur product had been sold by respondent in his recent regular course of business;

4. Making use in advertisements of price reduction or percentage savings claims unless respondent maintains full and adequate records disclosing the facts upon which such claims are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Abe Keller, an individual trading as Keller Fur Company, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: February 4, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-1885; Filed, Mar. 4, 1959;  
8:46 a.m.]

## Title 26—INTERNAL REVENUE, 1954

### Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6854]

### PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

#### Miscellaneous Amendments

##### Correction

In F.R. Doc. 59-328, appearing at page 301 of the issue for Wednesday, January 14, 1959, the following changes should be made:

1. The seventh line of § 31.3502-1, reading "deducted and withheld under chapter 24," should be deleted.

2. The eighteenth line of paragraph (a) (1) of § 31.6011(a)-1, reading "calendar quarter (whether or not wages)", should read "calendar quarter thereafter in which he".

## Title 32—NATIONAL DEFENSE

### Chapter XII—National Aeronautics and Space Administration

#### PART 1201—PATENTS

Notice is hereby given that the Administrator of the National Aeronautics and Space Administration, acting pursuant to subsection 305(f) of the National Aeronautics and Space Act of 1958, has prescribed interim regulations setting forth policies and procedures concerning waiver of all or any part of the rights of the United States with respect to inventions made in the performance of work required by contracts of the National Aeronautics and Space Administration. The interim regulations have been denominated Part 3 of the Patent Regulations (32 CFR Part 1201) of the National Aeronautics and Space Administration. Other parts of the Patent Regulations are in process of preparation.

All persons desiring to submit comments or suggestions concerning the interim regulations may do so by filing them with the General Counsel of the National Aeronautics and Space Administration, 1520 H Street NW., Washing-

ton 25, D.C., not later than 60 days following publication of this notice in the FEDERAL REGISTER. On May 18, 1959, at 9:30 a.m. a public hearing will be held in the auditorium of the National Aeronautics and Space Administration, at the foregoing address, at which time and place oral presentation of comments or suggestions concerning the interim regulations may be made. In order that an agenda for such public hearing may be prepared, each person desiring to make an oral presentation is requested to submit a brief outline thereof to the General Counsel of the National Aeronautics and Space Administration not later than May 1, 1959.

The interim regulations are as follows:

#### Subpart A—[Reserved]

#### Subpart B—[Reserved]

#### Subpart C—Waiver of Patent Rights

- |            |  |
|------------|--|
| 1201.300   | Scope of subpart.  |
| 1201.301   | Applicability.   |
| 1201.302   | Definitions.   |
| 1201.303   | Policy.  |
| 1201.304   | Criteria for granting waivers.   |
| 1201.304-1 | Inventions not generally eligible for waiver.  |
| 1201.304-2 | Prima facie case for waiver.   |
| 1201.304-3 | Other inventions and rights.   |
| 1201.305   | Conditions and extent of waiver.   |
| 1201.305-1 | General.   |
| 1201.305-2 | Conditions applicable to specific rights.  |
| 1201.305-3 | Title.   |
| 1201.305-4 | Exclusive license.   |
| 1201.305-5 | Nonexclusive license.  |
| 1201.305-6 | Foreign rights.  |
| 1201.305-7 | Special conditions.  |
| 1201.306   | Procedures.  |
| 1201.306-1 | Petition.  |
| 1201.306-2 | Processing of petitions.   |
| 1201.306-3 | Procedure pending grant of waiver when statutory bar is running against the invention. |
| 1201.306-4 | Form of waiver.  |
| 1201.401   | Instrument of Waiver; title.   |
| 1201.402   | Instrument of Waiver; title; qualified.  |
| 1201.403   | Instrument of Waiver; nonexclusive license.  |
| 1201.404   | Instrument of Waiver; foreign rights.  |

AUTHORITY: §§ 1201.300 to 1201.404 issued under secs. 203, 305, Pub. Law 85-568.

#### Subpart A—[Reserved]

#### Subpart B—[Reserved]

#### Subpart C—Waiver of Patent Rights

##### § 1201.300 Scope of subpart.

(a) The Administrator is authorized by subsection 305(f) of the National Aeronautics and Space Act of 1958, under such regulations as he shall prescribe, to waive all or any part of the rights of the United States with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby.

(b) This subpart sets forth the regulations which the Administrator has prescribed for the granting of such waivers, and contains the policies, requirements, and procedures governing the waiver of all or any part of the rights of the United States with respect to such inventions.

##### § 1201.301 Applicability.

This subpart is applicable only to those inventions (a) made in the performance of work under a contract of the Administration containing a "Property Rights in Inventions," clause, and (b) as to which the Administrator has made a determination, either pursuant to the presumptions contained in the "Property Rights in Inventions" clause or subsequent to a review of statements submitted by the contractor, that the invention was made by a person described in paragraphs (1) or (2) of subsection 305 (a) of the Act and under the conditions therein described; and (c) as to which title in the United States has not been formalized by instruments of assignment.

##### § 1201.302 Definitions.

As used in this subpart, the following terms have the meanings set forth below:

(a) "Administration" and "Administrator" mean the National Aeronautics and Space Administration and the Administrator thereof, respectively.

(b) "Section 305" means section 305 of the National Aeronautics and Space Act of 1958 (Pub. Law 85-568).

(c) "Inventions and Contributions Board" means the Board of that name established by the Administrator pursuant to section 305.

(d) "Board" means the Inventions and Contributions Board.

(e) The terms "person", "contract", and "made" have the same meanings as assigned in section 305.

(f) The term "contractor" includes a subcontractor, or the inventor when the inventor is not under an obligation to assign the invention to the contractor.

(g) "Develop to the point of practical application," referring to an invention to which this subpart is applicable, means manufactured, if a composition or product, practiced if a process, or operated if a machine, and under such conditions as to have established its availability to the public.

(h) "Waiver" means the act of disclaiming title or of agreeing to grant to the contractor a license, or an assignment of foreign rights, under an invention to which this subpart is applicable before execution of instruments of assignment of the invention to the United States.

(i) "Instrument of waiver" means the document signed by the Administrator or his designee evidencing the waiver.

##### § 1201.303 Policy.

It is generally accepted that the interests of the United States are best served through the maintenance of a freely competitive economy supported by the United States Patent System as a stimulus for creative work. An important function of the patent, or of exclusive rights to or under the patent, is the protection which the patent or such rights gives to the investment of the person or firm who undertakes to develop the invention to the point of practical application. The Administrator considers that the interests of the United States will be served by making available to the public, under general licensing regulations promulgated under subsection 305(g) of

the Act, inventions owned by the United States, unless the interests of the United States would be better served by granting a waiver to the contractor. The Administrator further considers that waiver to the contractor would be in the interests of the United States where (a) the stimulus of ownership of patent rights will encourage the contractor to develop the invention to the point of practical application earlier than would otherwise be the case, or (b) there are substantial equities justifying the retention of rights by the contractor.

#### § 1201.304 Criteria for granting waivers.

##### § 1201.304-1 Inventions not generally eligible for waiver.

Pending the further development of space technology, the interests of the United States would not generally be served by waiver of the rights of the United States with respect to any invention which is (a) primarily adapted for and especially useful in the development and operation of vehicles, manned or unmanned, capable of flight without support from the atmosphere, or (b) of basic importance to the continued progress of aeronautical and space activities: *Provided*, That the foregoing shall not preclude the Administrator from granting a waiver as to such inventions under § 1201.304-3.

##### § 1201.304-2 Prima facie case for waiver.

Except for inventions described in § 1201.304-1, the Administrator considers that a prima facie case that the interests of the United States would be served by waiver shall have been established when

(a) It is shown that the invention was conceived prior to and independently of, but was first actually reduced to practice in the performance of work under a contract of the Administration, and the invention is covered by a United States patent issued or application filed by or on behalf of the contractor prior to the award of the contract; or

(b) It appears that the invention has only incidental utility in the conduct of activities with which the Administration is particularly concerned and has substantial promise of commercial utility; or

(c) It is shown that the invention is directed specifically to a line of business of the contractor with respect to which the contractor's expenditure of funds in the field of technology to which the invention pertains has been large in comparison to the amount of funds paid or to be paid to the contractor under the contract in which the invention was made for research or development work in the same field of technology; or

(d) The waiver requested is for a non-exclusive, nontransferable, royalty-free license under an invention which does not qualify for waiver of greater rights under circumstances in paragraphs (a) through (c) of this section; or

(e) The waiver requested is for rights to an invention in a country or countries other than the United States in which the Administration does not desire to file an application for patent for such invention.

#### § 1201.304-3 Other inventions and rights.

The Administrator may grant whatever waiver of rights appears appropriate under the circumstances, under an invention which does not qualify for waiver under § 1201.304-2 whenever the contractor shows to the satisfaction of the Administrator that the grant of waiver under such an invention would be in the interests of the United States in accordance with the general policy enunciated in § 1201.303.

#### § 1201.305 Conditions and extent of waiver.

##### § 1201.305-1 General.

The rights which the Administrator may waive under an invention may vary as to extent, i.e., title, exclusive license, or nonexclusive license, and as to the term of years. All waivers shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. No waiver shall be valid unless accepted in writing by the contractor. Instruments of waiver shall provide that the waiver is voidable at the option of the Administrator (a) if the contractor shall have failed to comply with a material condition of the waiver, or (b) if it is subsequently discovered that the grant of the waiver was based upon misrepresentation of a material fact: *Provided, however*, That the inclusion of conditions in a waiver or instrument of waiver, requiring certain acts or reports from the contractor, shall not be deemed to be a contract requiring the performance of work within the meaning of subsection 305(b) of the Act: *And provided further*, That inventions made by the contractor in connection with the development of an invention to the point of practical application as a part of compliance, or in attempting to comply, with a condition of a waiver or instrument of waiver, shall not be deemed from such fact alone to be inventions made in the performance of the type of work set forth in section 305.

##### § 1201.305-2 Conditions applicable to specific rights.

Generally, when the Administrator determines that waiver is in the interest of the United States, he will waive rights to the extent and on the further conditions set forth in §§ 1201.305-3 through 1201.305-7.

##### § 1201.305-3 Title.

(a) Title to the invention for the full term of the life of the patent will be waived when the waiver is under paragraph (a) of § 1201.304-2 or when such waiver is approved under § 1201.304-3.

(b) When the Administrator has determined that it is in the interests of the United States to waive rights under inventions falling within paragraph (b) or (c) of § 1201.304-2, the waiver granted will be the title to the invention, but such title shall be voidable at the option of the Administrator unless the contractor shall, on or before the end of the fifth

year from the date of the contractor's acceptance of waiver, demonstrate to the Administrator that

(1) The invention has been developed to the point of practical application, or

(2) The invention has been made available for licensing either royalty-free or at a reasonable royalty rate, or

(3) There are circumstances justifying failure to realize the conditions of subparagraphs (1) and (2) of this paragraph and concurrently justifying a continuance of title in the contractor.

##### § 1201.305-4 Exclusive license.

The waiver may take the form of a grant of an exclusive license on appropriate terms and conditions if the contractor should request such a license.

##### § 1201.305-5 Nonexclusive license.

A nonexclusive license waived under paragraph (d) of § 1201.304-2 shall be voidable, at the option of the Administrator, after the end of the fifth year from the date of the contractor's acceptance of waiver, if

(a) The contractor, upon request by the Administrator, shall be unable to demonstrate that (1) the invention has been developed to the point of practical application, or (2) there are circumstances excusing the contractor from so developing the invention or justifying a continuance of the nonexclusive license to the contractor; and

(b) The Administrator has not made the invention generally available for licensing, nor granted a license or other right which is not revocable or terminable at such time.

##### § 1201.305-6 Foreign rights.

Waivers made under paragraph (e) of § 1201.304-2 will be by disclaimer and assignment of title for the life of the patent in the foreign country for which the waiver is granted.

##### § 1201.305-7 Special conditions.

In addition to the applicable conditions set forth in the preceding paragraphs, waivers shall be subject to (a) such special conditions as may be set forth in the instrument of waiver and (b) the provisions of paragraph (f) (iii) of the "Property Rights in Inventions" clause used in contracts of the Administration.

#### § 1201.306 Procedures.

##### § 1201.306-1 Petition.

Waivers will be granted only upon a petition addressed to the Administrator. Such petition shall

(a) Identify by number and date the contract under which the invention was made or to which the invention relates,

(b) Identify the invention by name of inventor, brief description, and the location of records wherein the invention is disclosed,

(c) State facts showing that the invention qualifies under the criteria of § 1201.304 for consideration for waiver,

(d) Specify the extent of waiver requested, i.e., title to the invention, exclusive license, nonexclusive license, or title to foreign rights; and in the case of foreign rights, specify the country or

countries in which the contractor desires to file application for patents,

(e) State whether or not the contractor has filed or caused to be filed a patent application for such invention,

(f) If a patent application has not been filed, present any information which the contractor wishes to submit concerning publication, public use, or public sale of the invention, which would indicate the need for prompt action on the petition.

(g) Include any additional statements, information, or reasons in support of its request which petitioner desires to submit,

(h) Be signed by the petitioner.

Any statements required to be furnished under paragraphs (a.) through (g) of this section may be attached to the petition if suitably identified and cross-referenced in the petition.

#### § 1201.306-2 Processing of petitions.

(a) Petitions will be submitted to the Office of the General Counsel, National Aeronautics and Space Administration.

(b) The Assistant General Counsel for Patent Matters will review such petitions for compliance with § 1201.306-1 and prepare a Findings of Fact and Recommendation to the Inventions and Contributions Board with respect to each such petition which will state

(1) Whether, in his opinion, the petition sets forth facts which qualify the invention for waiver under one or more of the criteria in § 1201.304,

(2) A recommendation that waiver in the extent requested either be or not be granted, or in the alternative, that a waiver in an extent different from that requested, be granted,

(3) Any special conditions which should be included in the instrument of waiver.

(c) The Inventions and Contributions Board will consider the petition and Findings of Fact and Recommendation of the Assistant General Counsel for Patent Matters and notify the petitioner—

(1) Whether it proposes to recommend to the Administrator the granting of the waiver in the extent requested, in an extent different from that requested, or the denial of the request;

(2) Of any conditions upon which it proposes to recommend the granting of the waiver;

(3) Of the reasons for any action which is adverse to or different from the waiver requested by the petitioner; and

(4) That the petitioner may, within 30 days from receipt of the notification, request an oral hearing before the Board, in the event the petitioner is not satisfied with the action the Board proposes to recommend.

(d) If the petitioner requests a hearing, the Board will set a place and date for such hearing, notify the petitioner and the Assistant General Counsel, and hold such hearing in accordance with rules approved by the Administrator.

(e) If the Board has proposed to recommend the granting of a waiver and the petitioner has not requested a hearing within 30 days as above provided, the Board shall transmit to the Adminis-

trator an instrument of waiver in the extent proposed to be granted for approval by the Administrator, together with its recommendation that the waiver be approved.

(f) After a hearing as provided in paragraph (d) of this section, the Board shall transmit to the Administrator the petition, the record of proceedings, its findings of fact with respect to the request for waiver, and its recommendation for action to be taken with respect thereto.

(g) The Administrator may either (1) approve the waiver and direct that the instrument of waiver be delivered to the petitioner; (2) inform the petitioner of his decision if adverse; or (3) refer the matter to the Board for further proceeding in accordance with his instructions.

#### § 1201.306-3 Procedure pending grant of waiver when statutory bar is running against the invention.

Whenever it appears that a statutory bar is running against the filing of an application for patent for the invention during the course of this procedure, and that delay in acting on the petition for waiver might result in loss of the patent rights in the invention, the Assistant General Counsel for Patent Matters shall arrange with the contractor for the preparation and filing of the patent application by the contractor pending the action on the waiver, subject to reimbursement of the reasonable costs of the contractor if the waiver is not approved in a form acceptable to the contractor.

#### § 1201.306-4 Form of waiver.

(a) *Assignment.* When waiver is approved for disclaimer of title, there will be furnished to the contractor an instrument of waiver which permits the contractor to retain title but requires the furnishing to the United States, as represented by the Administrator, at the time of filing the application for patent, a confirmatory license (prepared by the Government) of the rights reserved to the United States. When the waiver is approved under § 1201.305-3(a) the instrument of waiver will be in the form of § 1201.401 and when the waiver is approved under § 1201.305-3(b), the instrument of waiver will be in the form of § 1201.402 which contains the additional conditions required by § 1201.305-3(b).

(b) *Exclusive license.* When the waiver is an exclusive license, there will be furnished an instrument of waiver which, in general, agrees to grant to the contractor, at the time the application is filed, an exclusive license, except for the rights reserved to the United States, upon the conditions that the contractor

(1) Prepare the application for patent;

(2) Execute or cause to be executed instruments of mesne assignment of the invention (prepared by the Government) in favor of the United States, as represented by the Administrator;

(3) Forward to the Administrator such application for patent, properly executed, for filing in Patent Office, and such instruments of mesne assignment for acceptance by the Administrator;

(4) Arrange for prosecution of the application under an associate power of

attorney and under the procedures and conditions set forth in the instrument of waiver; and

(5) Such other conditions as are appropriate to the grant.

(c) *Nonexclusive license.* When the waiver is approved for nonexclusive license, there will be furnished to the contractor an instrument of waiver in the form of § 1201.403 granting an irrevocable, nonexclusive, and royalty-free license to the contractor (and its existing and future associated and affiliated companies, if any, within the corporate structure of which the contractor is a part), together with the right to sublicense others to the extent that the contractor is obligated prior to the contract to grant such sublicenses, which license and right shall be assignable to the successors of that part of the contractor's business to which such invention pertains. The instruments of mesne assignment, prepared by the Government for execution by contractor and delivery to the Administrator in accordance with paragraph (e) of the "Property Rights in Inventions" clause, will be subject to and acknowledge therein the reservation to the contractor of the license grant set out in the instrument of waiver.

(d) *Foreign rights.* When the waiver is approved for territorial rights to an invention in any country or countries other than the United States, there will be furnished to the contractor an instrument of waiver in the form of § 1201.404 which will permit the contractor to prepare and file an application for patent in such other country or countries, subject to the contractor obtaining such licenses, or clearances as to secrecy, as may be necessary for exportation of such application and the filing thereof in such other country or countries. The instrument of waiver will also set forth an agreement to assign to the contractor the entire right, title, and interest in such invention in each foreign country as to which the rights are waived and in which an application is to be filed by the contractor, subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States, upon the conditions that the contractor

(1) "Instrument of waiver" means the United States Government a United States patent application covering the invention;

(2) Execute or cause to be executed instruments of mesne assignment of the invention (prepared by the Government) in favor of the United States, as represented by the Administrator; and

(3) Forward to the Administrator such application for patent, properly executed, for filing in the Patent Office, and such instruments of mesne assignment for acceptance by the Administrator.

#### § 1201.401 Instrument of waiver; title.

NASA Case No. -----

Appl'n. Serial No. -----

Filed -----

Inventor (Name) -----

Title of invention -----

Contractor -----
(Name of person receiving waiver—contractor, subcontractor, or inventor)
Address of person receiving waiver -----
Contract No. -----

Contractor's Disclosure No. -----
Whereas the invention above identified was made in the performance of work under the above identified contract with the National Aeronautics and Space Administration (hereinafter referred to as the Administration); and

Whereas the Administrator of the National Aeronautics and Space Administration has determined that the invention above identified was made under the provisions of subsection 305(a) of the National Aeronautics and Space Act of 1958 so as to become the exclusive property of the United States; and

Whereas the Administrator has determined, in accordance with the regulations he has prescribed under subsection 305(f) of said Act, that the interests of the United States will be served by waiver to -----

(Name of person receiving waiver)
(hereinafter sometimes referred to as Contractor) of rights vested, or which otherwise would have vested, in the United States, to the above identified invention (hereinafter referred to as said invention);

Now therefore, subject to the conditions and procedures hereinafter specified, and acceptance thereof by the Contractor:

1. The Administrator disclaims and waives in favor of -----

(Name of person receiving waiver) the rights of the United States (i) to acquire exclusive ownership of said invention, (ii) the right to apply for United States and foreign patents for said invention, and (iii) the right to have the same issue to the Administrator on behalf of the United States; subject however to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of said invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States.

2. This disclaimer and waiver is conditioned upon the Contractor doing the following:

(A) Furnishing promptly to the Administrator on request an irrevocable power to inspect and make copies of each United States patent application filed by or on behalf of the Contractor covering said invention.

(B) In the event the Contractor (or those, other than the United States Government, deriving rights from the Contractor) elects not to continue prosecution of any such United States patent application filed by or on behalf of the Contractor:

Notify the Administrator of such election not less than sixty days before the expiration of the response period and, upon written request, deliver to the administrator such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Administrator the entire right, title and interest in such invention and the application, subject, however, to the rights of the Contractor in foreign applications as provided in (D) below, and subject further to the reservation of a nonexclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part), together with the right to sublicense others to the extent that the Contractor is obligated, prior to the contract under which said invention was made, to grant such sublicenses; which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

(C) In the event any United States patent application filed on said invention becomes involved in interference proceedings:

Make no "concession of priority", nor "abandonment of contest" without either (i) first having referred the matter to the Administrator and given due consideration to his recommendations, if any; or (ii) obtaining an irrevocable, nonexclusive non-transferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States, under the invention which is the subject of the "concession of priority" or under the invention in favor of which the "abandonment of contest" is made.

(D) With respect to any foreign country in which the Contractor (or those, other than the United States Government, deriving rights from the Contractor), has not filed an application on said invention within (i) nine months from the date a corresponding United States application is filed; (ii) six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or (iii) such longer periods as may be approved by the Administrator.

Convey to the United States Government upon written request the Contractor's entire right, title and interest in said invention in such foreign country or countries in which an application for patent has not been filed within the times above specified, subject to the reservation of a nonexclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part) together with the right to sublicense others to the extent that the Contractor is obligated, prior to the contract under which said invention was made, to grant such sublicenses; which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

(E) Delivering to the Administrator duly executed instruments (prepared by the Government) fully confirmatory of the license rights herein reserved by the Administrator.

