

# THE NATIONAL ARCHIVES OF THE UNITED STATES

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## Title 7—AGRICULTURE

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

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

##### Order Amending Order

##### § 903.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than April 1, 1959.

(2) The provisions of the said order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued March 20, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

(d) *Order relative to handling.* The order is hereby amended as follows:

1. In § 903.51(a) (2) delete the proviso and substitute therefor the following: "Provided, That for the months of April, May, June, September, October, and No-

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**CFR SUPPLEMENTS**

(As of January 1, 1959)

The following supplements are now available:

Title 26, Parts 1-79 (\$0.20)  
Titles 35-37 (\$1.25)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 8 (\$0.35); Title 9, Rev. Jan. 1, 1959 (\$4.75); Titles 22-23 (\$0.35); Title 24, Rev. Jan. 1, 1959 (\$4.25); Title 25 (\$0.35); Title 38 (\$0.55); Titles 40-42 (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50); Part 150 to end (\$0.50); Title 47, Part 30 to end (\$0.30); Title 49, Parts 71-90 (\$0.70); Parts 91-164 (\$0.40)

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vember 1959, such rate shall be two cents."

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

Issued at Washington, D.C., this 24th day of March 1959 to be effective on and after the 1st day of April 1959.

[SEAL] CLARENCE L. MILLER,  
Assistant Secretary.

[F.R. Doc. 59-2632; Filed, Mar. 27, 1959;  
8:48 a.m.]

[Navel Orange Reg. 162, Amdt. 1]

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

### Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

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

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i) and (ii) of § 914.462 (Navel Orange Regulation 162, 24 F.R. 2224) are hereby amended to read as follows:

- (i) District 1: 628,320 cartons;
- (ii) District 2: 850,080 cartons.

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

Dated: March 25, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Marketing  
Service.

[F.R. Doc. 59-2648; Filed, Mar. 27, 1959;  
8:50 a.m.]

[Navel Orange Reg. 163]

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

### Limitation of Handling

#### § 914.463 Navel Orange Regulation 163.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 26, 1959.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., March 29,

1959, and ending at 12:01 a.m., P.s.t., April 5, 1959, are hereby fixed as follows:

- (i) District 1: 508,200 cartons;
- (ii) District 2: 924,000 cartons;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: March 26, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Marketing  
Service.

[F.R. Doc. 59-2707; Filed, Mar. 27, 1959;  
11:50 a.m.]

[Valencia Orange Reg. 157]

## PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

#### § 922.457 Valencia Orange Regulation 157.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice

thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 26, 1959.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., March 29, 1959