(F) Requiring each instrument granting any license or sublicense to practice said invention covered by an application for patent or patents issuing thereon to contain a notation of the royalty-free license reserved by the Administrator.

(G) Furnishing upon request of the Administrator information concerning the grant of any licenses to practice said invention under such applications for patent or patents issuing thereon, together with the relevant terms and conditions thereof.

3. This Instrument of Waiver, waiver, and disclaimer, is voidable, at the option of the Administrator:

(A) If the Contractor shall have failed to comply with a material condition of the waiver as set forth herein; or

(B) If it is subsequently discovered that the waiver was based upon misrepresentation of a material fact.

Signed at Washington, D.C., this ----- day of -----, 19--

By direction of the Administrator, National Aeronautics and Space Administration.

The Contractor has caused this instrument to be signed and attested by its duly authorized officers this ----- day of -----, 19--, accepting said instrument with the intent to be legally bound thereby.

(Contractor)
By (Name) (Title)
(Address)

Attest.

§ 1201.402 Instrument of waiver; title; qualified.

NASA Case No. -----
Inventor (Name) -----
Title of invention -----
Contractor -----

(Name of person receiving waiver—contractor, subcontractor, or inventor)
Address of person receiving waiver -----
Contract No. -----

Contractor's Disclosure No. -----
Whereas the invention above identified was made in the performance of work under the above identified contract with the National Aeronautics and Space Administration (hereinafter referred to as the Administration); and

Whereas the Administrator of the National Aeronautics and Space Administration has determined that the invention above identified was made under the provisions of subsection 305(a) of the National Aeronautics and Space Act of 1958 so as to become the exclusive property of the United States; and

Whereas the Administrator has determined, in accordance with the regulations he has prescribed under subsection 305(f) of said Act, that the interests of the United States will be served by waiver to -----

(Name of person receiving waiver)
(hereinafter sometimes referred to as Contractor) of rights vested, or which otherwise would have vested, in the United States, to the above identified invention (hereinafter referred to as said invention);

Now therefore, subject to the conditions and procedures hereinafter specified, and acceptance thereof by the Contractor:

1. The Administrator disclaims and waives in favor of -----

(Name of person receiving waiver) the rights of the United States (i) to acquire exclusive ownership of said invention, (ii) the right to apply for United States and foreign patents for said invention, and (iii) the right to have the same issue to the Administrator on behalf of the United States; subject however to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of said invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States.

2. This disclaimer and waiver is conditioned upon the Contractor doing the following:

(A) Filing or causing to be filed an application for United States patent in due form and time and without direct cost to the United States Government, or notifying the Administrator at the earliest practicable date and in any event not later than eight months after first publication, use or sale, of any decision not to file, stating the reasons for such decision.

(B) In the event of a decision of the Contractor not to file:

1. Inform the Administrator in writing at the earliest practical date of any publication of such invention made by or known to the Contractor, or where applicable, of any contemplated publication by the Contractor, stating the date and identity of such publication or contemplated publication; and

2. Convey to the United States Government as represented by the Administrator, the entire right, title, and interest in such invention by delivering to the Administrator upon written request such duly executed instruments (prepared by the Government) of assignment and application and such other papers as are deemed necessary to vest in the Administrator the right, title, and interest aforesaid, and the right to apply for and prosecute patent applications covering the invention throughout the world, subject, however, to the rights of the Contractor in

foreign applications as provided in (F) below, and subject further to the reservation of a nonexclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part), together with the right to sublicense others to the extent that the Contractor is obligated, prior to the contract under which said invention was made, to grant such sublicenses; which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

(C) Furnishing promptly to the Administrator on request an irrevocable power to inspect and make copies of each United States patent application filed by or on behalf of the Contractor covering said invention.

(D) In the event the Contractor (or those, other than the United States Government, deriving rights from the Contractor) elects not to continue prosecution of any such United States patent application filed by or on behalf of the Contractor:

Notify the Administrator of such election not less than sixty days before the expiration of the response period and, upon written request, deliver to the Administrator such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Administrator the entire right, title and interest in such invention and the application, subject to the reservations as specified in (B)2, above.

(E) In the event any United States patent application filed on said invention becomes involved in interference proceedings:

Make no "concession of priority" nor "abandonment of contest" without either (i) first having referred the matter to the Administrator and given due consideration to his recommendations, if any; or (ii) obtaining an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States, under the invention which is the subject of the "concession of priority" or under the invention in favor of which the "abandonment of contest" is made.

(F) With respect to any foreign country in which the Contractor (or those, other than the United States Government, deriving rights from the Contractor) has not filed an application on said invention within (i) nine months from the date a corresponding United States application is filed; (ii) six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or (iii) such longer periods as may be approved by the Administrator.

Convey to the United States Government upon written request the Contractor's entire right, title and interest in said invention in such foreign country or countries in which an application for patent has not been filed within the times above specified, subject to the reservation of a nonexclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part) together with the right to sublicense others to the extent that the Contractor is obligated, prior to the contract under which said invention was made, to grant such sublicenses; which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

(G) Delivering to the Administrator duly executed instruments (prepared by the Government) fully confirmatory of the license rights herein reserved by the Administrator.

(H) Requiring each instrument granting any license or sublicense to practice said invention covered by an application for patent

or patents issuing thereon to contain a notation of the royalty-free license reserved by the Administrator.

(I) Furnishing upon request of the Administrator information concerning the grant of any licenses to practice said invention under such applications for patent or patents issuing thereon, together with the relevant terms and conditions thereof.

3. This Instrument of Waiver, waiver, and disclaimer, is voidable, at the option of the Administrator:

(A) Unless the Contractor shall, on or before the end of the fifth year from the date of the Contractor's acceptance of waiver, demonstrate to the Administrator that

(i) The invention has been developed to the point of practical application, or

(ii) The invention has been made available for licensing either royalty-free or at a reasonable royalty rate, or

(iii) There are circumstances justifying failure to realize the conditions of (i) and (ii) above and concurrently justifying a continuance of title in the contractor.

The phrase "developed to the point of practical application" as used herein means "manufactured, if a composition or product, practiced if a process, or operated if a machine, and under such conditions as to have established its availability to the public."

(B) If the Contractor shall have failed to comply with a material condition of the waiver as set forth herein; or

(C) If it is subsequently discovered that the waiver was based upon misrepresentation of a material fact.

4. This Instrument of Waiver is deemed not to be a contract requiring the performance of work within the meaning of subsection 305(b) of the National Aeronautics and Space Act of 1958 (Pub. Law 85-568) nor shall inventions made by the Contractor in connection with the development of an invention to the point of practical operation as a part of compliance, or in attempting to comply, with 3.(A) above be deemed from such fact alone to have been made in the performance of the type of work set forth in Section 305 of said Act.

Signed at Washington, D.C., this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

By direction of the Administrator, National Aeronautics and Space Administration.

*Contractor's Acceptance and Agreement*

The Contractor agrees to return this Instrument of Waiver to the Administrator of the National Aeronautics and Space Administration at the end of the fifth year from the date of the Contractor's acceptance of this instrument for endorsement thereon by the Administrator of one of the following:

(A) That the conditions upon which this Instrument of Waiver is based have been satisfied and that this waiver and disclaimer are no longer voidable at the option of the Administrator;

(B) That the conditions upon which this Instrument of Waiver is based have not been satisfied and that this waiver and disclaimer are void; or

(C) That there are circumstances justifying failure to satisfy the conditions upon which this Instrument of Waiver is based and concurrently justifying a continuance of title in the Contractor for the additional number of years stated in the endorsement.

The Contractor further agrees that the endorsement made by the Administrator on this Instrument in accordance with the circumstances set forth above shall be binding upon the Contractor, and in the event the Administrator, by his endorsement, voids this waiver and disclaimer, the Contractor agrees that such endorsement shall operate to restore to the United States Government the entire right, title and interest in and to the said invention and any application for

patent which may have been filed thereon, or any patent which may have been issued on any such application, subject to the reservation to the Contractor of the license and right reserved in paragraph 2(B)2 of this instrument.

The Contractor still further agrees that any of the above said endorsements shall be conclusive evidence as to the condition of title in said invention and the presentation thereof to the Commissioner of Patents shall authorize the Commissioner to record such condition of title as shown by said endorsement.

The Contractor has caused this instrument to be signed and attested by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, with the intent to be legally bound thereby.

\_\_\_\_\_  
(Contractor)  
By \_\_\_\_\_  
(Name) (Title)  
\_\_\_\_\_  
(Address)

Attest.

§ 1201.403 Instrument of waiver; non-exclusive license.

NASA Case No. \_\_\_\_\_  
Inventor (Name) \_\_\_\_\_  
Title of invention \_\_\_\_\_  
Contractor \_\_\_\_\_

(Name of person receiving waiver—contractor, subcontractor, or inventor)  
Address of person receiving waiver \_\_\_\_\_

Contract No. \_\_\_\_\_

Contractor's Disclosure No. \_\_\_\_\_  
Whereas the invention above identified was made in the performance of work under the above identified contract with the National Aeronautics and Space Administration (hereinafter referred to as the Administration); and

Whereas the Administrator of the National Aeronautics and Space Administration has determined that the invention above identified was made under the provisions of subsection 305(a) of the National Aeronautics and Space Act of 1958 so as to become the exclusive property of the United States; and

Whereas the Administrator has determined, in accordance with the regulations he has prescribed under subsection 305(f) of said Act, that the interests of the United States will be served by waiver to \_\_\_\_\_

(Name of person receiving waiver)  
(hereinafter sometimes referred to as Contractor) of certain rights in the above identified invention (hereinafter referred to as said invention);

Now therefore, subject to the conditions and procedures hereinafter specified, and acceptance thereof by the Contractor:

1. The Administrator agrees to and does hereby grant to \_\_\_\_\_

(Name of person receiving waiver)  
(and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part), a nonexclusive, royalty-free license, together with the right to sublicense others to the extent that the Contractor is obligated prior to the contract under which the said invention was made to grant such sublicenses, which license and right shall be assignable to the successor of that part of the Contractor's business to which the invention pertains.

2. This waiver and license grant is conditioned upon the Contractor doing the following:

Executing or causing to be executed mesne assignments (prepared by the Government) of said invention and delivering the same to the Administrator, in accordance with para-

graph (e) of the "Property Rights in Inventions" clause of the contract under which said invention was made.

3. This Instrument of Waiver and license grant is voidable, at the option of the Administrator:

(A) After the end of the fifth year from the date of the Contractor's acceptance of this Instrument of Waiver, if

(1) The Contractor, upon request by the Administrator, shall be unable to demonstrate that (1) the invention has been developed to the point of practical application, or (2) there are circumstances excusing the Contractor from so developing the invention or justifying a continuance of the nonexclusive license to the Contractor; and

(ii) The Administrator has not made the invention generally available for licensing, nor granted a license or other right which is not revocable or terminable at such time.

The phrase "developed to the point of practical application" as used herein means "manufactured, if a composition or product, practiced if a process, or operated if a machine, and under such conditions as to have established its availability to the public.

(B) If the Contractor shall have failed to comply with a material condition of the Instrument of Waiver as set forth herein; or

(C) If it is subsequently discovered that the waiver was based upon misrepresentation of a material fact.

4. This Instrument of Waiver is not deemed to be a contract requiring the performance of work within the meaning of subsection 305(b) of the National Aeronautics and Space Act of 1958 (Pub. Law 85-568) nor shall inventions made by the Contractor in connection with the development of an invention to the point of practical operation, as a part of compliance, or in attempting to comply, with 3(A) above be deemed from such fact alone to have been made in the performance of the type of work set forth in Section 305 of said Act.

5. The Administrator agrees that the mesne assignments (prepared by the Government), referred to in paragraph 2 above, will be subject to, and will acknowledge therein in the form of reservation to the Contractor, the license grant set forth in paragraph 1 above.

Signed at Washington, D.C., this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

By direction of the Administrator, National Aeronautics and Space Administration.

The Contractor has caused this instrument to be signed and attested by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, accepting said instrument with the intent to be legally bound thereby.

By \_\_\_\_\_ (Contractor) \_\_\_\_\_ (Name) \_\_\_\_\_ (Title) \_\_\_\_\_ (Address)

Attest. § 1201.404 Instrument of Waiver; foreign rights.

NASA Case No. \_\_\_\_\_ Inventor (Name) \_\_\_\_\_ Title of invention \_\_\_\_\_ Contractor \_\_\_\_\_ (Name of person receiving waiver—contractor, subcontractor, or inventor) \_\_\_\_\_ Address of person receiving waiver \_\_\_\_\_ Contract No. \_\_\_\_\_

Contractor's Disclosure No. \_\_\_\_\_ Whereas the invention above identified was made in the performance of work under the above identified contract with the National Aeronautics and Space Administration (hereinafter referred to as the Administration); and

Whereas the Administrator of the National Aeronautics and Space Administration has determined that the invention above identified was made under the provisions of subsection 305(a) of the National Aeronautics and Space Act of 1958 so as to become the exclusive property of the United States; and

Whereas the Administrator has determined, in accordance with the regulations he has prescribed under subsection 305(f) of said Act, that the interests of the United States will be served by waiver to \_\_\_\_\_

(Name of person receiving waiver) (hereinafter sometimes referred to as Contractor) of certain rights vested, or which otherwise would have vested, in the United States, to the above identified invention (hereinafter referred to as said invention);

Now therefore, subject to the conditions and procedures hereinafter specified, and acceptance thereof by the Contractor:

1. The Administrator disclaims and waives in favor of \_\_\_\_\_

(Name of person receiving waiver) the rights of the United States in and to said invention in the foreign countries listed below, together with the right to apply for and receive patents for said invention in said countries, subject however to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States. The countries are as follows:

2. This disclaimer and waiver is conditioned upon the Contractor doing the following:

(A) Preparing without direct cost to the United States Government a United States patent application covering the invention;

(B) Executing or causing to be executed instruments of mesne assignment of the invention (prepared by the Government) in favor of the United States, as represented by the Administrator; and

(C) Forwarding to the Administrator such application for patent, properly executed, for filing in the United States Patent Office, and such instruments of mesne assignment for acceptance by the Administrator.

(D) Obtaining such licenses, or clearances as to secrecy, as may be necessary for exportation of the application for patent to the abovesaid foreign countries and for the filing thereof in such countries.

(E) Filing an application for patent in each of the abovesaid foreign countries not earlier than the filing of the United States application and within (i) nine months from the date the corresponding United States application is filed; (ii) six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or (iii) such longer periods as may be approved by the Administrator.

(F) Notifying the Administrator of the date of filing the application for patent in each of the abovesaid countries and identifying said applications.

(G) Requiring each instrument granting any license or sublicense to practice said invention in the abovesaid countries to contain a notation of the royalty-free license reserved by the Administrator.

3. This Instrument of Waiver, waiver, and disclaimer is voidable, at the option of the Administrator:

(A) If the Contractor shall have failed to comply with a material condition of the waiver as set forth herein; or

(B) If it is subsequently discovered that the waiver was based upon misrepresentation of a material fact.

4. The Administrator agrees to assign to the Contractor the entire right, title, and interest of the United States in said invention in each of the above-said foreign coun-

tries upon notification that the application for patent has been filed or has been prepared and is ready for filing in said foreign country.

Signed at Washington, D.C., this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

By direction of the Administrator, National Aeronautics and Space Administration.

The Contractor has caused this instrument to be signed and attested by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, accepting said instrument with the intent to be legally bound thereby.

By \_\_\_\_\_ (Contractor) \_\_\_\_\_ (Name) \_\_\_\_\_ (Title) \_\_\_\_\_ (Address)

Attest. Effective date. These regulations shall be effective upon publication in the FEDERAL REGISTER.

T. KEITH GLENNAN, Administrator.

[F.R. Doc. 59-1919; Filed, Mar. 4, 1959; 8:51 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 58—GRANTS TO SCHOOLS OF PUBLIC HEALTH FOR THE PROVISION OF PUBLIC HEALTH TRAINING

Notice of proposed rule making, public rule making procedures and delay in effective date have been omitted in the issuance of the following new part which relates solely to grants.

This chapter is hereby amended by adding thereto a new Part 58 as follows:

- Sec. 58.1 Definition. 58.2 Allocations, time of making and duration. 58.3 Basis of allocations. 58.4 Application. 58.5 Expenditure of grants. 58.6 Payments. 58.7 Accounts. 58.8 Reports. 58.9 Audit. 58.10 Termination of grants.

AUTHORITY: §§ 58.1 to 58.10 issued under sec. 215, 58 Stat. 690 as amended; 42 U.S.C. 216. Interpret or apply sec. 314(c)(2), 58 Stat. 694 as amended by 72 Stat. 399; 42 U.S.C. 246(c)(2).

§ 58.1 Definition.

As used in this part, the following terms shall have the meaning indicated herein below:

(a) "Schools of Public Health" mean those public or nonprofit schools in the United States or its territories or possessions accredited for the degree of Master of Public Health by a body or bodies recognized by the Surgeon General. The American Public Health Association is recognized by the Surgeon General as such an accrediting body.

(b) "Federally sponsored student" means a full-time student attending a

school of public health whose tuition is paid in whole or in part from Federal funds (1) by the Federal Government, (2) by the student or (3) by the school, for the express purpose of defraying the cost of his tuition in the school of public health, but does not include students receiving payments for education and training from the Veterans Administration under P.L. 550 of the 80th Congress or any amendments thereto. For the purpose of computing the number of full-time students a school of public health may include the full-time equivalents of students attending for less than the entire academic year.

(c) "Attending a school of public health" means (1) enrollment in such school or (2) enrollment in the university in which such school is a part while engaged in a full-time program of public health training planned and supervised by the school of public health.

(d) "Act" means the Public Health Service Act as amended (58 Stat. 693, 42 U.S.C. 201).

(e) "Surgeon General" means the Surgeon General of the Public Health Service.

#### § 58.2 Allocations, time of making and duration.

An allocation in accordance with § 58.3 shall be made prior to the beginning of each fiscal year or as soon thereafter as practicable to each school of public health eligible for assistance under section 314(c) (2) of the Act at the time the allocation is made. Funds thus allocated shall be available for expenditure during the fiscal year for which the allocation is made, except as this period may be extended in accordance with § 58.4(d).

#### § 58.3 Basis of allocations.

Two-thirds of the funds made available pursuant to section 314(c) (2) of the Act for any fiscal year shall be allocated among the schools of public health in the same proportion that the Federally sponsored students in each school of public health during the previous fiscal year bears to the total number of Federally sponsored students in all schools of public health during that year. The remaining one-third of such appropriated funds shall be allocated equally among all schools of public health in recognition of the fact that there are essential basic costs in the provision of public health training that do not vary in direct proportion to the number of Federally sponsored students.

#### § 58.4 Application.

(a) Each school of public health desiring a grant under section 314(c) (2) shall for each fiscal year submit for approval of the Surgeon General an application for such grant on forms prescribed by the Surgeon General.

(b) The application shall include (1) a description of the training purposes for which the grant is requested including a description of the extent to which these proposed expenditures represent improvements and expansions of existing teaching programs and inauguration of new teaching programs; and (2) a budget showing the amounts of antici-

pated funds for training during the fiscal year and the sources from which it is anticipated such funds shall be derived.

(c) Applications may be amended before the end of the fiscal year for which they are submitted with the approval of the Surgeon General.

(d) The Surgeon General may approve an amended application providing for the expenditure in a subsequent fiscal year of funds paid in a prior fiscal year except that the amounts of unexpended funds carried over from one fiscal year to another may not exceed \$5,000 or one-half of the grant to which the balance is being transferred, whichever is smaller.

#### § 58.5 Expenditure of grants.

(a) The amount of Federal grants under this part shall be expended solely for the purposes specified in the approved application (except that funds may be transferred between budget categories without budget revision) and in accordance with the regulations in this part. Any amount not so expended shall be repaid to the U.S. Government.

(b) Grants paid under this part may be used for salaries and necessary travel expenses of the full-time faculty and staff of the school of public health; for the salary and travel expenses of part-time faculty, consultants, special lecturers, and instructors while providing services for schools of public health; and for costs of operation and maintenance (including expendable supplies) and equipment for the training program in the school of public health. Such funds may not be used for costs of construction (except for minor renovations and repairs), international travel, or for stipends, tuition, fees, or travel expenses of students.

#### § 58.6 Payments.

(a) Payments from allocations to a school of public health shall be certified to the Secretary of the Treasury only after an application has been approved and all required reports have been received, and shall not exceed the allocation to such school or the total estimated expenditures of Federal funds for carrying out the terms of the approved application, whichever is the lesser.

(b) Subject to the foregoing limitation, payments shall be made as follows: (1) An initial payment of not to exceed one-half of the school's allocation for the current fiscal year and (2) a second payment (or further payments, if necessary) to follow receipt of the school's request for the balance (or any part of the balance) of its allocation. The second payment will be reduced by any amount of unobligated grant funds in the accounts of the school at the beginning of the fiscal year, except as approval has been given in accordance with § 58.4(d) for carrying over such balances for expenditure during the fiscal year.

#### § 58.7 Accounts.

Each grantee shall provide such accounting, budgeting, and other fiscal methods and procedures including property controls necessary for the proper and efficient administration of funds granted under this part.

#### § 58.8 Reports.

Each grantee shall at such times and in such form as the Surgeon General may prescribe, make such reports pertinent to the carrying out of its approved application and to the purposes for which the grant is made available as may be required by the Surgeon General or his designee.

#### § 58.9 Audit.

Audit of the fiscal and other records of the institution that relate to the grant may be made by representatives of the Public Health Service. Records, documents and information available to the school pertinent to the audit shall be accessible for purpose of the audit and shall be retained by the school until completion of the fiscal audit and the resolution of all questions arising therefrom.

#### § 58.10 Termination of grants.

Whenever the Surgeon General finds that a grantee has failed to comply with the regulations of this part or its approved application, he may, on reasonable notice to the grantee, withhold further payments or terminate the grant.

Dated: February 17, 1959.

[SEAL] L. E. BURNEY,  
Surgeon General.

Approved: February 27, 1959.

ARTHUR S. FLEMMING,  
Secretary of Health, Education,  
and Welfare.

[F.R. Doc. 59-1920; Filed, Mar. 4, 1959;  
8:51 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

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

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1806]

[Fairbanks 020500]

#### ALASKA

### Withdrawing Public Lands for Use of Alaska Railroad for Station Grounds and Gravel Pits

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

Subject to valid existing rights, the 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 the disposals of material under the Act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U.S.C. 601-604) as amended, and reserved for use of the Alaska Railroad for station grounds and for gravel pits:

CLEAR AREA

FAIRBANKS MERIDIAN

T. 8 S., R. 8 W. (partly unsurveyed),  
Secs. 5 and 6.

T. 8 S., R. 9 W.,

Sec. 1;  
Sec. 2, that portion lying east of the  
Nenana River.

The areas described aggregate approximately 2,140 acres.

ROGER ERNST,  
Assistant Secretary of the Interior.

FEBRUARY 27, 1959.

[F.R. Doc. 59-1890; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1807]

[51263]

LOUISIANA

Transferring Jurisdiction Over the Oil  
and Gas Deposits in Certain Lands  
Owned By the United States

Whereas the hereinafter-described lands, title to which has been acquired by the United States, comprising a part of the Barksdale Bombing and Gunnery Range portion of the Barksdale Air Force Base Reservation, Louisiana, are reported to be subject to drainage of their oil and gas deposits by wells on adjacent lands in private ownership; and

Whereas it is necessary in the public interest that such protective action be taken as will prevent loss to the United States by reason of the drainage or threatened drainage from the said lands; and

Whereas, in order to facilitate such action, it is considered advisable that jurisdiction over the oil and gas deposits in such lands be transferred from the Department of the Air Force to the Department of the Interior; and

Whereas such transfer has the concurrence of the Secretary of the Air Force:

Now, therefore, 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:

1. The jurisdiction over the oil and gas deposits in the following-described land is hereby transferred from the Department of the Air Force to the Department of the Interior:

LOUISIANA MERIDIAN

T. 18 N., R. 12 W.,  
Sec. 26, NW ¼.

The area described aggregates 160.30 acres.

2. The Secretary of the Interior shall take such action as may be necessary to protect the United States from loss on account of drainage or threatened drainage of oil and gas from such lands.

3. The jurisdiction of the Department of the Interior over such lands shall be subject to the primary jurisdiction of the Department of the Air Force over the lands for Air Force purposes.

4. No oil and gas lessee shall use or invade for any purpose the surface of the lands.

5. All moneys received as royalties under leases, or otherwise, on account of oil and gas extracted from such land shall be paid into the Treasury of the

United States and credited to miscellaneous receipts.

ROGER ERNST,  
Assistant Secretary of the Interior.

FEBRUARY 27, 1959.

[F.R. Doc. 59-1891; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1808]

[Oregon 05047]

OREGON

Withdrawing Lands Within Willamette National Forest for Use of Corps of Engineers for Flood Control Purposes in Connection With Cougar Reservoir Project

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to valid existing rights, the following-described public lands within the Willamette National Forest, Oregon, are hereby withdrawn from all forms of appropriation under the public land laws including the mining and mineral leasing laws but not disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended, and reserved under jurisdiction of the Department of Agriculture for use of the Corps of Engineers, Department of the Army, for flood control purposes in connection with the Cougar Reservoir Project, under such terms and conditions as may be agreed upon between the Department of Agriculture and the Department of the Army:

WILLAMETTE MERIDIAN

- T. 16 S., R. 4 ½ E.,  
Sec. 24, lots 1 and 2;  
Sec. 25, the north 10 chains of lot 1.
- T. 16 S., R. 5 E.,  
Sec. 19, lots 4, 8, and SW ¼;  
Sec. 29, S ½ SW ¼ SW ¼;  
Sec. 30, NW ¼ NE ¼, S ½ NE ¼, N ½ NW ¼, SE ¼ NW ¼, NE ¼ SW ¼, S ½ SW ¼, and SE ¼;  
Sec. 31, E ½ and E ½ NW ¼;  
Sec. 32, N ½, SW ¼, N ½ NE ¼ SE ¼, and W ½ SE ¼.
- T. 17 S., R. 5 E., unsurveyed,  
Sec. 4, S ½ SW ¼ NE ¼, SW ¼ NW ¼, NW ¼ SE ¼ NW ¼, S ½ SE ¼ NW ¼, N ½ SW, W ½ NE ¼ SE ¼, and NW ¼ SE ¼;  
Sec. 5, NW ¼ NE ¼, S ½ NE ¼, W ½, N ½ SE ¼, and SW ¼ SE ¼;  
Sec. 6, NE ¼, E ½ SE ¼, and E ½ W ½ SE ¼;  
Sec. 7, E ½ NE ¼ and NE ¼ SE ¼;  
Sec. 8, W ½ NE ¼, S ½ SE ¼ NE ¼, NW ¼, and S ½;  
Sec. 9, W ½ NW ¼ SW ¼;  
Sec. 17, E ½, E ½ W ½, E ½ W ½ NW ¼, E ½ NW ¼ SW ¼, and SW ¼ SW ¼;  
Sec. 20, E ½, N ½ NW ¼, SE ¼ NW ¼, and E ½ E ½ SW ¼;  
Sec. 21, W ½ SW ¼ SW ¼;  
Sec. 28, W ½ NW ¼ NW ¼ and W ½ W ½ SW ¼;  
Sec. 29, NE ¼, E ½ SE ¼, and E ½ NW ¼ SE ¼;  
Sec. 33, NW ¼ NW ¼.

The areas described aggregate 4,973.84 acres.

This order shall be subject to existing withdrawals for other than national forest purposes, and shall take precedence over but not otherwise affect the existing

reservation of the lands for national forest purposes.

ROGER ERNST,  
Assistant Secretary of the Interior.

FEBRUARY 27, 1959.

[F.R. Doc. 59-1892; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1809]

[Montana 021926 (ND)]

NORTH DAKOTA

Withdrawing Public Lands for Use of Department of the Army in Connection With Garrison Dam and Reservoir Project

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

Subject to valid existing rights, the following-described public lands in North Dakota are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws except as hereinafter indicated, nor disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended, and reserved for use in connection with the Garrison Dam and Reservoir Project, North Dakota, under the supervision of the Department of the Army as authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887, 897):

FIFTH PRINCIPAL MERIDIAN

- T. 152 N., R. 103 W.,  
Sec. 3, lots 13 and 14;  
Sec. 9, lot 5;  
Sec. 10, lots 1, 3, and 5;  
Sec. 14, lot 2.
- T. 153 N., R. 100 W.,  
Sec. 6, lot 4 and unsurveyed accretion thereto.
- T. 153 N., R. 101 W.,  
Sec. 6, lot 9, that portion lying southerly of the Great Northern Railway right-of-way;  
Sec. 7, lot 2;  
Sec. 19, lots 4, 5, 8, and unsurveyed accretions thereto.
- T. 153 N., R. 102 W.,  
Sec. 20, lot 2, lot 3, less Great Northern Railway right-of-way;  
Sec. 22, lots 2 and 3.
- T. 153 N., R. 102 W.,  
Sec. 25, lot 7, lot 8 and unsurveyed accretion thereto;  
Sec. 26, lots 7 and 8;  
Sec. 29, lot 3;  
Sec. 34, lot 7.
- T. 154 N., R. 100 W.,  
Sec. 31, lots 2 and 3, lot 4 and unsurveyed accretion thereto.
- T. 154 N., R. 101 W.,  
Sec. 25, lots 5 and 8;  
Sec. 29, SW ¼ SE ¼, that portion lying southerly of the Great Northern Railway right-of-way;  
Sec. 33, lots 1, 2, 3, and 4;  
Sec. 34, lots 1, 2, and 3;  
Sec. 35, lots 3, 4, and 5.

The areas described aggregate 939.96 acres.

The lands shall be subject to leasing under the mineral leasing laws for their oil and gas deposits, but any lease shall include the following conditions:

## RULES AND REGULATIONS

1. That all rights granted under the lease are subordinate to the rights of the United States to flood and submerge such lands, permanently or intermittently, in connection with the operation and maintenance of the Garrison Dam and Reservoir Project.

2. That the United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the said premises, or for damages to the property of the lessee, or for injuries to the person of the lessee (if an individual), or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of the said premises by the Government activities; or flooding from any other cause or arising from or incident to any other Governmental activities; and that the lessee shall hold the United States harmless from any and all such claims.

3. That all operations under the lease shall be subject to the approval of the District Engineer, Corps of Engineers, in direct charge of the project, and subject to such conditions and regulations as may be prescribed by him, and the plans and location for all structures and appurtenances thereto, and work on said lands shall be submitted to said District Engineer for approval in advance of commencement of any work on said lands; and that the District Engineer shall have the right to enter on the premises at any time to inspect both the installation and operational activities of the lessee.

4. That no structure or appurtenances thereto shall be of a material or construction apt to create floatable debris.

5. That the construction and operation of said structures and appurtenances thereto shall be of such a nature as not to cause pollution of the soils and the waters of the Garrison Dam and Reservoir Project.

6. That the United States reserves the right to use the said lands jointly with the lessee in connection with the construction, operation and maintenance of the Garrison Dam and Reservoir Project and to place improvements thereon or to remove materials therefrom, including sand and gravel and other construction material, as may be necessary in connection with such work, and that the lessee shall not interfere in any manner with such work or do any act which may increase the cost of performing such work. That if the cost of work performed by the Government at and in connection with the Garrison Dam and Reservoir Project, including work performed on lands outside the property included in the lease, is increased by reason of improvements constructed on the leased property by the lessee, the lessee shall pay to the United States money in an amount, as estimated by the Chief of Engineers, sufficient to

compensate for the additional expense involved.

ROGER ERNST,  
*Assistant Secretary of the Interior.*

FEBRUARY 27, 1959.

[F.R. Doc. 59-1893; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1810]

## ARIZONA

### Withdrawing Public Lands Within National Forests for Use of Forest Service as Recreation Areas, an Administrative Site and a Roadside Zone

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the national forests hereinafter designated, 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 under the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U.S.C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as recreation areas, an administrative site, and a roadside zone:

[Arizona 017227]

TONTO NATIONAL FOREST

*Mt. Ord Administrative Site*

T. 7 N., R. 9 E.,  
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
Totaling 40 acres.

[Arizona 017367]

COCONINO NATIONAL FOREST

*Recreation Area No. 2*

T. 20 N., R. 8 E.,  
Sec. 29, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
Totaling 10 acres.

[Arizona 017536]

COCONINO NATIONAL FOREST

*Forest Highway No. 10, Roadside Zone*

A strip of land 300 feet on each side of the center line of Forest Highway No. 10 through national forest lands in the following legal subdivisions:

T. 12 N., R. 9 E. (unsurveyed),  
Sec. 4, E $\frac{1}{2}$ NW $\frac{1}{4}$ .  
T. 13 N., R. 9 E.,  
Sec. 27, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
and S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 33, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
S $\frac{1}{2}$ NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
Totaling 218 acres.

[Arizona 018629]

CORONADO NATIONAL FOREST

*Miller Canyon Recreational Area*

T. 23 S., R. 20 E.,  
Sec. 23, E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$

SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

Totaling 60 acres.

*Peppersauce Canyon Recreation Area*

T. 10 S., R. 16 E.,  
Sec. 28, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$  (approximately 1.86 A) of M.S. 4097 lying therein.  
Totaling 58.14 acres.

*Cochise Stronghold Recreation Area*

T. 17 S., R. 23 E.  
Sec. 26, lots 2, 3, and 4.  
Totaling 121.98 acres.

The areas withdrawn by this order total 508.12 acres.

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

ROGER ERNST,  
*Assistant Secretary of the Interior.*

FEBRUARY 27, 1959.

[F.R. Doc. 59-1894; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1811]

[1242884]

## OREGON

### Partially Revoking Reclamation Withdrawal of January 4, 1943, Vale Project, Oregon

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

The Departmental order of January 4, 1943, which withdrew lands for ditch riders' headquarters sites in connection with the Vale Project, Oregon, is hereby revoked so far as it affects the following-described lands:

WILLAMETTE MERIDIAN

HEADQUARTERS NO. 106

T. 19 S., R. 42 E.,  
Sec. 26, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

The areas described aggregate 20 acres. The lands remain withdrawn for reclamation purposes by the Departmental order of December 14, 1926, in connection with the Vale Project.

ROGER ERNST,  
*Assistant Secretary of the Interior.*

FEBRUARY 27, 1959.

[F.R. Doc. 59-1895; Filed, Mar. 4, 1959;  
8:47 a.m.]

[Public Land Order 1812]

[31161]

## ALASKA

### Partially Revoking Public Land Order No. 553 of February 7, 1949

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:

1. Public Land Order No. 553 of February 7, 1949, which withdrew lands for use of the Alaska Railroad for terminal and station grounds and gravel pits, is hereby revoked so far as it affects the following-described lands:

**FAIRBANKS MERIDIAN**

- T. 6 S., R. 8 W. (unsurveyed),  
Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;
- Sec. 28, S $\frac{1}{2}$ ;
- Sec. 32, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ ;
- Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 7 S., R. 8 W.,  
Sec. 4, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ ;
- Sec. 5, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ ;
- Sec. E $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ , that portion lying west of the Alaska Railroad right-of-way.

The areas described aggregate approximately 1,259 acres.

2. In accordance with the provisions of the act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), and section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), the State of Alaska shall be entitled until 10:00 a.m. on May 29, 1959, to a preferred right to select the lands, subject to prior existing valid rights and to equitable claims subject to allowance and confirmation, and to the application for withdrawal referred to in paragraph 5.

3. Subject to any existing valid rights the requirements of applicable law, and the selection rights of the State of Alaska, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

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

(2) All valid applications under the Homestead, Alaska Home Site, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284) as amended, presented prior to 10:00 a.m. on May 29, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on August 28, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral

leasing laws, presented prior to 10:00 a.m. on August 28, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws beginning at 10:00 a.m. on August 28, 1959.

4. Persons claiming veterans preference rights under paragraph 3a(2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

5. The lands in Township 7 S., (709.59 acres), are included in application for withdrawal, Fairbanks 019801, filed by the Department of the Air Force. In accordance with the regulations in 43 CFR 295.11, therefore, applications for these lands will be suspended until action on the application for withdrawal has been taken.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Fairbanks, Alaska.

ROGER ERNST,

*Assistant Secretary of the Interior.*

FEBRUARY 27, 1959.

[F.R. Doc. 59-1896; Filed, Mar. 4, 1959; 8:48 a.m.]

[Public Land Order 1813]

[Fairbanks 011997]

**ALASKA**

**Withdrawing Public Lands at Cape Romanzof for Use of Department of the Air Force**

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

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), and reserved for use of the Department of the Air Force for military purposes: *Provided*, That, subject to such security regulations and measures as may be essential to the mission of the armed forces in the area, the natives shall be permitted to use the area for hunting, trapping, and gathering of eggs in their customary manner; will be permitted to fish and trap in the offshore waters adjacent to the entire withdrawn area, and will be allowed passage, excluding camping rights, along the north-

ern beach adjacent to any area closed for security reasons:

Beginning at the point of intersection of the mean high tide line of Igiak Bay and the mouth of Fowler Creek near the westerly extremity of Cape Romanzof, approximate latitude 61°46' N., longitude 166°03' W., thence

- Northwesterly, 2,000 feet, more or less, along said mean high tide line;
- North, 7,200 feet;
- East, 10,000 feet;
- North, 4,000 feet;
- East, 15,500 feet;
- South, 9,000 feet;
- West, 21,000 feet;
- South, 7,000 feet;
- West, 1,000 feet, more or less, to a point on the mean high tide line of Igiak Bay;
- Northwesterly, 4,000 feet, more or less, along said mean high tide line to the point of beginning.

The area described contains approximately 4,900 acres.

No disposal of the surface and subsurface resources, including mineral resources, of the lands shall be made except under the applicable public-land laws, and then only after such modification of the provisions of this order, with concurrence of the Department of the Air Force, as may be necessary to permit such disposal.

ROGER ERNST,

*Assistant Secretary of the Interior.*

FEBRUARY 27, 1959.

[F.R. Doc. 59-1897; Filed, Mar. 4, 1959; 8:48 a.m.]

**Title 46—SHIPPING**

**Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce**

**SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS**

[Gen. Order 12, Rev., Supp. 3, Amdt. 1]

**PART 281—INFORMATION AND PROCEDURE REQUIRED UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS**

**Sailing Schedules, Routes, etc.**

Section 281.1(a)(2) is amended to read as follows:

(a) *Sailing schedules, routes, etc.* \* \* \*

(2) (i) A substantial change, for the purpose herein, includes (a) an increase or decrease in the number of sailings in a subsidized service within the contractual minimum/maximum sailings specified; (b) the substitution of vessels as provided for in the subsidy agreement; (c) the omission or addition of port(s) of call; and (d) substantial changes in dates on which calls are made at specific ports. If, subsequent to the submission of the tentative sailing schedules, a substantial change as set forth in (a) and (b) of this subparagraph is made in any sailing schedule, the Maritime Administration shall be notified promptly (within two working days of the time decision is made regarding such change), provided that the minimum contract requirements with respect to port coverage and service requirements are adhered to as a result

of such change. If the Maritime Administration does not act on the proposed change within two working days after receipt of such notification, the proposed change shall be deemed approved. If, subsequent to the submission of the tentative sailing schedules, a substantial change as set forth in (c) and (d) of this subparagraph is made in any sailing schedule, the Maritime Administration shall be notified within seven calendar days after the vessel has sail outbound from the last United States port of call, provided that the minimum contract requirements with respect to port coverage and service requirements are adhered to as a result of such change.

(ii) Prior authorization based on written notification and explanation presented to the Maritime Administration must be obtained before the occurrence thereof for all proposed changes for which such prior approval is required by applicable contracts.

(Sec. 204, 49 Stat. 1937, as amended; 46 U.S.C. 1114)

Dated: February 26, 1959.

By order of the Maritime Administrator.

[SEAL] JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 59-1924; Filed, Mar. 4, 1959;  
8:52 a.m.]

#### SUBCHAPTER G—EMERGENCY OPERATIONS

[Gen. Order 82, Amdt. 2]

### PART 309—WAR RISK INSURANCE VALUES

#### Miscellaneous Amendments

Part 309 is hereby amended as follows:

1. Amend paragraphs (a) and (b) of § 309.2 to read as follows:

#### § 309.2 Scope.

(a) *Vessels included.* This part establishes insurance values for self-propelled ocean-going iron and steel vessels (other than vessels excluded pursuant to paragraph (b) of this section) for which war risk hull insurance is provided by the Maritime Administrator pursuant to Title XII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1281-1294), Public Law 763, 81st Congress, Public Law 209, 84th Congress, Public Law 958, 84th Congress. The insurance values established by this part represent the maximum amounts for which the Maritime Administrator will provide war risk hull insurance and for which claims for damage to or actual or constructive total loss of such insured vessels may be adjusted, compromised, settled, adjudged, or paid, by the Maritime Administrator with respect to insurance attaching on or after January 1, 1959, under the Standard Forms of War Risk Hull Insurance Interim Binder or Policy prescribed by §§ 308.106 and 308.107 of this chapter (General Order 75 (Revised) 22 F.R. 1175, February 28, 1957). Revised insurance values will be prescribed in subsequent revisions of this part, which are expected to be issued at least every

six months. The latest published values will remain in effect until new ones are published.

(b) *Vessels excluded.* The insurance values established pursuant to this part do not apply to passenger vessels, lumber schooners, car ferries, seatrains, cable ships, bulk cement and ore carriers other than colliers built prior to 1938, vessels operated on the Great Lakes and inland waterways, fully refrigerated vessels, vessels of less than 1,500 gross tons, or any other vessels or class of vessels to which the Maritime Administrator finds that the provisions of this part would not be appropriate. Values for vessels exempted from this part shall be specially determined by the Maritime Administrator and published as appendixes to this part.

2. Amend heading and paragraphs (a), (b) (1), and (c) of § 309.3 to read as follows:

#### § 309.3 Vessels built during or after 1938.

(a) *Basic values.* The insurance values of vessels built during or after 1938 shall be determined in accordance with this section, subject to the applicable adjustments provided in § 309.5.

(b) *War-built vessels.* (1) The insurance values of the standard types of war-built vessels listed herein sold by the United States under the Merchant Ship Sales Act of 1946 (which the Administrator has determined represent the domestic market values) are as follows:

Standard-type vessel:	Insurance value
EC2 -----	\$370,000
EC2-S-AW1 -----	560,000
VC2-S-AP2 -----	760,000
C1-MT-BU1 -----	270,000
C1-M-AV1 -----	435,000
C1 -----	550,000
C2 -----	885,000
C3 -----	1,090,000
C4 -----	1,065,000
Z-ET1-S-C3 -----	200,000
T1-M-BT -----	465,000
T2-SE-A1 -----	590,000
T3-S-A1 -----	640,000
T3-S-BZ1 -----	1,300,000
R1-M-AV3 -----	530,000

(c) *Other vessels.* The insurance value of a vessel built during or after 1938 which is not included in paragraph (b) of this section shall be the current domestic market value as determined by the Maritime Administrator.

3. Amend § 309.4 to read as follows:

#### § 309.4 Vessels built prior to 1938.

The basic insurance values of vessels built prior to 1938 shall be as follows, subject to applicable adjustments provided in § 309.5:

(a) For dry cargo vessels, \$10.50 per deadweight ton for a vessel built during 1937; \$8.50 per deadweight ton for a vessel built during 1936; and \$6.50 per deadweight ton for a vessel built prior to 1936;

(b) For tank vessels, \$9.00 per deadweight ton for a vessel built during 1937; \$7.50 per deadweight ton for a vessel built during 1936; and \$6.00 per deadweight ton for a vessel built prior to 1936;

(c) For collier vessels, \$10.50 per deadweight ton for a vessel built during 1937; \$8.50 per deadweight ton for a vessel built during 1936; and \$6.50 per deadweight ton for a vessel built prior to 1936.

4. Amend paragraphs (b), (e), and (f) of § 309.5 to read as follows:

#### § 309.5 Adjustments for condition, equipment and other consideration.

(b) *Special equipment.* For any special equipment of material utility in the handling of cargo or utilization of the vessel, not otherwise included in determining the basic insurance value pursuant to § 309.3 or § 309.4, if the depreciated reproduction cost less construction subsidy, if any, of all such special equipment is in excess of \$50,000.00, an allowance in such amount as the Maritime Administrator shall determine to be fair and reasonable value of such equipment less construction-differential subsidy thereon, shall be added to the basic insurance value.

(e) *Speed.* The basic insurance values determined pursuant to § 309.4 for vessels built prior to 1938 shall be adjusted as provided in subparagraph (1) or (2) of this paragraph.

(1) *Allowance for speed of more than 11 knots.* For vessels having a speed of more than 11 knots, there shall be added to the basic values provided in § 309.4, \$0.65 per deadweight ton for each knot thereof in excess of 11 knots (fractions of knots to be prorated to the nearest ¼).

(2) *Deduction for speeds of less than 9 knots.* For vessels having a speed of less than 9 knots, there shall be deducted from the basic values provided in § 309.4, \$0.65 per deadweight ton for each knot thereof less than 9 knots (fractions of knots to be prorated to the nearest ¼).

(f) *Refrigeration.* (1) The basic insurance values determined pursuant to § 309.4 shall be adjusted for refrigerated space as provided in this paragraph, subject to the limitation provided in paragraph (c) of this section.

(2) The net cubic capacity of each separately insulated refrigerated compartment of the vessel, exclusive of any refrigerated space ordinarily required for vessel's stores, shall be computed, and the total cubic capacity of all such compartments shall then be ascertained.

(3) The number of net cubic feet of the sum of all refrigerated compartments of the vessel, exclusive of the refrigerated space ordinarily required for the vessel's stores, shall then be multiplied by \$0.95 for a vessel built during 1937. For vessels built prior to 1937 and after 1934 this value shall be reduced by \$0.30 per net cubic foot of insulated refrigerated cargo space for each year of the vessel's age prior to 1937. For vessels built prior to 1935 the value shall be \$0.05 per net cubic foot of insulated refrigerated cargo space.

5. Amend paragraph (b) (3) and (4) of § 309.8 to read as follows:

#### § 309.8 Vessel data forms.

(b) *Vessels of 1,500 gross tons or over.* \* \* \*

(3) *Other vessels built during or after 1938.* If the vessel was built during or after 1938, and if it is not included in subparagraph (1) or (2) of this paragraph, vessel data shall be submitted on Form MA-472.

(4) *Vessels built prior to 1938.* If the vessel is a dry cargo, tank, or collier vessel built prior to 1938, vessel data shall be submitted on Form MA-473.

(Sec. 204, 49 Stat. 1987, as amended, Sec. 1209, 64 Stat. 775, as amended, 46 U.S.C. 1114, 1289)

*Effective date.* This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

Dated: February 26, 1959.

[SEAL] CLARENCE G. MORSE,  
Maritime Administrator.

[F.R. Doc. 59-1925; Filed, Mar. 4, 1959;  
8:52 a.m.]

## Title 50—WILDLIFE

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

### PART 33—CENTRAL REGION

Subpart—Sand Lake National Wildlife  
Refuge, South Dakota

#### FISHING

*Basis and purpose.* Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented,

and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that fishing on the Sand Lake National Wildlife Refuge, South Dakota, would be consistent with the management of the refuge.

By notice of proposed rule making published in the FEDERAL REGISTER of January 24, 1959 (24 F.R. 568), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit fishing on the Sand Lake National Wildlife Refuge by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, §§ 33.172 and 33.173 of Part 33, Subpart—Sand Lake National Wildlife Refuge, South Dakota, are deleted and revised § 33.171 is adopted as follows:

§ 33.171 Fishing permitted.

Entry upon the Sand Lake National Wildlife Refuge, South Dakota, during the daylight hours for the purpose of sport or noncommercial fishing is permitted subject to compliance with the provisions of Parts 18 and 21 of this chapter and the following conditions, restrictions, and requirements:

(a) *State laws.* Strict compliance with all applicable State laws and regulations is required.

(b) *Periods of use and waters open to fishing.* (1) Fishing is permitted from

May 15 to September 15, inclusive, in the waters of the James River adjacent to the Hecla Recreation Area in the NW¼ NE¼ Section 29, T. 128 N., R. 61 W., and the waters along the west shoreline of Sand Lake in Sections 21 and 28, T. 126 N., R. 62 W.

(2) Winter fishing is permitted during January and February of each year in the waters of the James River channel in Sections 20, 21, and 29, T. 128 N., R. 61 W., and that part of Sand Lake lying southwest of a line extended from the northwest corner to the quarter section corner in the south line of Section 15 and that part lying north of the south line extended of Section 21, T. 126 N., R. 62 W.

(c) Fishermen may not use boats or floating devices of any kind and must follow such routes of travel within the refuge as are designated by posting.

(d) The abandonment of personal property or the creation of a public nuisance is prohibited.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i)

In accordance with the requirements imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

Dated: February 27, 1959.

D. H. JANZEN,  
Director, Bureau of  
Sport Fisheries and Wildlife.

[F.R. Doc. 59-1888; Filed, Mar. 4, 1959;  
8:46 a.m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF THE TREASURY

Internal Revenue Service

126 CFR (1954) Part 11

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change From Retirement to Straight-line Method of Computing Depreciation

Proposed regulations under section 94 of the Technical Amendments Act of 1958, relating to change from retirement to straight-line method of computing depreciation, were published in the FEDERAL REGISTER for Friday, January 30, 1959. One or more interested parties have submitted comments and suggestions pertaining to the proposed regulations, and have requested an opportunity to comment orally at a public hearing on the proposed regulations.

A public hearing on the proposed regulations will be held on Thursday, March 12, 1959, at 10:00 a.m., e.s.t., in Room 3313, Internal Revenue Building, 12th and Constitution Avenue NW., Washington, D.C. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal

Revenue, Attention: T:P, Washington 25, D.C., by March 9, 1959.

[SEAL] MAURICE LEWIS,  
Director, Technical Planning  
Division, Internal Revenue  
Service.

[F.R. Doc. 59-1971; Filed, Mar. 4, 1959;  
8:54 a.m.]

### DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[ 50 CFR Part 31 ]

MALHEUR NATIONAL WILDLIFE  
REFUGE, OREGON

Fishing Permitted

Notice is hereby given that pursuant to the authority contained in section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), and under authority delegated by Commissioner's Order 4 (22 F.R. 8126), it is proposed to delete §§ 31.202, 31.205, and 31.206, and to revise § 31.201 of Subpart—Malheur National Wildlife Refuge, Oregon, Chapter I, Title 50, Code of Federal Regulations, to read as set forth in tentative form below. The

purpose is to delete unnecessary language and to permit additional fishing privileges.

Interested persons may submit in duplicate written comments, suggestions, or objections with respect to the proposed revision and deletions to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

Dated: February 27, 1959.

D. H. JANZEN,  
Director, Bureau of  
Sport Fisheries and Wildlife.

§ 31.201 Fishing permitted.

Subject to compliance with the provisions of Parts 18 and 21 of this chapter, sport or noncommercial fishing is permitted during the daylight hours on the waters hereinafter specified of the Malheur National Wildlife Refuge, Oregon, subject to the following conditions, restrictions, and requirements:

(a) *State laws.* Strict compliance with all applicable State laws and regulations is required.

(b) *Waters open to fishing.* During the period from July 1 through September 30, inclusive, of each year, fishing is permitted from the shoreline or from

boats in Krumbo Reservoir and Krumbo Creek. During the general fishing season prescribed by the State of Oregon, fishing is permitted only from the banks of Bridge Creek and of the Blitzen River from the mouth of Bridge Creek, where it enters the river, southward to the south boundary of the refuge.

(c) *Use of boats.* The use of row-boats, without motors, is permitted only for the purpose of fishing in the Krumbo Reservoir. Except for official purposes, the use of boats or floating devices of any description is prohibited on all other waters of the refuge and the use of motor-propelled boats is prohibited on all waters of the refuge. Boats may be launched only at sites designated for the purpose by suitable posting by the Refuge Officer in charge.

[F.R. Doc. 59-1889; Filed, Mar. 4, 1959; 8:46 a.m.]

### I 50 CFR Part 33 I

## UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE, ILLINOIS, IOWA, MINNESOTA, AND WISCONSIN

### Hunting Permitted

Notice is hereby given that pursuant to the authority contained in section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), and under authority delegated by Commissioner's Order 4 (22 F.R. 8126), it is proposed to revise § 33.274 of Subpart—Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, Chapter I, Title 50, Code of Federal Regulations, to read as set forth in tentative form below. The purpose is to provide the additional hunting of wildlife species which are not protected under existing Federal or State laws.

Interested persons may submit in duplicate written comments, suggestions, or objections with respect to the proposed revision to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

Dated: February 27, 1959.

D. H. JANZEN,  
Director, Bureau of  
Sport Fisheries and Wildlife.

### § 33.274 Hunting permitted.

The hunting of upland game birds, game mammals, migratory game birds, and wildlife species not specifically protected by Federal or State laws is permitted within the open areas of the Upper Mississippi River Wild Life and Fish Refuge subject to the following conditions, restrictions, and requirements:

(a) *State laws.* Any person who hunts within the refuge must comply with all applicable State laws and regulations, and hunting is not permitted at any time when State law or regulation does not allow such hunting.

(b) *Hunting licenses and permits.* Any person who hunts within the refuge

shall be in possession of a valid State hunting license if such license is required, which license shall serve as a Federal permit for hunting on lands of the refuge.

(c) *Federal hunting laws.* Any person hunting migratory game birds within the open areas of the refuge must comply with the regulations prescribed under the Migratory Bird Treaty Act.

(d) *Hunting season and open areas.* During the period commencing on the first day of the migratory waterfowl hunting season until March 1 of each succeeding year, public hunting is permitted on all the lands under the jurisdiction of the Bureau of Sport Fisheries and Wildlife except within the closed areas as defined in § 33.275: *Provided*, That the hunting of deer with bow and arrow may be permitted in advance of the migratory waterfowl hunting season.

(e) *Entry.* Entry on and use of the refuge for any purpose are governed by the regulations in Parts 18 and 21 of this chapter, and strict compliance therewith is required. Persons entering the refuge for the purpose of hunting shall follow such routes of travel as may be designated by suitable posting by the refuge officer in charge. Hunters, when entering or leaving a public hunting area, must report to representatives of the Bureau or of the State at such checking stations as may be established for the purpose of regulating the hunt.

[F.R. Doc. 59-1887; Filed, Mar. 4, 1959; 8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### I 7 CFR Parts 972, 1012 I

[Docket Nos. AO-177-A18, AO-278-A2]

### MILK IN TRI-STATE AND BLUEFIELD MARKETING AREAS

#### Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendments to Tentative Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreements, and orders regulating the handling of milk in the Tri-State and Bluefield marketing areas. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 7th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

*Preliminary statement.* The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, were formulated, was conducted at Bluefield, West Virginia, on December 1 and 2, 1958, pursuant to notice thereof which was issued November 10, 1958 (23 F.R. 8872).

One of the material issues (No. 1) on the record of the hearing relates to both the Tri-State and Bluefield orders; the others relate only to the Bluefield order. The material issues are:

1. Marketing area—whether Pike, Floyd, Johnson, and Martin counties, Kentucky should be included in the Tri-State or Bluefield marketing areas, or be regulated under a separate order.

2. Allocation of receipts from a plant subject to another Federal order.

3. Classification of milk diverted or transferred to nonfluid milk plants.

4. The milk manufacturing plants from which prices should be obtained for formula purposes.

5. Classification of shrinkage.

6. Reports to cooperative associations.

7. Exemption of plants from fluid milk plant status and allocation of other source milk received in bulk form.

8. Provision for more than one accounting period within a month.

9. Determination of daily base.

10. Conforming and miscellaneous changes.

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

1. *Marketing area.* Proposals were considered at the hearing to include Pike, Floyd, Johnson, and Martin counties, all in the State of Kentucky, as part of the marketing area under either the Bluefield or Tri-State Federal orders or as the marketing area of a separate order. A proposal to include these counties in the Tri-State marketing area was considered at a separate hearing which was held in Gallipolis, Ohio, on December 3, 4 and 5, 1958, pursuant to the notice of hearing issued November 10, 1958 (23 F.R. 8872). Findings and conclusions relative to this issue are reserved for later decision pending further study of the two hearing records. Official notice is taken of the incorporation by reference into the record of the Gallipolis hearing of the testimony given at this hearing covering the issue of regulation of milk sold in those four counties.

2. *Allocation of receipts from a plant subject to another Federal order.* The milk accounting procedure should be modified to accommodate procurement of certain packaged fluid milk products by a handler from a plant regulated under the Appalachian order.

A handler proposed that certain packaged fluid milk products received by a Bluefield fluid milk plant from a plant regulated under the Appalachian order should be allocated to the Class I disposition of the same items by the Bluefield plant. The handler proposed that this allocation of receipts of the specified kinds of packaged milk and milk products would apply only when such milk

was classified as Class I milk under the Appalachian order, was disposed of as Class I milk from the Bluefield plant in the same form as received, and the same product was not processed or packaged in the same type container in the Bluefield plant.

The proponent handler operates a fluid milk plant under the Appalachian order as well as a fluid milk plant under the Bluefield order. Consumer-packaged skim milk, cream, half-and-half, sour cream, and glass-packaged milk are regularly received on a day-to-day basis at the Bluefield plant from the handler's Appalachian plant. None of the items named is packaged at the Bluefield plant nor does the Bluefield plant receive these products from any other plant but the one regulated under the Appalachian order. The Bluefield plant processes and packages all other products which are disposed of from the plant as Class I.

The present system of accounting for milk under the order gives producer milk prior claim to all Class I sales. This is accomplished by assigning milk from nonproducer sources (other source milk) to the Class II utilization in the handler's plant to the extent possible. Any other source milk in excess of Class II utilization is assigned to Class I disposition. Other source milk which is priced under another Federal order is assigned separately to utilization in the Bluefield fluid milk plant after the assignment of any other source milk from plants not under any Federal order regulation. This accounting procedure tends to accommodate a handler who wishes to obtain supplemental milk from another Federal order market when his own producer supply is not sufficient to cover Class I needs. The proposal of the handler accommodates a different situation, in that the source of certain products depends on specialized plant operation rather than availability of producer milk.

Under the terms of the Appalachian order, all disposition by a plant of packaged fluid milk products (including transfers to Bluefield plants) is Class I milk for which the plant is obligated to pay Appalachian producers. When such packaged items are received at a Bluefield plant and disposed of therefrom to consumers, they then become Class I disposition under the Bluefield order, for which the handler is obligated to Bluefield producers to the extent that producer milk is available.

In recognition of this regular transfer of packaged items, and the fact that the daily and seasonal reserves are, in fact, borne by the Appalachian producers, the allocation provisions of the Bluefield order should be modified so that Class I disposition by a Bluefield handler of consumer-packaged milk, skim milk, cream, mixtures of cream with milk or skim milk, and sour cream which were received from an Appalachian fluid milk plant will be assigned first to Class I prior to the other steps in the allocation procedure. Any distinction as to type of container is impractical. The credit to the handler should be based on the lesser of the quantity of receipts or sales in the case of each packaged product.

Another handler proposed that any

milk which is priced as Class I under another order should take priority over producer milk in the accounting procedure. The handler did not testify as to any handler who was receiving milk from another Federal order plant on a regular basis nor did he show any need as to why other Federal order milk should take priority over milk of producers who ordinarily and regularly supply milk for handlers' Class I sales and the reserve supply associated with such sales. Accordingly, the modification is denied.

3. *Classification of milk diverted or transferred to nonfluid milk plants.* The order should provide that milk transferred or diverted to a nonfluid milk plant may be classified as Class II utilization subject to use verification by the market administrator if the plant is not more than 300 miles from Bluefield, West Virginia.

The order now provides that milk transferred or diverted to a nonfluid milk plant which is more than 200 miles from Bluefield, West Virginia, shall be classified as Class I. A handler proposed that this provision should be modified so that transfers or diversions to a nonfluid milk plant located at Maysville, Kentucky, which is approximately 260 miles from Bluefield, West Virginia, could be classified as Class II milk if equivalent use were shown in the nonfluid milk plant. The Maysville plant is located approximately 13 miles from the farms of some of this handler's producers.

In recognition of the nearness of the manufacturing facility at Maysville to the farms of the group of Bluefield producers, it is appropriate that milk diverted thereto should be classified according to equivalent use. This may be accomplished by extending the mileage limitation to 300 miles from Bluefield. In view of the numerous milk manufacturing plants within the milkshed area, there is no need to extend the distance limitation beyond this. Such a limit should be retained with respect to classification of diversions and transfers in the interest of avoiding undue cost to the market administrator in verifying utilization at nonfluid milk plants.

4. *The milk manufacturing plants from which prices should be obtained for formula purposes.* The list of manufacturing plants named in the order for the purposes of establishing a Class II price and also as one of the alternatives for the basic formula price should not be changed.

A handler proposed that this list of milk manufacturing plants should be changed by deleting the Kraft Foods Company plant at Greeneville, Tennessee, and inserting the Carnation Company plant at Maysville, Kentucky. In a decision of the Assistant Secretary issued April 14, 1958 (23 F.R. 2533), official notice of which is taken, the list of manufacturing plants now used for formula pricing purposes was changed to give a better representation of the price level for manufacturing milk in the area. The proponent handler did not present data as to prices paid at the named plant. The testimony did now show that the proposed change would

result in a more appropriate price for Class II milk. The proposal is denied.

5. *Classification of shrinkage.* No change should be made in the classification of shrinkage.

A handler proposed that the classification of shrinkage allocated to producer milk should be Class II up to 2 percent of the volume of producer milk. This same proposal was considered at the previous hearing to amend the Bluefield order and it was denied in the decision of the Assistant Secretary issued April 14, 1958. The testimony in the record of this hearing does not show that any change in marketing conditions in the Bluefield area since the previous decision would require modification of the classification of shrinkage of producer milk. The proposal is denied for the same reasons as set out in the decision of April 14, 1958.

6. *Reports to cooperative associations.* A producer association asked that the order require the market administrator to furnish to cooperative associations the information as to the pounds of milk delivered by member-producers which was used in Class I by each handler (computed on a pro rata basis) and the percentage relationship of member-producer milk to all Class I disposition by the handler.

The producer association requested this provision to facilitate the efficient marketing of members' milk according to handler needs, and to achieve the highest possible Class I utilization of member milk. Handlers opposed this provision, taking the position that a cooperative could obtain sufficient information for these purposes through calculations based on the published blend prices paid by each handler.

The Bluefield order provides for two classes of utilization and individual handler pooling. An approximate utilization of members' milk could be computed from the blend price of each handler, with some possible discrepancies, however, due to rounding of figures, audit adjustments, inventory adjustments, and different class utilization of butterfat and skim milk. This calculation would not show the relation of members' milk in Class I to the handler's total Class I disposition if the handler received milk from nonmember sources.

The market administrator could compute the amount of member milk for each handler and its pro rata utilization on an exact basis for skim milk and butterfat with only minor extensions of the computations now required under the order. This part of the provision requested by producers would not involve any additional reports by handlers and it would be helpful to the association in arranging supplies of milk according to handlers' needs. It is concluded that such a provision should be included in the order.

The further proposal that there be revealed to the association the percentage relation of members' milk in Class I to total Class I use of the handler would in effect provide the association with information as to the amount of the handler's supply from nonmember sources. Such nonmember sources might

or might not be a cooperative association. There is not a clear justification on the record for revealing to cooperative associations information as to amounts of nonmember milk received by a handler, or use thereof.

7. *Emergency exemption of shipping plants from price regulation.* A group of handlers proposed two amendments which would allow them to use milk from unregulated sources for Class I sales when, under the terms of the proposal, "milk was not available from producers at order prices". One of these amendments would at such times allow any plant to ship milk to a fluid milk plant in this market without becoming subject to price regulation. The other proposed amendment would allow for allocation of such other source milk to Class I before producer milk.

Federal orders establish minimum prices to be paid by handlers to producers in regulated markets. To achieve the purpose of orderly marketing as set forth in the Agricultural Marketing Agreement Act of 1937, it is necessary that the regulation cover all plants supplying the market excepting such minor operations and temporary arrangements which do not disturb and undermine the pricing regulation. If it were possible for handlers to draw a substantial proportion of their supply from sources not subject to price regulation, this situation would make the pricing function of the order ineffective and useless, and a disorderly marketing situation would result. The partial regulation of market supply contemplated in the handler proposals obviously could result in inequality in the application of minimum prices among handlers, and would encourage every handler to seek milk from unregulated sources.

The interruption for any reason of supply from the normal sources upon which handlers depend is not a usual situation and may be likely to involve factors which cannot be foreseen with such exactness that the situation or remedy therefor can be described in order provisions. In any case, there is no restriction under the order concerning from which farmers or plants handlers may purchase milk.

It is concluded that the proposed exemption of shipping plants from the price provisions of the order is not in accordance with the purposes of the Agricultural Marketing Agreement Act and is hereby denied.

In view of this it is unlikely there would be any substantial percentage of unregulated milk in handlers' plants used to meet Class I requirements. It is possible that there would be some other source milk used in Class I, since the order does not regulate during the period of August through January plants which ship less than 70,000 pounds a month to the market and which receive milk only from farmers who do not hold permits issued by a health authority in the marketing area. To the extent unregulated milk may be received, however, it should continue to be subject to accounting procedure such as is now in the order which gives producer milk priority in assignment to Class I use. This is necessary to assure producers of the minimum

blend prices which it is contemplated under the statute will need to be returned to them. In another part of this recommended decision it is concluded that a handler should be allowed to use more than one accounting period in a month. In view of these considerations the order will provide adequate flexibility to handlers in procuring supplies of milk for Class I milk needs, and there is no basis for any allocation of unregulated milk to Class I before producer milk.

8. *Provision for more than one accounting period within a month.* Handlers should be allowed to use accounting periods of less than a month after proper notification to the market administrator.

Handlers requested that accounting periods of less than a month be permitted. The purpose of this proposal was to allow allocation of milk from nonproducer sources to Class I when producer milk becomes short within periods of less than a month. If handlers were allowed to use accounting periods of less than a month, producer milk could then be allocated according to its availability within such accounting period.

Under present monthly accounting, if a handler's receipts of producer milk are adequate at the beginning of a month but near the end of the month are less than Class I sales, then the excess of producer milk at the beginning of the month would be at least partially allocated to Class I sales in the latter part of the month.

The monthly accounting system has become the usual standard under Federal milk order regulation and is generally accepted as the most practical method of applying the provision of the Act which requires milk to be classified "in accordance with the form in which or the purpose for which it is used \* \* \*". There are administrative limitations involved in accounting for specific "lots" of milk according to physical disposition; and allocation provisions such as those provided in the order are necessary to distinguish producer and other source milk for classification purposes. This distinction eliminates the impossible administrative task of ascertaining the particular use of each hundredweight of milk from each source and makes possible a practical accounting system. The extent to which producer milk may be given priority allocation of higher-valued uses has been established as the prerogative of the Secretary in formulating provisions which will provide for producers reasonable protection against substitution for producer milk and thus promote orderly marketing. In any event, the handler is not compelled to pay producers for any greater utilization of milk than he actually uses in the particular class.

During the ten-month period beginning with January 1958 and ending with October 1958, producer receipts as a percent of Class I sales ranged from a high of about 126 in June to a low of approximately 95 in March. Total producer receipts during this period were approximately 105 percent of total Class I sales. In view of the relatively narrow margin which exists in some months be-

tween production and sales, the probability of shortages of producer milk during periods of less than a month is more likely than in markets with larger reserves. The additional flexibility in the procurement, which would be allowed to handlers under this proposal, could be of benefit in assuring an adequate supply for the market at all times.

It is not likely all handlers in the market will exercise, at the same time, the use of an accounting period of less than a month. This consideration bears on the cost of administering the order and the sharing of the burden of this cost among handlers. While the net obligation of handlers will continue to be computed on a monthly basis, the division of a month into more than one accounting period requires proof of receipts, sales, inventories, and shrinkage for each period. It is apparent that the administrative costs involved in verifying handlers' reports and dealing with the additional administrative problems would be increased, and that these increased costs would be directly associated with the operations of the handler who elected the shorter accounting period. For these reasons there would not be an equitable sharing of the administrative costs among handlers unless the additional expenses involved were placed upon the handler responsible. There is not now any experience in this market by which to measure precisely how much additional expense would be incurred. It is possible that the administrative costs in verifying a handler's operations for a shorter accounting period would be about the same as for a monthly period. Accordingly, a handler electing to use more than one accounting period within a month should pay for administrative expense at a rate calculated by multiplying the normal rate by the number of accounting periods in the month. It is provided in the attached proposed amendment, however, that the amount could be reduced if actual cost proves to be less than the specified rate.

In order to facilitate the administration of the order, each handler who elects to use more than one accounting period within a month should before the end of each accounting period notify the market administrator of his election of the shorter accounting period.

9. *Determination of daily base.* The Bluefield order should be amended to include in the calculation of each producer's daily average base the milk received at Appalachian fluid milk plants during the previous months of September through February from the same farm (or farms) from which milk was received by fluid milk plants under the Bluefield order.

A producer association proposed that producers whose milk is intermittently delivered to plants under the Appalachian order during the base-forming period be credited with such deliveries in computation of base under the Bluefield order. The proponent cooperative is responsible for marketing over 95 percent of the producer milk received at fluid milk plants under the terms of both the Bluefield and the Appalachian milk orders. At times, if the milk of certain producers is not needed by the

Bluefield or Appalachian fluid milk plants operated by proprietary handlers, it is received at a plant operated by the cooperative at Bristol, Virginia, which has qualified in every month since beginning operations as a fluid milk plant under the provisions of the Appalachian order. The cooperative plant, in turn, supplies milk to Appalachian plants and at least one Bluefield plant, thus servicing both markets. Some of the milk in excess of the fluid sales requirements of plants distributing in the marketing area has been shipped from the cooperative plant to plants located in Florida, North Carolina, and South Carolina.

The base plan in the Bluefield order was provided to encourage individual producers to deliver a greater proportion of milk in short production months and a lesser proportion during flush production months. (In this connection official notice is taken of the decision of the Assistant Secretary issued August 31, 1956 (21 F.R. 6780).)

On several days during September and October 1958, the milk of 53 dairy farmers which was not needed for Class I use at those Bluefield fluid milk plants which ordinarily receive it was received at the cooperative's plant at Bristol, Virginia. Bases will be calculated for these farmers pursuant to the terms of the Appalachian order on such deliveries. Accordingly, these farmers will have partial bases in the forthcoming months of April through July 1959 under the terms of both the Bluefield and Appalachian orders and not a full base under either order. Therefore, the concerned producers will receive relatively less base than warranted by the seasonality of their production.

Handlers requested that the new base provision proposed by producers should apply only in those periods when Bluefield producer milk is more than 110 percent of Class I sales. Handlers argued that their modification would prevent the cooperative from removing milk from the market to take advantage of a higher Class I price elsewhere at times when such milk is needed by the Bluefield market.

Such a modification of the proposed plan appears unnecessary. Maintenance of an adequate supply for the Bluefield market would not be threatened by inclusion in base computations the occasional deliveries of milk to Appalachian order plants when such milk is not needed by Bluefield handlers. If the association removed milk needed by Bluefield handlers its members would lose Class I sales in this market. The fact that both of these markets, during the base-forming period, experience a rather small percentage of milk in reserve indicates that some occasional transfers of producers between markets to meet variations in handlers' requirements would be in the interests of economical utilization of the supply available to the two markets.

It is concluded that the proposed provision for including deliveries to Appalachian order plants in the computation of bases for Bluefield producers with certain limitations would tend to further the objective of obtaining a better seasonal pattern of production and thus would be in the interest of

orderly marketing of milk for both markets. It will facilitate shifting of supplies between the two markets to meet the variations in needs of handlers.

The computation of bases should provide, however, that a producer will not be given a base which was not substantially earned by deliveries to Bluefield handlers' plants. This is necessary so that the effects and the benefits of the base plan will apply to those farmers who constitute the substantial and regular supply for the market. The amount of milk deliveries to Appalachian order plants which should be included in the computation of bases for Bluefield producers should be limited to 30 days' production during the base-forming period. Such an allowance will provide adequate flexibility with respect to a need for shifting producers between the two markets and economical use of the milk supplies.

**10. Conforming changes.** Prior findings and conclusions herein call for changes in order provisions which would require some changes in designations of paragraphs or subdivisions thereof, and references thereto.

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

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and

commercial activity specified in, a marketing agreement upon which a hearing has been held.

**Recommended marketing agreement and order amending the order.** The following order amending the order regulating the handling of milk in the Bluefield, West Virginia, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete the portion of § 1012.30 preceding paragraph (a) and insert the following:

**§ 1012.30 Reports of receipts and utilization.**

On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator for such month, and for each accounting period in such month, in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

**§ 1012.30 [Amendment]**

2. In § 1012.30, delete the word "and" at the end of paragraph (d); delete the period at the end of paragraph (e) and insert a semicolon and the word "and"; and add a new paragraph (f) as follows:

(f) Each handler who submits reports on the basis of accounting periods of less than a month, as described in § 1012.46(d), shall submit a summary report of the same information for the entire month.

**§ 1012.44 [Amendment]**

3. In § 1012.44(c), delete the language preceding subparagraph (1) and substitute the following:

(c) As Class I milk if diverted or transferred in bulk form as milk or skim milk to a nonfluid milk plant located in the marketing area or not more than 300 miles by the shortest highway distance as determined by the market administrator from the City Hall in Bluefield, West Virginia, unless:

**§ 1012.46 [Amendment]**

4a. In § 1012.46, delete paragraph (a) and substitute the following:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class I milk disposed of as milk, skim milk, cream (except frozen cream), and any mixture in fluid form of milk, skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix and egg nog), all in consumer-packaged form on routes, the pounds of such skim milk received during the month in the same product and same packages from a plant fully regulated pursuant to Order No. 23 (Part 923 of this chapter) regulating the handling of milk in the Appalachian marketing area;

(2) Subtract from the total pounds of skim milk in Class II milk the pounds

of skim milk assigned to producer milk pursuant to § 1012.42(d);

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk (that derived from milk priced under another Federal order, not including that subtracted pursuant to subparagraph (1) of this paragraph, to be subtracted last): *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, the amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 1012.41(a) (1) on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 1012.41(a) (1), according to its classification as determined pursuant to § 1012.44(a);

(6) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (2) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

b. In § 1012.46, delete the period at the end of paragraph (c) and insert a semicolon and the word "and", and add paragraph (d) as follows:

(d) A handler may account for receipts of milk, utilization of milk and classification of milk for a period of less than a month if he notifies the market administrator in writing of his intention to use such accounting period not later than the end of such accounting period.

#### § 1012.53 [Amendment]

5. In § 1012.53, delete the proviso and substitute the following: "*Provided*, That for the purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1012.46(a) (1), (2) and (3), and the comparable steps in § 1012.46(b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential."

#### § 1012.70 [Amendment]

6. In § 1012.70, delete paragraph (e) and substitute the following:

(e) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 1012.46 (a) (4) and (b), whichever is less.

7. Delete § 1012.80, and substitute the following:

#### § 1012.80 Determination of daily base.

The daily base of each producer shall be calculated by the market administrator as follows: To the pounds of milk received from the producer during the months beginning with September of the previous year and through February of the current year at all fluid milk plants add the milk produced by the same person on the same farm(s) on 30 days or less during such months and received at plants which are defined as fluid milk plants pursuant to the order regulating the handling of milk in the Appalachian marketing area (Part 923 of this chapter), and divide by the number of days from the first day milk is so received to the last day of February, inclusive, but not less than 120 days: *Provided*, That if milk so received at a fluid milk plant pursuant to Part 923 of this chapter is more than 30 days' production, the production on only the first 30 of these days shall be used for this computation.

8. In § 1012.95, delete the period at the end of paragraph (c) and insert a comma and the word "and" and add a new paragraph (d) as follows:

(d) with respect to payments pursuant to paragraphs (a), (b) and (c) of this section, if a handler uses more than one accounting period in a month, the rate of payment per hundredweight for such handler shall be the rate for monthly accounting periods multiplied by the number of accounting periods in the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods.

Issued at Washington, D.C., this 26th day of February 1959.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.

[F.R. Doc. 59-1910; Filed, Mar. 4, 1959;  
8:49 a.m.]

### 17 CFR Part 989 I

## RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

### Off-Grade Raisins Which Are Not Reconditioned Successfully

Notice is hereby given that there is being considered a proposal to amend

§ 989.158(c) (4) of the administrative rules and regulations, as amended (Subpart—Administrative Rules and Regulations; 23 F.R. 2444, 2568, 6971, 9769), for operations under, and pursuant to, Marketing Agreement No. 109, as amended, and Order No. 89, as amended (7 CFR Part 989), regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The amendment is proposed on the basis of the recommendation of the Raisin Administrative Committee and other information available to the Secretary.

Consideration will be given to data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than five days after publication of this notice in the FEDERAL REGISTER.

Section 989.158(c) (4) provides, in part, that no handler shall return to the tenderer any off-grade raisins received for reconditioning which, after his reconditioning of them is complete, have been stemmed (and thus are no longer in their natural condition) and which then fail to meet the applicable minimum grade standards. In addition, provision is made for the disposition of such raisins by the handler for distillation, animal feed, or uses other than for human consumption. Operation under these provisions disclose that in some instances tenderers of such raisins that are not reconditioned successfully desire to have other handlers further recondition them in an effort to recover standard raisins therefrom. As hereinafter set forth, it is proposed to amend § 989.158(c) (4) to permit, under proper safeguards, such raisins to be returned to the tenderers for the transfer of the raisins to other handlers for reconditioning. Thus, the prohibition against the disposition for human consumption of off-grade raisins would remain in effect and, at the same time, the amendment would permit the recovery of standard raisins to the extent practicable.

The proposal is to amend § 989.158(c) (4) of the administrative rules and regulations, as amended (Subpart—Administrative Rules and Regulations; 23 F.R. 2444, 2568, 6971, 9769), in the following respects:

Immediately after the heading of subparagraph (4) insert "(i)"; insert between the third and fourth words of the first sentence "except as otherwise specifically provided in subdivision (ii) of this subparagraph,"; and add a new subdivision "(ii)" so that subparagraph (4), as amended, will read as follows:

(4) *Off-grade raisins which are not reconditioned successfully.* (i) No handler shall, except as otherwise specifically provided in subdivision (ii) of this subparagraph, return to the tenderer any off-grade raisins received for reconditioning which, after his reconditioning of them is complete, have been stemmed (and thus are no longer in their natural condition) and which then fail to meet the applicable minimum grade stand-

ards. The handler shall maintain the identity of such raisins and mark them as stemmed raisins which failed to meet the minimum grade requirements after reconditioning, and shall hold them separate and apart from any other raisins. He shall physically dispose of such raisins pursuant to § 989.159(g)(2), for distillation, animal feed, or for any use other than for human consumption. Where the tenderer has not sold such raisins to the handler, the choice of prescribed disposition outlets shall be with the tenderer and the sale for the account of the tenderer.

(ii) Any such handler may, with the prior approval of the committee, return the stemmed raisins, but not the residual, to the tenderer for removal by the tenderer directly to the premises, within California, of another handler for the further reconditioning of the raisins at such premises. The committee shall require, as a prerequisite to granting approval, a written statement from the other handler that he will receive and accept the raisins for such reconditioning. Such raisins may be so returned to the tenderer, removed directly to the premises of the other handler for the further reconditioning, and received by the other handler all without inspection. However, such return to, and removal by, the tenderer, and the receipt of the raisins by the other handler, shall all be at the committee's direction and under its supervision. On and after such receipt of raisins for further reconditioning, all applicable provisions (including, but not being limited to, requirements and obligations) of this part shall apply with respect to such raisins and the handlers receiving them.

Dated: February 27, 1959.

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

[F.R. Doc. 59-1909; Filed, Mar. 4, 1959;  
8:49 a.m.]

### Commodity Stabilization Service

[ 7 CFR Part 813 ]

### 1959 SUGAR QUOTA FOR DOMESTIC BEET SUGAR AREA

#### Notice of Hearing on Proposed Allotment

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended) and in accordance with the applicable rules of practice and procedure (7 CFR 801.1 et seq.) and on the basis of information available to me, I do hereby find that the allotment of the 1959 sugar quota for the Domestic Beet Sugar Area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and hereby give notice that a public hearing will be held in Washington, D.C., Room 5862 South Building, U.S. Department of Agriculture, on March 19, 1959, beginning at 10:00 a.m., e.s.t.

The purpose of this hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient and equitable distribution of the above-mentioned quota for the calendar year 1959 among persons who process and market sugar produced from sugar beets grown in the Domestic Beet Sugar Area. The preliminary finding made above is based upon the best information now available. It will be appropriate at the hearing to present evidence on the basis of which the Secretary may affirm, modify, or revoke such finding and make or withhold allotment of any such quota in accordance therewith.

In addition, the subjects and issues of this hearing include (1) the manner in which consideration should be given to the statutory factors as provided in section 205(a) of the act, and (2) the manner in which allotments should apply to sugar or liquid sugar processed under contracts providing for sugar beets or

molasses to be sold to and processed for the account of one allottee by another.

It will also be appropriate at the hearing to present evidence on the basis of which the allotment of the quota or proration thereof may be revised or amended by the Secretary for the purposes of (1) allotting any increase, or decrease, in the quota resulting from a change in United States sugar requirements or from the proration of a deficit of any area quota; (2) prorating any deficit in the allotment for any allottee; and (3) substituting final actual data for estimates of such data wherever estimates are used in the formulation of an allotment of the quota.

Issued this 27th day of February 1959.

[SEAL] TRUE D. MORSE,  
Acting Secretary.

[F.R. Doc. 59-1912; Filed, Mar. 4, 1959;  
8:50 a.m.]

## NOTICES

### DEPARTMENT OF COMMERCE

#### Federal Maritime Board

#### MEMBER LINES OF PACIFIC COAST EUROPEAN CONFERENCE ET AL.

#### Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 5200-16, between the member lines of the Pacific Coast European Conference, modifies the basic agreement of that conference (No. 5200, as amended), which covers the trade from U.S. Pacific Coast ports to Great Britain, Northern Ireland, Irish Free State, Continental, Baltic, and Scandinavian ports, and to base ports in the Mediterranean Sea, and to transshipment ports in the Mediterranean, Adriatic, and Black Seas, West, South and East Africa, British India and Iraq. The purpose of the modification is to re-describe the trading area covered by the conference agreement to (1) change the designation of Irish Free State and Great Britain to Ireland and the United Kingdom of Great Britain, respectively, the present day designations of those countries; (2) eliminate British India and Iraq from the scope of the agreement; and (3) include the Azores, Madeira, Canary and Cape Verde Islands within the scope of the agreement.

(2) Agreement No. 5200-17, between the member lines of the Pacific Coast European Conference, modifies the basic agreement of that conference (No. 5200, as amended), to provide that new conference members will automatically become parties to, and members withdrawing from the conference will automatically cease to be parties to, any

agreement entered into between the members (jointly), and any other carrier or other person subject to the Shipping Act, 1916, as amended, which agreement has been approved pursuant to section 15 of said Act.

(3) Agreement No. 8080-3, between the member lines of the Atlantic and Gulf-Indonesia Conference, modifies the basic agreement of that conference (No. 8080, as amended), to include the trade from U.S. Atlantic and Gulf ports to ports in Portuguese Timor and Netherlands New Guinea within the scope of the conference agreement. Agreement No. 8080, as amended, presently covers the trade from said United States Atlantic and Gulf ports to Indonesia.

(4) Agreement No. 8299, between the member lines of the Pacific Coast European Conference (Agreement No. 5200, as amended), jointly, and Matson Navigation Company, covers a through billing arrangement in the trade from Hawaii to ports of destination within the scope of said conference, with transshipment at Pacific Coast ports of the United States. Said conference covers the trade from U.S. Pacific Coast ports to Great Britain, Northern Ireland, Irish Free State, Continental, Baltic and Scandinavian ports and to base ports in the Mediterranean Sea, and to transshipment ports in the Mediterranean, Adriatic and Black Seas, West, South and East Africa, British India and Iraq.

(5) Agreement No. 8260-3, between the member lines of the Mediterranean-U.S.A. Westbound Freight Conference, modifies the basic agreement of that conference (No. 8260, as amended), which covers the trade from ports on the Mediterranean, from Gibraltar to Port Said, including Marmara, Black Sea and Adriatic ports, and from Iberian Peninsular ports, North African ports, including Morocco, all inclusive, to U.S. ports of the Great Lakes, by direct call or transshipment. The purpose of the modi-

fication is to provide that (1) the conference shall relinquish control over the booking and transportation of all commodities on which the rates have been declared "open", and (2) an agent of a member line may perform husbanding services for tramp vessels carrying full unpacked homogeneous cargoes in bulk, provided the agent is in no way connected with the fixing of the vessel, control of the cargo, or is in any manner otherwise interested in the vessel or cargo.

(6) Agreement No. 8349, between Hamburg-Sudamerikanische Dampfschiffahrts-Gesellschaft Eggert & Am-sinck (Columbus Line) and Bull Insular Line, Inc., covers a through billing arrangement in the trade from Brazil, Argentina and Uruguay to Puerto Rico, with transshipment at New York, Baltimore, Philadelphia, Mobile or New Orleans.

(7) Agreement No. 8353, between Crusader Shipping Co., Ltd., and J. Lauritzen, covers a sailing arrangement in the trade from New Zealand and South Sea Islands to Honolulu and Pacific Coast ports of the United States.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: March 2, 1959.

By order of the Federal Maritime Board.

[SEAL]

GEO. A. VIEHMANN,  
Assistant Secretary.

[F.R. Doc. 59-1926; Filed, Mar. 4, 1959;  
8:52 a.m.]

[Docket No. 849]

[Agreement No. 4188]

### AGREEMENT AND PRACTICES PERTAINING TO FREIGHTING AGREEMENT, GULF AND SOUTH ATLANTIC HAVANA STEAMSHIP CONFERENCE

#### Notice of Amended Order and Notice of Investigation and of Hearing

On February 19, 1959, the Federal Maritime Board entered the following amended order, which supersedes and cancels its previous order herein of January 12, 1959:

Whereas, Compania Naviera Cubamar, S.A., Lykes Bros. Steamship Co., Inc., Ward-Garcia, S.A., Standard Fruit and Steamship Company, United Fruit Company, and West India Fruit and Steamship Co., Inc. are parties to a certain Agreement No. FMB 4188 approved by the Federal Maritime Board pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C.A. 814), and pursuant to that agreement act jointly as the Gulf and South Atlantic Havana Steamship Conference for the purpose of jointly estab-

lishing, regulating and maintaining among their membership uniform practices relating to rates and for other purposes, and

Whereas, said Gulf and South Atlantic Havana Steamship Conference adopted and submitted to shippers for acceptance a 1959 Freightage Agreement (No. G-13) providing for the first time for the application of the provisions of such agreement to "That portion of the carriage between Gulf and South Atlantic ports of the United States and the Cuban ports hereinabove described in respect of all cargo originating at or from any inland port or place and moving via or exported by way of any river or inland waterway terminating at, touching, or flowing through any Gulf or South Atlantic port of the United States", and

Whereas, the provision quoted above appears to constitute a new section 15 agreement requiring approval by the Board before being effectuated; and

Whereas, the above-quoted provision may be unjustly discriminatory, unfair, or operate to the detriment of the commerce of the United States within the meaning of section 15 of the Shipping Act, 1916, and may result in violation of sections 14, 16, and 17 of said Act,

Now therefore, pursuant to sections 14, 15, 16, 17 and 22 of the Shipping Act, 1916, as amended, and section 9 of the Administrative Procedure Act,

*It is ordered*, That the respondents, hereinafter designated, cease and desist from effectuating the above-quoted new provision of their 1959 Freightage Agreement, and

*It is further ordered*, That the Board, upon its own motion, enter upon an investigation and hearing to determine whether said new provision (1) constitutes a new section 15 agreement and/or (2) would be unjustly discriminatory, unfair, or operate to the detriment of the commerce of the United States, within the meaning of section 15 of the Shipping Act, 1916, or would be in violation of sections 14, 16, or 17 of said Act, and

*It is further ordered*, That Compania Naviera Cubamar, S.A., Lykes Bros. Steamship Co., Inc., Ward-Garcia, S.A., Standard Fruit and Steamship Company, United Fruit Company, and West India Fruit and Steamship Co., Inc., and the Gulf and South Atlantic Havana Steamship Conference, be, and they are hereby made respondents in this proceeding, and

*It is further ordered*, That a copy of this order be served upon each of the respondents, and that notice of such order and the hearing herein ordered be published in the FEDERAL REGISTER, and

*It is further ordered*, That this order supersede and cancel order herein dated January 12, 1959, appearing in the FEDERAL REGISTER of January 21, 1959 (24 F.R. 482).

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an examiner of the Board's Hearing Examiners' Office at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board promptly and file petitions for leave to intervene in accordance with Rule 5(n) of said rules.

Dated: February 27, 1959.

By order of the Federal Maritime Board.

[SEAL]

JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 59-1927; Filed, Mar. 4, 1959;  
8:52 a.m.]

#### Office of the Secretary

JAMES F. REID, SR.

#### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER.

A. Deletions: None.

B. Additions: P. Lorillard Co.

This statement is made as of February 9, 1959.

JAMES F. REID, Sr.

FEBRUARY 16, 1959.

[F.R. Doc. 59-1917; Filed, Mar. 4, 1959;  
8:50 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### CALIFORNIA

#### Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 25, 1959.

The Secretary of the United States Department of Agriculture has filed an application, Serial Number Sacramento 056252 for the withdrawal of the lands described below, from location and entry under the general mining laws, subject to existing valid claims. The applicant desires the land for use as the Challenge Experimental Forest within the Plumas National Forest for long term forest research purposes involving management of second growth ponderosa pine.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, California Fruit Building, Room 1000, 4th and J Streets, Sacramento 14, California.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the

FEDERAL REGISTER. A separate notice will be sent to each interested party of record. The lands involved in the application are:

**MOUNT DIABLO MERIDIAN, CALIFORNIA**

- T. 18 N., R. 7 E.,  
Sec. 3: NW $\frac{1}{4}$  Lot 3, N $\frac{1}{2}$  Lot 4.
- T. 19 N., R. 7 E.,  
Sec. 20: N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 28: W $\frac{1}{2}$ W $\frac{1}{2}$ ;  
Sec. 30: Lots 3 and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 31: Lot 1, Lot 2 (W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ );  
Sec. 32: NW $\frac{1}{4}$ ;  
Sec. 33: NE $\frac{1}{4}$ ;  
Sec. 34: NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

The area described totals approximately 1250.23 acres in the Plumas National Forest.

WALTER E. BECK,  
Manager, Land Office,  
Sacramento.

[F.R. Doc. 59-1898; Filed, Mar. 4, 1959;  
8:48 a.m.]

**COLORADO**

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

FEBRUARY 27, 1959.

Pursuant to authority contained in Bureau Order 541, as amended, authority is hereby redelegated to the Chief, Mineral Adjudication Unit to take action for the Manager in all matters listed in section 3.6 of Part III-A, and to the Chief, Lands Adjudication Unit in all matters listed in section 3.9 of Part III-A, to become effective immediately upon publication in the FEDERAL REGISTER. The authority delegated may not be redelegated.

DALE R. ANDRUS,  
Land Office Manager,  
Denver Land Office.

Approved: February 27, 1959.

LOWELL M. PUCKETT,  
Colorado State Supervisor.

[F.R. Doc. 59-1899; Filed, Mar. 4, 1959;  
8:48 a.m.]

[Document 205]

**ARIZONA**

**Notice of Proposed Withdrawal and Reservation of Lands; Amendment**

Effective February 26, 1959, the listed description in Federal Register Document No. 59-1380 appearing on page 1219 of the issue for February 17, 1959, is hereby amended to include the following:

- T. 16 N., R. 21 W.,  
Sec. 35: NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$
- Dated: February 26, 1959.

E. I. ROWLAND,  
State Supervisor.

[F.R. Doc. 59-1900; Filed, Mar. 4, 1959;  
8:48 a.m.]

[Classification Nos. 31, 250]

**CALIFORNIA**

**Small Tract Classification; Revocation and Order Providing for Opening of Public Lands**

FEBRUARY 24, 1959.

1. Effective February 24, 1959, the following described lands listed under paragraph 1 of Small Tract Classification No. 73, California No. 31, dated March 27, 1945 and of Small Tract Classification Order California No. 250, dated January 16, 1951, are hereby revoked from the classification orders:

**SAN BERNARDINO MERIDIAN**

- T. 11 S., R. 1 W.,  
Sec. 32, Lots 8, 9, and 11 (Classification No. 250).
  - T. 11 S., R. 2 W.,  
Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  (Classification No. 31).
- The areas described total 86.12 acres of Public Land.

2. The lands are located about 5 to 6 miles north of Escondido in San Diego County, California. A paved county road running north from Escondido to Valley Center is located about  $\frac{1}{2}$  mile west of the land in Section 32 and less than  $\frac{1}{4}$  mile east of the land in Section 25. The lands occupy rolling to steeply grading slopes of ridges, which are interspersed by ravines of varying sizes. The soil is sandy loam with many rock outcroppings and boulders scattered on its surface. The vegetation is a dense stand of chaparral, consisting of chamise, sumac, Indian lilac, scrub oak and understory of annual grasses. Scattered live oaks are found in the ravines. The lands are not suitable for small tract purposes nor for agriculture under irrigated or dry farming methods.

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

4. Subject to any valid existing rights and the requirements of applicable laws, the lands described herein are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

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

presented by persons other than those referred to in this paragraph will be subject to applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead and Desert Land Laws by qualified veterans of World War II and, or, the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279 through 284, as amended), presented prior to 10:00 a.m., on April 1, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on July 1, 1959, will be governed by the time of filing.

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

b. The lands will be opened to location under the United States mining laws, beginning 10:00 a.m., on July 1, 1959.

5. Persons claiming veteran's preference rights under paragraph 4a(2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements of support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. Inquiries concerning these lands shall be addressed to the Manager, U.S. Land Office, Bureau of Land Management, Bartlett Building, 215 West Seventh Street, Los Angeles, California.

ROLLA E. CHANDLER,  
Officer-in-Charge,  
Southern Field Group,  
Los Angeles, California.

[F.R. Doc. 59-1901; Filed, Mar. 4, 1959;  
8:48 a.m.]

**ALASKA**

**Notice of Proposed Withdrawal and Reservation of Lands**

The Alaska Dept. of Lands has filed an application, Serial Number A.044765 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including mining but excepting the mineral leasing laws and materials under the Materials Act. The applicant desires the land for a reserve for public recreation area.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 E. 5th Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

*Keystone Canyon and Worthington Glacier Area*

Beginning at a point 10 chains N of VABM 288 (Camp 13) Valdez A-6 USGS 1952 Corner No. 1; thence Northerly parallel with centerline of Richardson Highway approximately 3 miles to Corner No. 2 located 10 chains West of center of South end of tunnel; thence West 10 chains to Corner No. 3; thence continuing Easterly parallel with centerline of Richardson Highway approximately 9.25 miles to Corner No. 4 located 15 chains W of VABM 2771 Thompson Pass Valdez A-5 USGS 1952; thence continuing Easterly approximately 5.2 miles parallel with centerline of Richardson Highway to Corner No. 5 located at VABM 2491 (Drop) Valdez A-5 USGS 1952; thence South 40 chains to Corner No. 6; thence continuing Southwesterly parallel with centerline of Richardson Highway approximately 5.2 miles to Corner No. 7 located approximately 25 chains E of VABM 2771 (Thompson Pass) Valdez A-5 USGS 1952; thence continuing approximately 9.25 miles Easterly and Southerly parallel to centerline of Richardson Highway to Corner No. 8 located 20 chains SE of center of South end of tunnel; thence NW 10 chains to Corner No. 9; thence continuing Southerly parallel with centerline of Richardson Highway approximately 3 miles to Corner No. 10; thence N 20 chains to point of beginning.

Containing approximately 4,500 acres more or less.

L. T. MAIN,  
Operations Supervisor,  
Anchorage.

[F.R. Doc. 59-1923; Filed, Mar. 4, 1959;  
8:52 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration  
AUSTRIA

### Finding Regarding Foreign Social Insurance and Pension Systems

Section 202(t) (2) of the Social Security Act (42 U.S.C. 402(t) (2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and whether individuals who are citizens of the United States but not citizens of

such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence presented by Austria with respect to the social insurance or pension system of such country, from which evidence it appears that such country has a social insurance or pension system of general application in such country which pays periodic benefits on account of old age, retirement, and death, and under which citizens of the United States, not citizens of Austria, who leave that country are permitted to receive such benefits while outside that country.

Accordingly, it is hereby determined and found by the Commissioner of Social Security that Austria does meet the requirements of section 202(t) (2) of the Social Security Act (42 U.S.C. 402(t) (2)).

[SEAL] W. L. MITCHELL,  
Commissioner of Social Security.

Approved: February 27, 1959.

ARTHUR S. FLEMMING,  
Secretary of Health, Education,  
and Welfare.

[F.R. Doc. 59-1921; Filed, Mar. 4, 1959;  
8:51 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-122]

### UNIVERSITY OF WYOMING

#### Notice of Issuance of Construction Permit and Facility License

Please take notice that no requests for formal hearing having been filed following filing of a notice of proposed action with the Federal Register Division on February 5, 1959, the Atomic Energy Commission has issued Construction Permit No. CPRR-33 and facility operating License No. R-55 to the University of Wyoming authorizing construction and operation of a 10-watt Atomic International research reactor on the University of Wyoming campus at Laramie, Wyoming. Notice of the proposed action, which set forth the proposed construction permit, was published in the FEDERAL REGISTER on February 7, 1959, 24 F.R. 951. License No. R-55 is set forth below.

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

For the Atomic Energy Commission.

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

[License No. R-55]

1. This license applies to the Atomic International L-77 solution-type, light water-moderated nuclear reactor (hereinafter referred to as "the reactor") which is owned by the applicant and located at Laramie, Wyoming, and described in the application

dated October 22, 1958, and amendments thereto dated November 7, 1958, and February 16, 1959 (hereinafter collectively referred to as "the application").

2. Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act") and having considered the record in this matter, the Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The reactor has been constructed in conformity with Construction Permit No. CPRR-33 issued to the University of Wyoming, and will operate in conformity with the application and in conformity with the Act and the rules and regulations of the Commission.

B. There is reasonable assurance that the reactor can be operated at the designated location without endangering the health and safety of the public.

C. The University of Wyoming is technically and financially qualified to operate the reactor, and to assume financial responsibility for 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. The possession and operation of the reactor and the receipt, possession and use of the special nuclear material in the manner proposed in the application will not be inimical to the common defense and security or to the health and safety of the public.

E. The University of Wyoming is a non-profit educational institution and will use the reactor for the conduct of educational activities. The University of Wyoming is therefore exempt from the financial protection requirement of subsection 170a of the Act.

3. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses the University of Wyoming:

A. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate the reactor at the designated location in Laramie, Wyoming, in accordance with the procedures described in the application.

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to possess and use up to 1,300 grams of contained uranium 235 in connection with operation of the reactor.

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to possess and use, in connection with operation of the reactor, up to 16 grams of plutonium encapsulated as a plutonium-beryllium neutron source.

D. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to possess, but not to separate, such byproduct material as may be produced from operation of the reactor.

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; and to be subject to all applicable provisions of the Act and to the rules, regulations and orders of the Commission now or hereafter in effect and to the additional conditions specified below:

A. Any one experiment shall be limited to 0.3 percent reactivity worth.

B. Specific authorization shall be obtained from the Commission prior to performance of experiments involving insertion or removal of samples while the reactor is in operation.

C. In addition to those otherwise required under this license and applicable regulations the University of Wyoming shall keep the following records:

1. Reactor operating records, including power levels.

2. Records of in-pile irradiations.

3. Records showing radioactivity released or discharged into the air or water beyond

the effective control of the University of Wyoming as measured at the point of such release or discharge.

4. Records of emergency reactor scrams, including reasons for emergency shutdowns.  
D. The University of Wyoming shall immediately report to the Commission, in writing, any indication or occurrence of a possible unsafe condition relating to the operation of the reactor.

5. This license is effective as of the date of issuance and shall expire at midnight February 24, 1979.

Date of issuance: February 25, 1959.

For the Atomic Energy Commission.

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

[F.R. Doc. 59-1876; Filed, Mar. 4, 1959;  
8:45 a.m.]

[Docket No. 50-83]

**UNIVERSITY OF FLORIDA**

**Notice of Amendment to Construction Permit**

Please take notice that the Atomic Energy Commission has issued Amendment No. 2, set forth below, to Construction Permit No. CPRR-21 extending the earliest and latest completion dates for the 10 kilowatt Argonaut type training and research reactor to be located on the campus of the University of Florida in Gainesville, Florida.

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

For the Atomic Energy Commission.

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

[Construction Permit No. CPRR-21,  
Amdt. 2]

Condition A of Construction Permit No. CPRR-21 is hereby amended by changing the first and second sentences thereof to read as follows: "The earliest completion date of the reactor is March 15, 1959. The latest date for completion of the reactor is June 15, 1959."

Date of issuance: February 27, 1959.

For the Atomic Energy Commission.

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

[F.R. Doc. 59-1877; Filed, Mar. 4, 1959;  
8:45 a.m.]

[Docket No. 50-6]

**BATTELLE MEMORIAL INSTITUTE**

**Notice of Issuance of Facility License Amendment**

Please take notice that the Atomic Energy Commission has issued Amendment No. 3 to License No. R-4, set forth below, to Battelle Memorial Institute authorizing operation of the research reactor facility located at West Jefferson, Ohio, at continuous power levels not in excess of 2,000 kilowatts; intermittent operation at power levels in excess of

2,000 kilowatts but not in excess of 3,000 kilowatts for a maximum of 40 megawatt days per year; and in increase in the maximum permissible excess reactivity. The previous power level limitation was 1,000 kilowatts. The Commission has found that operation of the reactor in accordance with the terms and conditions of the license, as amended, will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor at the increased power levels and with an increase in the maximum permissible excess reactivity will not present any substantial changes in the hazards to the health and safety of the public from those considered and evaluated in connection with the previously approved operation of the facility.

In accordance with the Commission's rules of practice (10 CFR Part 2), the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within 30 days after the issuance of the license amendment. For further details, see (1) the application for license amendment, dated October 1, 1958, submitted by Battelle Memorial Institute, and (2) a hazards analysis by the Division of Licensing and Regulation, which summarizes the principal factors considered in reviewing the application for license amendment, 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.

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

For the Atomic Energy Commission.

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

[License No. R-4, Amdt. 3]

Effective as of the date of issuance specified below, License No. R-4, as amended, is amended to read as follows:

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

a. The utilization facility authorized for construction by Construction Permit dated August 5, 1955 (later designated CPRR-4), issued to Battelle Memorial Institute, has been constructed and will operate in conformity with the application as amended and in conformity with the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act") and the rules and regulations of the Commission;

b. There is reasonable assurance that the facility can be operated without endangering the health and safety of the public;

c. Battelle Memorial Institute is technically and financially qualified to operate the facility, and to possess and use special nuclear material;

d. Issuance of a license to possess and operate the facility will not be inimical to the

common defense and security or to the health and safety of the public;

e. Battelle Memorial Institute has submitted proof of financial protection which satisfies the requirements of Commission regulations currently in effect.

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Battelle Memorial Institute:

a. Pursuant to section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate as a utilization facility the research reactor (herein referred to as "the facility") designated below in accordance with the procedures described in the application.

b. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to receive, possess and use:

(1) 11,302 kilograms of contained uranium 235 in fuel element assemblies as fuel for operation of the facility;

(2) 1.63 grams of contained uranium 235 in neutron measuring instruments incorporated in the facility.

c. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Licensing of Byproduct Material", to possess, but not to separate, such byproduct material as may be produced from operation of the facility.

3. This license applies to the facility which is owned by Battelle Memorial Institute and located at West Jefferson, Ohio, and described in Battelle Memorial Institute's application dated May 4, 1955, and amendments thereto dated April 5, 1956, June 5, 1956, March 19, 1957, April 10, 1957, May 10, 1957, May 20, 1957, June 3, 1957, June 13, 1957, July 3, 1957, October 9, 1957, January 10, 1958, September 15, 1958, and October 1, 1958 (herein referred to as "the application").

4. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; 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:

a. The maximum amount of excess reactivity above cold clean critical which may be loaded in the Battelle Research Reactor shall not exceed 6 percent in either the open-pool or the stall position. In the stall position, the excess reactivity shall be determined with the beam tubes filled with air.

b. Battelle Memorial Institute may operate the reactor at continuous power levels not to exceed 2,000 kilowatts, and may operate the reactor at intermittent power levels in excess of 2,000 kilowatts but not in excess of 3,000 kilowatts for a maximum of 40 megawatt days per year.

c. The reactor shall be operated in such a manner that all positive reactivity additions by the shim-safety rods are made by manual manipulation only.

d. In addition to those otherwise required under this license and applicable regulations, the Institute shall keep the following records:

(1) Facility operation records, including power levels.

(2) Record of in-pile irradiations.

(3) Records showing radioactivity released or discharged into the air or water beyond the effective control of Battelle Memorial Institute as measured at the point of such release or discharge.

(4) Records of emergency scrams, including reasons therefor.

e. Battelle Memorial Institute shall immediately report to the Commission any indication or occurrence of a possible unsafe condition relating to the operation of the facility.

f. Battelle Memorial Institute shall not operate the facility at power levels in excess of one megawatt (1) with a circulating loop through the core in which fuel experiments

are conducted, or (2) with an experimental facility in the core in excess of 16 square inches in cross section.

5. Pursuant to § 50.60 of the regulations in Title 10, Chapter I, CFR, Part 50, the Commission has allocated to Battelle Memorial Institute for use in the operation of the reactor, 11,302 kilograms of uranium 235 contained in uranium in the isotopic ratio specified in Battelle Memorial Institute's application. Estimated schedules of special nuclear material transfers to Battelle Memorial Institute and returns to the Commission are contained in Appendix "A" which is set forth below. Shipments by the Commission to Battelle Memorial Institute in accordance with column (2) in Appendix "A" will be conditioned upon Battelle Memorial Insti-

tute's return to the Commission of material substantially in accordance with column (3) of Appendix "A".

6. This license shall expire at midnight, August 5, 1965, unless sooner terminated.

Date of issuance: February 27, 1959.

For the Atomic Energy Commission,

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

APPENDIX "A" TO BATTELLE MEMORIAL INSTITUTE FACILITY LICENSE NO. R-4

Estimated schedule of transfers of special nuclear material from the Commission to Battelle and to the Commission from Battelle:

(1) Date of transfer (fiscal year)	(2) Transfers from AEC to Battelle, kgs. U-235	(3) Returns by Battelle to AEC, kgs. U-235		(4) Net yearly distribution including cumulative losses, kgs. U-235	(5) Cumulative distribution including cumulative losses, kgs. U-235
		Recoverable cold scrap	Spent hot fuel		
1956	5.282			5.282	5.282
1957					5.282
1958	1.120	0.560		560	5.842
1959	7.840	3.920	0.476	3.444	9.286
1960	1.120	.560	3.332	(2.772)	6.514
1961	7.840	3.920	.476	3.444	9.958
1962	1.120	.560	3.332	(2.772)	7.186
1963	7.840	3.920	.476	3.444	10.630
1964	1.120	.560	3.332	(2.772)	7.858
1965	7.840	3.920	.476	3.444	11.302
1966	1.120	.560	3.332	(2.772)	8.530
			15.842	(5.842)	2.688
	42.242	18.480	21.074	2.688	

<sup>1</sup> Inventory to be returned.

<sup>2</sup> Fabrication and burnup losses.

[F.R. Doc. 59-1878; Filed, Mar. 4, 1959; 8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 10023]

### KOREAN NATIONAL AIRLINES

#### Notice of Prehearing Conference

In the matter of the application of Korean National Airlines for an amendment of its foreign air carrier permit so as to authorize it to engage in off-route charter service.

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on March 10, 1959, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ferdinand D. Moran.

Dated at Washington, D.C., February 27, 1959.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 59-1939; Filed, Mar. 4, 1959; 8:54 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12608; FCC 59M-269]

### VENICE-NOKOMIS BROADCASTING CO.

#### Order Continuing Hearing

In re application of Venice-Nokomis Broadcasting Company, Venice, Florida,

Docket No. 12608, File No. BP-11375; for construction permit.

The Hearing Examiner has before him a petition filed by Venice-Nokomis Broadcasting Company on February 26, 1959, requesting continuance of hearing in the above-entitled proceeding from March 2, 1959, to March 23, 1959; and

It appearing that counsel for the Broadcast Bureau, the only other remaining party to the proceeding, has consented to grant of this petition and a waiver of the "four-day rule";

It is ordered, This 27th day of February 1959, that the above-described petition is granted; and the hearing now scheduled for March 2, 1959, is continued to March 23, 1959.

Released: February 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-1928; Filed, Mar. 4, 1959; 8:53 a.m.]

[Docket Nos. 12636, 12637; FCC 59M-267]

### FRANK JAMES AND SAN MATEO BROADCASTING CO.

#### Order Continuing Hearing

In re applications of Frank James, Redwood City, California, Docket No. 12636, File No. BPH-2344; Grant R. Wrathall, tr/as San Mateo Broadcasting Company, San Mateo, California, Docket No. 12637, File No. BPH-2431; for construction permits.

The Hearing Examiner having under consideration an oral request for a continuance;

It appearing, that conflicts in hearing dates involving two of the parties and the sickness of counsel for one of the applicants make desirable a continuance from the currently scheduled date of hearing of February 27, 1959;

It is ordered, This 26th day of February 1959, that the hearing is continued from February 27 to March 5, 1959.

Released: February 27, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-1929; Filed, Mar. 4, 1959; 8:53 a.m.]

[Docket Nos. 12682, 12683; FCC 59M-270]

## TEXAS TWO-WAY COMMUNICATIONS

### Order Scheduling Hearing

In the matter of applications of J. E. Moore, Jr., Wm. R. Lastinger, and J. L. Sheerin, d/b as Texas Two-Way Communications, Docket No. 12682, File No. 11-C2-P-59; for a construction permit to establish a new two-way common carrier station in the Domestic Public Land Mobile Radio Service in Dallas, Texas (call sign KKT409); and Docket No. 12683, File No. 13-C2-P-59; for a construction permit to establish a new two-way common carrier station in the Domestic Public Land Mobile Radio Service in Fort Worth, Texas (call sign KKT410).

It is ordered, This 27th day of February 1959, that a hearing is scheduled for Wednesday, April 29, 1959, at 10 a.m., in the offices of the Commission, Washington, D.C.

Deferral of Hearing has been occasioned by the extremely long time taken by applicant to arrange for the taking of depositions, which, according to a notice dated February 25, 1959, are now to be taken on April 11, 1959.

Released: March 2, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-1930; Filed, Mar. 4, 1959; 8:53 a.m.]

[Docket No. 12685; FCC 59M-266]

## EUGENE K. STEINER

### Order Continuing Hearing

In the matter of Eugene K. Steiner, 504 Van Buren, Monterey, California, Docket No. 12685; order to show cause why there should not be revoked the license for Radio Station WB-5626 aboard the Vessel "Azalea".

It is ordered, This 26th day of February 1959, that hearing in the above-entitled proceeding, which is presently scheduled to commence March 4, 1959, is continued without date, pending action

on a motion by the Commission's Safety and Special Radio Services Bureau for cancellation of hearing and issuance of initial decision and order of revocation.

Released: February 27, 1959.

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

[F.R. Doc. 59-1931; Filed, Mar. 4, 1959;  
8:53 a.m.]

[Docket No. 12767]

**KUTCHER CONSTRUCTION CO.**

**Order To Show Cause**

In the matter of Kutcher Construction Company, 828 Wells Avenue, Reno, Nevada, Docket No. 12767; order to show cause why there should not be revoked the license for Special Industrial Radio Stations KPE-69, KOK-481, and KD-6523.

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

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Violation Notices dated October 27, 1958, in which licensee was informed that the subject stations had been observed on October 8, 1958, in violation of Commission rules as follows:

*Station KPE-69:* (a) Violation of terms of station authorization in that an RCA CSU-15B type transmitter was authorized but a Dumont type 5813-A-2 transmitter actually was in use;

(b) Section 11.159 of the Commission's rules—failure to respond to an official Notice of Violation within the required period of time.

*Station KD-6523:* (a) Violation of terms of station authorization in that only 5 mobile transmitters are authorized; whereas 8 were in use.

(b) Section 11.159 of the Commission's rules—failure to respond to an Official Notice of Violation within the required period of time.

*Station KOK-481:* (a) Section 11.51—transmitter located and operated from 828 Wells Avenue; whereas the authorized station location is "atop Slide Mountain, near Reno."

(b) Section 11.154(e): Station being operated by unlicensed operator (Lorraine Kutcher).

(c) Section 11.160(c): Required daily log not being maintained.

(d) Section 11.702: No provision made for receipt of CONELRAD alerts.

*Station KPE-69, KD-6523, and KOK-481.* Section 11.159: Failure to respond to an official notice of violation within the required period of time.

It further appearing, that, the above-named licensee having failed to make satisfactory reply thereto, the Commission, by letters dated December 2, 1958, and sent by Certified Mail, Return Receipt Requested (No. 370114) brought

this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen (15) days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio stations into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station licenses; and

It further appearing, that receipt of the Commission's letters was acknowledged by the signature of the licensee's agent, Lorraine Kutcher, on December 5, 1958, to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen (15) days have elapsed since the licensee's receipt of the Commission's letters, no response thereto has been received; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

*It is ordered,* This 27th day of February, 1959, pursuant to section 312(a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291 (b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the licenses of the above-captioned Radio Stations should not be revoked and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

*It is further ordered,* That the Secretary send a copy of this order and a copy of § 1.62 of the Commission's rules of practice and procedure by certified mail, return receipt requested to the said licensee.

Released: March 2, 1959.

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

[F.R. Doc. 59-1932; Filed, Mar. 4, 1959;  
8:53 a.m.]

[Docket No. 12769; FCC 59M-272]

**STANLEY BLUMENTHAL**

**Order Scheduling Hearing**

In the matter of Stanley Blumenthal, 215 Cozine Avenue, Brooklyn 7, New York, Docket No. 12769; application for renewal of radiotelegraph Second Class Operator License No. T2-2-1626.

*It is ordered,* This 27th day of February 1959, that James D. Cunningham will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 9, 1959, in Washington, D.C.

Released: March 2, 1959.

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

[F.R. Doc. 59-1933; Filed, Mar. 4, 1959;  
8:53 a.m.]

[Docket No. 12768]

**TEXAS TRAWLERS, INC.**

**Order To Show Cause**

In the matter of Texas Trawlers, Inc., P.O. Box 330, Brownsville, Texas, Docket No. 12768; order to show cause why there should not be revoked the license for Radio Station WF-5985 aboard the vessel "Kashwer" or, in the alternative, why a cease and desist order should not be issued.

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

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Notice dated September 9, 1957, alleging that between April 2, 1957, and August 16, 1957, the subject radio station had been observed in violation of the Commission's rules as follows:

Section 8.351: Use of frequency (2750 kc) not designated for use by ship stations.

Section 8.364(a): Failure to transmit official call sign of station at beginning and completion of each transmission;

Notice mailed November 15, 1957, alleging that between September 16, 1957, and November 13, 1957, the subject radio station had been observed in violation of the same provisions of the Commission's rules as specified in notice of violation dated September 9, 1957, supra; and

Notice mailed September 18, 1958, alleging that between April 1, 1957, and September 15, 1958, the subject radio station had been observed in violation of the same provisions of the Commission's rules as specified in notice of violation dated September 9, 1957, supra; and

It further appearing, that receipt of the above-mentioned notices of violation was acknowledged by the licensee by letters dated September 16, 1957, November 22, 1957, and October 18, 1958; and

It further appearing, that by letter dated September 17, 1957, the Commission warned the above-named licensee that the frequency 2750 kc was not authorized for communication by the radio station aboard the captioned vessel; and

It further appearing, that, by letter dated December 17, 1957, the Commission advised the licensee that the frequency 2750 kc was not available for communication by the radio station aboard the captioned vessel; and

It further appearing, that, by letter dated January 20, 1958, the Commission, pursuant to section 9(b) of the Administrative Procedure Act, furnished the above-named licensee the opportunity to achieve compliance with the provisions of §§ 8.351 and 8.364(a) of the Commission's rules; and

It further appearing, that, by letter dated February 12, 1958, the Commission again advised the licensee that the frequency 2750 kc was not available for communication by the radio station aboard the captioned vessel; and

It further appearing, that the receipt of the Commission's letter of January

[Docket No. 12781]

**GULF MARINE SERVICE CORP.****Order To Show Cause**

In the matter of Gulf Marine Service Corporation, P.O. Box 330, Brownsville, Texas, Docket No. 12781; order to show cause why there should not be revoked the license for Radio Station WH-5094 aboard the vessel "Four Brothers" or, in the alternative, why a Cease and Desist Order should not be issued.

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

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Notice mailed September 12, 1957, alleging that between March 31, 1957, and August 16, 1957, the subject radio station had been observed in violation of the Commission's rules as follows:

Section 8.351: Use of frequency (2750 kc) not designated for use by ship stations.

Section 8.364(a): Failure to transmit official call sign of station at beginning and completion of each transmission;

Notice mailed November 15, 1957, alleging that between September 16, 1957, and November 13, 1957, the subject radio station had been observed in violation of the same provisions of the Commission's Rules as specified in notice of violation mailed September 12, 1957, supra; and

Notice mailed September 18, 1958, alleging that between April 1, 1957, and September 15, 1958, the subject radio station had been observed in violation of the same provisions of the Commission's rules as specified in notice of violation mailed September 12, 1957, supra; and

It further appearing, that, receipt of the above-mentioned notices of violation was acknowledged by the licensee by letters dated September 16, 1957, November 22, 1957, and October 18, 1958; and

It further appearing, that, by letter dated September 17, 1957, the Commission warned the above-named licensee that the frequency 2750 kc was not authorized for communication by the radio station aboard the captioned vessel; and

It further appearing, that, by letter dated December 17, 1957, the Commission advised the licensee that the frequency 2750 kc was not available for communication by the radio station aboard the captioned vessel; and

It further appearing, that, by letter dated January 20, 1958, the Commission, pursuant to section 9(b) of the Administrative Procedure Act, furnished the above-named licensee the opportunity to achieve compliance with the provisions of §§ 8.351 and 8.364(a) of the Commission's rules; and

It further appearing, that, by letter dated February 12, 1958, the Commission again advised the licensee that the frequency 2750 kc was not available for communication by the radio station aboard the captioned vessel; and

It further appearing, that the receipt of the Commission's letter of January 20,

20, 1958, was acknowledged by the signature of the licensee's agent, Jesus Raimerz, on January 27, 1958, to a U.S. Post Office Department Return Receipt for Certified Mail (No. 97370) and by the reply, dated February 8, 1958, of the Brownsville Shrimp Exchange of Brownsville, Texas, of which the licensee is a subsidiary, to such letter; and

It further appearing, that the frequency 2750 kc continued to be used for communication by the radio station aboard the captioned vessel, in spite of the above-mentioned warnings against such unauthorized use, subsequent to the licensee's receipt of the Commission's letter of January 20, 1958, and particularly on February 18, 20, 22, 27, and 28, 1958; March 12, 18, 19, 20, and 21, 1958; April 6, 7, 8, 9, 10, 11, 21, 23, and 29, 1958; July 5, 1958; and November 27, 1958; and

It further appearing, that the radio station aboard the captioned vessel continued to fail to transmit the official call sign of the station at the beginning and conclusion of each transmission, in spite of the above-mentioned warnings in regard thereto, subsequent to the licensee's receipt of the Commission's letter of January 20, 1958, and particularly on February 18, 20, 22, 27, and 28, 1958; March 12, 18, 19, 20, and 21, 1958; April 6, 7, 8, 9, 10, 11, 21, 23, and 29, 1958; July 5, 1958; and November 27, 1958; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated §§ 8.351 and 8.364(a) of the Commission's rules and section 301 of the Communications Act of 1934, as amended;

*It is ordered*, This 25th day of February, 1959, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned radio station should not be revoked or, in the alternative, why a cease and desist order should not be issued, ordering the licensee named herein to cease and desist from the operation of radio station WF-5985 aboard the vessel "Kashwer" on the frequency 2750 kc and ordering the licensee named herein to cease and desist from the transmission of signals and communications without identifying such signals and communications by the transmission of the assigned call sign of radio station WF-5985, and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

*It is further ordered*, That the Secretary send a copy of this order and a copy of § 1.62 of the Commission's rules of practice and procedure by certified mail, return receipt requested to the said licensee.

Released: February 27, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,[SEAL] MARY JANE MORRIS,  
Secretary.[F.R. Doc. 59-1934; Filed, Mar. 4, 1959;  
8:53 a.m.]

1958, was acknowledged by the signature of the licensee's agent, Jesus Ramirez, on January 27, 1958, to a U.S. Post Office Department Return Receipt for Certified Mail (No. 97367) and by the reply, dated February 8, 1958, of the Brownsville Shrimp Exchange of Brownsville, Texas, of which the licensee is a subsidiary, to such letter; and

It further appearing, that the frequency 2750 kc continued to be used for communication by the radio station aboard the captioned vessel, in spite of the above-mentioned warnings against such unauthorized use, subsequent to the licensee's receipt of the Commission's letter of January 20, 1958, and particularly on February 14, 17, 18, 19, 22, 24, 26, and 28; March 10, 13, 14, 17, 18, 19, 20, 21, 23, 24, and 31; April 6, 7, 10, 11, 14, 15, 21, 23, 24, 29, and 30; May 1; October 21; and November 27, 1958 and

It further appearing, that the radio station aboard the captioned vessel continued to fail to transmit the official call sign of the station at the beginning and conclusion of each transmission, in spite of the above-mentioned warnings in regard thereto, subsequent to the licensee's receipt of the Commission's letter of January 20, 1958, and particularly on February 14, 17, 18, 19, 22, 24, 26, and 28; March 10, 13, 14, 17, 18, 19, 20, 21, 23, 24, and 31; April 6, 7, 10, 11, 14, 15, 21, 23, 24, 29, and 30; May 1; October 21; and November 27, 1958, and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated §§ 8.351 and 8.364(a) of the Commission's rules and section 301 of the Communications Act of 1934, as amended;

*It is ordered*, This 25th day of February, 1959, pursuant to section 312(a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291 (b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned radio station should not be revoked or, in the alternative, why a cease and desist order should not be issued, ordering the licensee named herein to cease and desist from the operation of radio station WH-5094 aboard the vessel "Four Brothers" on the frequency 2750 kc and ordering the licensee named herein to cease and desist from the transmission of signals and communications without identifying such signals and communications by the transmission of the assigned call sign of radio station WH-5094 and appear and give evidence in respect thereto at a hearing to be held at a time and place to be specified by subsequent order; and

*It is further ordered*, That the Secretary send a copy of this order and a copy of § 1.62 of the Commission's rules of practice and procedure by certified mail, return receipt requested to the said licensee.

Released: February 27, 1959.

FEDERAL COMMUNICATIONS  
COMMISSION,[SEAL] MARY JANE MORRIS,  
Secretary.[F.R. Doc. 59-1935; Filed, Mar. 4, 1959;  
8:53 a.m.]

[Docket No. 12785; FCC 59-185]

**KERN COUNTY BROADCASTING CO.****Memorandum Opinion and Order  
Designating Application for Oral  
Argument**

In re application of Edward E. Urner et al. db/as Kern County Broadcasting Company, Bakersfield, California, Docket No. 12785, File No. BPCT-2480; for construction permit for a new television broadcast station.

1. The Commission has before it for consideration (a) a "Protest and Petition For Reconsideration", and (b) a "Petition for Reconsideration of Denial of Motion to Stay and Request to Stay Action" filed on January 28, 1959, by Bakersfield Broadcasting Company (hereinafter referred to as protestant) against the Commission's action of December 30, 1958, granting without hearing the above-captioned application of Edward E. Urner et al., db/as Kern County Broadcasting Company (Kern County), for a permit to construct a new television broadcast station on Channel 17 in Bakersfield, California, and denying protestant's Motion for Stay; (c) an "Opposition to Protest and Petition for Reconsideration and to Request for Stay of Action" filed on February 9, 1959, by Kern County; and (d) a "Reply" thereto by the protestant filed on February 16, 1959.

2. Protestant claims standing as a "party in interest" and "a person aggrieved or whose interests are adversely affected" within the meaning of sections 309(c) and 405 of the Communications Act of 1934, as amended, as the licensee of an existing television broadcast station in Bakersfield. The protestant contends it will be in direct competition with Kern County for local and national advertising in Bakersfield and the surrounding area; that Kern County's gross revenues must be drawn from existing stations; and that since protestant is an existing UHF operator and the other operating station is a VHF, the protestant will receive the major impact of such competition, with a concomitant loss of revenues to its economic detriment.

3. Protestant requests that the Commission reconsider its action of December 30, 1958, denying protestant's Motion for Stay; that the grant be set aside or its effectiveness be stayed; and that the above-captioned application be designated for evidentiary hearing upon the following specified issues:

(a) The full facts with respect to the number of receivers in the Bakersfield area which would require conversion if the random drop in of additional UHF stations, particularly 17, is made final.

(b) To determine the cost to members of the public of conversion of receivers to Channel 17 and the extent of the burden and waste in that connection in the event the Commission should hereafter decide to deintermix Bakersfield on a VHF basis.

(c) To obtain full information with respect to the cost and burdens on the public of obtaining all channel receivers in order to be able to receive Channel 17

in the light of undetermined questions as to whether the area should be all VHF or all UHF.

(d) To determine whether, in the event the area is made all VHF, enough VHF channels are available to substitute for existing and proposed UHF facilities at Bakersfield.

(e) To obtain full information with respect to other adverse effects upon the public which would result from the addition of more UHF stations in Bakersfield, while the basic policy question as to whether the area is to become all VHF remains unsettled.

(f) To determine whether the public interest would be better served by deferring grant of application for additional UHF channels in Bakersfield pending (1) final action on the Petition for Review of Commission action in allocating these channels in Bakersfield; or (2) Commission determination as to the kind of allocation, i.e., VHF, UHF, or mixed, which is to prevail in Bakersfield in the future.

4. The protestant claims that the grant in question was improperly made and in support thereof alleges that on April 9, 1957, it sought relief from the burdensome competition of Channel 10 in Bakersfield by requesting deletion of Channel 10 so that the San Joaquin Valley might become an all UHF area, which petition is still pending; that the Commission, by Report and Order adopted January 6, 1958, in Docket 11785, added UHF Channels 17 and 39 at Bakersfield, without reference to any principle and without any substantial reasons for its action; that protestant then amended its proposal to provide an alternative allocations plan, whereby Channels 8 and 12 could be added to Bakersfield making it all VHF, both assignments being prima facie feasible; that the assignment of Channel 17 to Bakersfield without action on its request is now under appeal to the United States Court of Appeals (D.C. Cir.); that the conditions attached to the Kern County construction permit<sup>2</sup> are meaningless in the absence of a finding or indication of the availability of other suitable channels. Furthermore, protestant contends that condition (b) is ambiguous in that it does not limit or qualify the Commission's apparent promise to substitute a channel, since it is not known whether, if Bakersfield is made all VHF, the Commission would give Kern County one such channel and, if so, from what source, there having been no finding made that enough VHF channels are available.

<sup>1</sup> Bakersfield Broadcasting Co. v. United States and Federal Communications Commission (Case No. 14,541).

<sup>2</sup> These conditions are as follows:

(a) That such grant is without prejudice to such action as the Commission may take as a result of a decision of the U.S. Court of Appeals for the District of Columbia Circuit Bakersfield Broadcasting Co. v. United States and F.C.C. (Case No. 14,541).

(b) That the Commission may, without further proceedings, substitute for Channel 17 such other channel as may be assigned to Bakersfield, California as a result of rule making proposals currently pending before the Commission.

5. The protestant also contends that the Commission's action is not in the public interest because it places a financial burden upon the public, since about half of the receivers in the area are VHF only, which had to be converted in order to receive protestant's station; that to receive Kern County's station and other new stations additional strip tuners would be required; that such expenditures are unwarranted in view of the possibility that the area will ultimately be all VHF. Moreover, protestant asserts that if it is determined that Bakersfield will be all VHF there will be no need for the public to purchase all-channel receivers, which cost more. In this connection, protestant asserts that there are no engineering proposals pending before the Commission which would make possible 4 VHF channels in Bakersfield and consequently, the instant grant coming on top of the existing situation, makes it impossible to convert Bakersfield to VHF. Finally, protestant argues that before any promise to substitute channels legally may be made, the Commission must make a factual determination of the availability of such channels. In its petition requesting reconsideration of the denial of its Motion for Stay, protestant makes substantially the same arguments it advances in its Protest and Petition for Reconsideration.

6. The substance of the Kern County opposition is that the protestant has failed to allege facts and relies on no principles which are material to the public interest question which protestant seeks to raise; that if there are any relevant allegations, it is only with respect to the assignment of Channel 17 to Bakersfield, rather than the grant in question; that the injury to the protestant, if any, stemmed from the rule making order; and that relief, if protestant is entitled to relief, will be forthcoming as a result of the pending appeal in U.S. Court of Appeals (D.C. Cir. (Case No. 14541)). Kern County concludes, therefore, that the protest and petition for reconsideration should be denied for failure to allege matters which require a hearing pursuant to sections 309(c) and 405 of the Communications Act.

7. Protestant's reply, in substance, urges that Kern County's contention, that the injury to protestant, if any, flows from the action assigning Channel 17 to Bakersfield, and not the grant in question, is erroneous: that protestant has been injured by both actions, which are different and for which the Communications Act provides specific remedies; that seeking relief in court under section 402(a) of the Act does not bar the protestant from seeking the relief provided by sections 309(c) and 405 of the Act; that Kern County's claim that protestant will receive all the relief it is entitled to as a result of the court appeal is not correct; since the grant in question results in new and specific injuries which adversely affect the public; and that even though these matters are related to the allocation problem, they are appropriate for development in an adjudicatory proceeding. In view thereof, the protestant reiterates its prayer for relief heretofore requested.

8. Upon examination of the issues proposed by protestant, in the light of the facts stated in support thereof, we believe that all or most of these issues relate to the basic questions already resolved in the rule making proceedings assigning Channels 17 and 39 to Bakersfield over the objections of the protestant. The validity of this determination is now being challenged in court (see Bakersfield Broadcasting Co. v. United States, Case No. 14,541 C.A.D.C.), and of course the grants we have made on these channels are subject to the outcome of this appeal as we expressly stated in conditioning such grants. We have grave doubts, however, that assuming the validity of the rule making action, any of the facts or factual questions presented in the protest set forth grounds which would show that the grants were improperly made or otherwise contrary to the public interest. See Coastal Bend Television Co. v. Federal Communications Commission, 98 U.S. App. D.C., 251, 234 F. 2d 686. We shall therefore designate the protest for oral argument on demurrer, to afford the protestant an opportunity to show that resolution of any of the factual matters upon which it seeks evidentiary hearing are relevant to the questions as to whether the grants upon the channels we have recently assigned to Bakersfield would serve the public interest. Upon the basis of such argument, we shall determine whether the subject grant may be reaffirmed or whether an evidentiary hearing on one or more of the issues is required.

9. We turn now to the question of whether we should stay the effective date of the grant in question. Section 309(c) provides in pertinent part that "the effective date of the Commission's action to which the protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect \* \* \*". It is obvious that the authorization in question is not essential to the conduct of an existing service. Moreover, the Commission is of the view that the reasons advanced by Kern County in opposition to the stay do not suffice to warrant an affirmative finding that the public interest requires the grant remain in effect in view of the fact that there are two television stations currently in operation in Bakersfield. Consequently, the effective date of the Commission's action here in question will be postponed pending a final decision in the oral argument hereinafter ordered.

In view of the foregoing: *It is ordered*, That, effective immediately, the effective date of the grant of the above-captioned application is postponed pending a final

determination by the Commission in the oral argument described below; that the subject Protest and Petition for Reconsideration is granted to the extent provided for below and is denied in all other respects; that the Petition for Reconsideration of Denial of Motion to Stay and Request to Stay Action is denied; and that, pursuant to section 309(c) of the Communications Act of 1934, as amended, the above-captioned application is designated for oral argument, at the offices of the Commission at Washington, D. C., at 3:30 p.m. on April 16, 1959, to consider whether any of the questions set forth by protestant in its proposed issues set forth in paragraph 3, supra present matters of fact or law which would warrant setting aside the grant.

*It is further ordered*, That Bakersfield Broadcasting Company is hereby made a party to the proceeding herein, and that the appearances by the parties intending to participate in the above oral argument shall be filed not later than March 11, 1959.

Adopted: February 25, 1959.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
CJDV CFJC	Drumheller, Alberta Kamloops, B.C.	910 kilocycles 1 kw 10 kw D/1 kw N	DA-1 ND	U U	III III	Now in operation. NIO with increased daytime power.
New	Woodstock, N.B.	920 kilocycles 1 kw	DA-1	U	III	Modification of mode of operation from that shown on list #120. EIO 2-15-60.
CJCA	Edmonton, Alberta	930 kilocycles 10 kw D/5 kw N	DA-N	U	III	Correction of nighttime power from that shown in recapitulative list dated 12-31-58.
CHEX	Peterborough, Ontario	980 kilocycles 5 kw	DA-2	U	III	Now in operation.
CFGP	Grande Prairie, Alberta	1050 kilocycles 10 kw	DA-1	U	II	NIO with inc. power.
CKFH (PO: 1400 kc. 0.25 kw DA-1 IV). CJOY	Toronto, Ontario Guelph, Ontario	1430 kilocycles 5 kw 5 kw	DA-2 DA-1	U U	III III	EIO 2-15-60. Delete assign. remaining on 1450 kc. Delete assign. vide 930 kc.
CHEX	Peterborough, Ontario	1 kw	DA-1	U	III	Delete assign. vide 930 kc.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-1937; Filed, Mar. 4, 1959; 8:53 a.m.]

**FEDERAL POWER COMMISSION**

[Project No. 733]

**WESTERN COLORADO POWER CO.**

**Notice of Application for Annual License**

MARCH 2, 1959.

Public notice is hereby given that application has been filed under the Fed-

Released: March 2, 1959.

FEDERAL COMMUNICATIONS COMMISSION,  
MARY JANE MORRIS,  
Secretary.

[F.R. Doc. 59-1936; Filed, Mar. 4, 1959; 8:53 a.m.]

[Canadian List 130]

**CANADIAN BROADCAST STATIONS**

**List of Changes, Proposed Changes and Corrections in Assignments**

FEBRUARY 12, 1959.

Notifications under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes and corrections in assignments of Canadian Broadcast Stations modifying Appendix containing assignments of Canadian Broadcast Stations (Mimeograph 47214-3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting.

eral Power Act (16 U.S.C. 791a-825r) by The Western Colorado Power Company, licensee for Project No. 733, for annual license for the minor-part project located on the Uncompahgre River in Ouray County, Colorado, and affecting lands of the United States within Uncompahgre National Forest. The project, which is constructed, is known as the Ouray power plant and consists of a rubble masonry diversion dam 71.5 feet high and 70 feet long; a settling tank;

steel and wood-stave pipelines with aggregate length of about 6,120 feet; a signal circuit line extending about 6,035 feet between dam and powerhouse; and a powerhouse with installed hydraulic capacity of 1,000 horsepower.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is April 10, 1959. The application is on file with the commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 59-1918; Filed, Mar. 4, 1959; 8:50 a.m.]

## FEDERAL RESERVE SYSTEM

### FIRST SECURITY CORPORATION

#### Order Approving Application Under Bank Holding Company Act

In the matter of the application of First Security Corporation for prior approval of acquisition of voting shares of Fillmore State Bank, Fillmore, Utah.

There having come before the Board of Governors pursuant to section 3(a) (2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) and section 4(a) (2) of the Board's Regulation Y (12 CFR 222.4(a)(2)), an application on behalf of First Security Corporation, whose principal office is in Salt Lake City, Utah, for the Board's prior approval of the acquisition of 3,000 of the outstanding voting shares of Fillmore State Bank, Fillmore, Utah; a Notice of Tentative Decision referring to a Tentative Statement on said application having been published in the FEDERAL REGISTER on February 5, 1959 (24 F.R. 873); the said Notice having provided interested persons an opportunity, before issuance of the Board's final order, to file objections or comments upon the facts stated and the reasons indicated in the Tentative Statement; and the time for filing such objections and comments having expired and no such objections or comments having been filed;

It is hereby ordered, For the reasons set forth in the Board's Statement<sup>1</sup> of this date, that the said application be and hereby is granted and the acquisition by First Security Corporation of 3,000 of the outstanding voting shares of Fillmore State Bank, Fillmore, Utah, is hereby approved, provided that such acquisition is completed within three months from the date hereof, and that no action be taken by First Security Corporation that will result in Fillmore State Bank ceasing to operate as a separate banking institution within 60 days from the date of this order.

<sup>1</sup> Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington 25, D.C., or to any Federal Reserve Bank.

Dated at Washington, D.C., this 27th day of February 1959.

By order of the Board of Governors:

[SEAL] MERRITT SHERMAN,  
Secretary.

[F.R. Doc. 59-1880; Filed, Mar. 4, 1959; 8:45 a.m.]

## HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

DEPUTY ADMINISTRATOR ET AL.

#### Designation of Acting Administrator

The officers appointed to the following listed positions in the Office of the Administrator are hereby designated to act in the place and stead of the Housing and Home Finance Administrator, with the title of "Acting Administrator" and with all the powers, rights, and duties vested in or assigned to the Administrator, in the event the Administrator is unable to act by reason of his absence, illness, or other cause, provided that no officer shall have authority to act as "Acting Administrator" unless all those whose titles precede his in this designation are unable to act by reason of absence, illness, or other cause:

1. Deputy Administrator;
2. General Counsel;
3. Assistant Administrator (Program Policy).

This designation supersedes the designation of Acting Administrator effective October 24, 1958 (23 F.R. 8222, October 24, 1958), which designation is hereby revoked.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954; 62 Stat. 1283 (1948), as amended, 12 U.S.C. 1701c; 63 Stat. 440 (1949), 12 U.S.C. 1701d-1)

Effective as of the 5th day of March 1959.

[SEAL] NORMAN P. MASON,  
Housing and Home  
Finance Administrator.

[F.R. Doc. 59-1913; Filed, Mar. 4, 1959; 8:50 a.m.]

## INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562, Taylor's I.C.C. Order 98-A]

### ANN ARBOR RAILROAD COMPANY

#### Diversion or Rerouting of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 98 and good cause appearing therefor: It is ordered, That:

(a) Taylor's I.C.C. Order No. 98, be, and it is hereby vacated and set aside.

(b) Effective date: This order shall become effective at 2:00 p.m., February 26, 1959.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agree-

<sup>2</sup> Voting against this action: Governor Mills.

ment under the terms of that agreement and by filing it with the Director, Federal Register Division.

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

INTERSTATE COMMERCE  
COMMISSION,  
CHARLES W. TAYLOR,  
Agent.

[F.R. Doc. 59-1908; Filed, Mar. 4, 1959; 8:49 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1207]

### LAZARD FUND, INC.

#### Notice of Filing of Application for Order Exempting Issuance of Redeemable Securities for Assets of Non-Affiliated Company

FEBRUARY 26, 1959.

Notice is hereby given that the Lazard Fund, Inc. ("Lazard"), a registered open-end diversified investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of shares by Lazard for substantially all of the cash and securities of Alton Summit Company ("Alton").

The application contains the following representations:

Lazard, a Maryland Corporation, is not currently offering its shares to the public and has no current prospectus. The shares of Lazard have been traded in the over-the-counter market and the mean between the closing bid and ask prices has been consistently above net asset value. As of January 23, 1959, the net assets of Lazard amounted to \$138,739,212, and there were 8,500,000 redeemable shares outstanding.

Alton, an Illinois Corporation, has assets consisting of securities and cash, and its outstanding shares are owned by 36 stockholders. Alton is excepted from the definition of an investment company within the meaning of the Act by reason of the provisions of section 3(c)(1) thereof.

Pursuant to an agreement between Lazard and Alton, substantially all of the cash and securities owned by Alton, having a total value of \$1,566,846 as of January 23, 1959, will be transferred to Lazard in exchange for shares of capital stock of Lazard. The number of shares of Lazard to be delivered to Alton will be determined by dividing the aggregate market value of the assets of Alton to be transferred to Lazard by the market value per share of Lazard, both to be determined as of the closing time, which is fixed in the agreement as 3:30 p.m., e.s.t., on March 16, 1959. The market value of the Lazard shares will be the mean between the closing bid and asked price quotations for such shares reported by the National Association of Securities Dealers as of the closing time, but the Lazard shares will not be valued at less

than their net asset value. If the closing under the agreement had taken place on January 23, 1959, Alton would have received 88,899 shares of Lazard stock representing approximately 1 percent of the total number of shares outstanding. The shares of Lazard acquired by Alton will be distributed to its shareholders who will take such shares for investment and not for distribution to the public.

All of the securities owned by Alton are included in Lazard's present portfolio. The application states that the investment in each of the securities to be acquired from Alton will be consistent with the investment objectives of Lazard.

The terms of the agreement were negotiated at arm's length between the officers of Lazard and Alton. There is no affiliation between Alton, or its officers, directors and shareholders, and Lazard or its officers and directors. Lazard Freres & Co., the investment adviser of Lazard, has never acted as investment adviser to Alton. Consummation of the agreement is conditioned upon the approval by the holders of at least two-thirds of the outstanding shares of Alton of the proposed sale of assets and the liquidation of Alton. Applicant states that the agreement is in the best interests of its shareholders.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. As noted above, Lazard is not currently offering its securities and does not now have an effective prospectus which describes a "current public offering price" for its shares. Accordingly, it appears that the issuance of Lazard shares pursuant to the agreement will not comply with the provisions of section 22(d) of the Act.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 12, 1959, at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or re-

quest should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule O-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 59-1902; Filed, Mar. 4, 1959;  
8:49 a.m.]

[File No. 811-489]

**FILBERT CORP.**

**Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company**

FEBRUARY 26, 1959.

Notice is hereby given that Filbert Corporation (Applicant), a registered, closed-end investment company, has filed an application pursuant to section 8(f) of the Investment Company Act of 1940 for an order of the Commission declaring that it has ceased to be an investment company within the meaning of section 3(c) (1) of the Act.

The application states that Applicant, incorporated under the laws of the State of Minnesota on February 23, 1934, is capitalized as follows:

Title of issue	Shares authorized	Shares outstanding
Founders (voting) stock (par \$10 per share)	25,000	500
Common (nonvoting) stock (par \$10 per share)	150,000	150,000

It is further stated that the 500 shares of Founders (voting) Stock are held by only two stockholders, B. C. Gamble (278 shares) and B. C. Gamble Charitable Trust (222 shares). The B. C. Gamble Charitable Trust, the holders of 44.4 percent of the outstanding voting securities of Applicant, is an unincorporated trust created by B. C. Gamble and its sole purpose and function is to make contributions to charitable, religious, educational, hospital and similar non-profit organizations. The trust has no stockholders and no company, corporation, individual or any other party has any beneficial, financial, present, future, reversionary, vested or contingent interest in the trust fund or any of its assets and as such is deemed to be but one stockholder of Applicant. The trust is administered by three trustees, two of whom are holders of shares of Common (non-voting) Stock in their own right. The 150,000 shares of Common (non-voting) Stock are held by 88 stockholders and the Applicant attests that it is not making and does not presently propose to make a public offering of its securities.

Section 3(c) (1) of the Act excepts from the definition of an investment

company any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities. Section 8(f) of the Act provides, in part, that whenever the Commission, upon application finds that a registered company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect. Section 8(f) further provides that an order thereunder may be made upon conditions necessary for the protection of investors.

Notice is further given that any interested person may, not later than March 23, 1959 at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule O-5 of the rules and regulations promulgated under the Act.

It is ordered, That Filbert Corporation shall give notice of this application to all of its stockholders (insofar as the identity of such stockholders is known or available) by mailing to each of said persons a copy of this Notice of Filing to his last known address on or before March 9, 1959.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 59-1903; Filed, Mar. 4, 1959;  
8:49 a.m.]

[File No. 24D-2205]

**DE-VEL-CO MINERALS DEVELOPMENT CO.**

**Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing**

FEBRUARY 27, 1959.

I. De-Val-Co Minerals Development Company (issuer), 324½ West Main Street, Denison, Texas, filed with the Commission on March 8, 1957 a notification on Form 1-A and an offering circular, and subsequently filed amendments thereto, relating to an offering of 4,880 investment contract units at \$25 per unit, for an aggregate offering of \$122,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933,

as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that written communications prepared or authorized by the issuer, which were given or otherwise communicated to more than ten persons, were not filed with the Commission as required by Rule 258;

B. The offering circular and sales material contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, concerning, among other things:

1. The failure to disclose the identity of all properties on which the issuer did work;

2. The failure to disclose the extent, nature and outcome of developments of each property on which the issuer did work;

3. The failure to disclose all properties acquired by the issuer;

4. The failure to disclose litigation concerning certain claims on which the issuer did work;

5. Statements in sales material concerning ore discoveries and favorable work progress; and

C. The offering would be made in violation of section 17 of the Securities Act of 1933, as amended.

III. It is ordered, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, to De-Vel-Co Minerals Development Company and to any person having any interest in the matter, that this order has been entered; that the Commission upon receipt of a written request within thirty days after entry of this order will, within twenty days after the receipt of such request, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether to vacate the order or to enter an order permanently suspending the exemption, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry, and shall remain in effect, unless or until it is modified or vacated by the Commission, and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission,

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 59-1904; Filed, Mar. 4, 1959; 8:49 a.m.]

## SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-VIII-1 (Revision 1), Amdt. 1]

### CHIEF, FINANCIAL ASSISTANCE DIVISION

#### Delegation Relating to Financial Assistance Functions

Delegation of Authority No. 30-VIII-1 (Revision 1), (22 F.R. 6390) is hereby amended as follows:

1. Rename paragraphs IB12 through IB24 as IB15 through IB27.

2. Add the following to paragraph IB: 12. To reinstate any loan authorization cancelled prior to the first disbursement within six months from the date of the original authorization providing that no adverse change has occurred since the loan application was approved.

13. To take the following actions in the administration of fisheries' loans:

(a) Amend loan authorizations.

(b) Extend the period of disbursement of loans of \$50,000 or less for a period not to exceed four months.

(c) Amend the hull insurance provision of any authorization issued prior to January 31, 1958, for a loan of \$10,000 or less.

(d) Cancel loan authorizations prior to disbursement upon the written request of the applicant.

(e) Disburse fisheries' loans in the same manner as SBA business loans.

(f) Administer fisheries' loans within the same authority exercised with respect to SBA loans.

14. To take the following actions in all loans except those loans classified as "problem loans" or "in liquidation":

(a) Extend to the maturity of a loan or to a date prior to the maturity, one monthly principal payment in any calendar year, and not more than a total of four such payments during the term of the loan, or one quarterly principal installment payment during the term of the loan, for loans with principal balances not exceeding \$100,000.

(b) Carry loans which are delinquent or past-due not more than three months in such status for an additional period of not more than six months when the principal balances of such loans do not exceed \$100,000.

(c) Extend the maturity of loans (within the statutory limitations) when the principal balances of such loans do not exceed \$100,000.

(d) Approve or decline requests for changes in the repayment terms of notes for loans with principal balances not exceeding \$100,000.

(e) Waive amounts due under net earnings clause.

(f) Approve requests to exceed fixed assets limitations and waive violations of this limitation.

(g) Approve payment of cash or stock dividends, payment of bonuses, increases in salaries, employment of new personnel, and waivers of violation of salary

and bonus limitations, provided the Regional Director considers the bonuses and/or salary to be paid reasonable and that consent will not be given to any such payment if the payment will impair the borrower's cash position and if the loan is not current in all respects at the time the payment is made.

(h) Approve changes in use of loan proceeds in connection with partially disbursed loans.

(i) Waive violations of agreements to maintain working capital of a specified amount.

3. Delete Section II and substitute the following in lieu thereof: "The authority delegated in IA5 through 27 may not be redelegated. The authority to sign non-policy, routine correspondence in paragraph IC may be redelegated to financial specialists and loan examiners."

Dated: October 1, 1958.

ROBERT C. ALM,  
Regional Director,  
Minneapolis, Minn.

[F.R. Doc. 59-1905; Filed, Mar. 4, 1959; 8:49 a.m.]

[Delegation of Authority 30-VIII-10]

### CHIEF, LOAN PROCESSING SECTION

#### Delegation Relating to Financial Assistance Functions

I. Pursuant to the authority vested in Chief, Financial Assistance Division, by Delegation No. 30-VIII-1 (Rev.-1), (22 F.R. 6390), as amended by Amendment 1, dated October 1, 1958, there is hereby delegated to the Chief, Loan Processing Section, the following authority:

A. *Specific.* To take the following actions in accordance with the limitations of such delegations set forth in SBA-500 Financial Assistance Manual:

1. To approve the following type of loans:

(a) Direct Business loans in an amount not exceeding \$20,000. (b) Participation Business loans in an amount not exceeding \$25,000. (c) Disaster loans in an amount not exceeding \$20,000.

2. To approve or decline Limited Loan Participation Loans.

3. To execute Loan Authorizations for Washington approved loans and for loans approved under delegated authority, said execution to read as follows:

WENDELL B. BARNES,  
Administrator,

By -----  
Chief, Loan Processing Section.

4. To modify or amend authorizations for Business or Disaster loans approved by the administrator, the Deputy Administrator for Financial Assistance, the Director, Office of Loan Processing, or the Chairman, Loan Review Board, by the issuance of Certificates of Modification, and to modify or amend Authorizations for loans approved under Delegated Authority in any manner consistent with the original authority to approve loans.

5. To extend disbursement period on all undisbursed Authorizations.

B. *Correspondence.* To sign all non-policy making correspondence originating in the Loan Processing Section, except Congressional correspondence and correspondence with the Washington Office and except for correspondence relating to eligibility of applicants for Financial Assistance.

II. The specific authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Chief, Loan Processing Section.

IV. All previous authority delegated by the Chief, Financial Assistance Division, to the Chief, Loan Processing Section, Minneapolis Regional Office, is hereby

rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: February 20, 1959.

G. A. SWANSON, *Chief,*  
*Financial Assistance Division,*  
*Minneapolis Regional Office.*

[F.R. Doc. 59-1906; Filed, Mar. 4, 1959;  
8:49 a.m.]

### CUMULATIVE CODIFICATION GUIDE—MARCH

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

3 CFR	Page	17 CFR	Page	39 CFR	Page
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3040	1583	240	1572	58	1649
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3276	1581	270	1572	<i>Public land orders:</i>	
3277	1581	<b>19 CFR</b>		207	1570
3278	1583	16	1585	553	1652
<b>5 CFR</b>		<b>21 CFR</b>		868	1570
6	1549, 1583	146c	1553	1792	1570
<b>6 CFR</b>		164	1553	1804	1570
421	1633	<i>Proposed rules:</i>		1805	1570
<b>7 CFR</b>		120	1573	1806	1650
730	1640	<b>22 CFR</b>		1807	1651
914	1584	11	1553	1808	1651
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<i>Proposed rules:</i>		172	1568	1810	1652
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52	1570	31	1644	1812	1652
813	1661	<i>Proposed rules:</i>		1813	1653
965	1593	1	1655	<b>46 CFR</b>	
971	1598	<b>32 CFR</b>		281	1653
972	1656	2	1556	309	1654
989	1660	17	1556	<b>47 CFR</b>	
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<b>9 CFR</b>		861	1567	<i>Proposed rules:</i>	
180	1549	864	1567	1	1600
<b>12 CFR</b>		881	1567	3	1600
222	1584	1201	1644	10	1601
<b>14 CFR</b>		<b>33 CFR</b>		<b>49 CFR</b>	
242	1585	203	1585	207	1568
609	1554	207	1568	<b>50 CFR</b>	
<b>15 CFR</b>		<b>36 CFR</b>		33	1655
399	1567	13	1585	<i>Proposed rules:</i>	
<b>16 CFR</b>				31	1655
13	1640-1643			33	1656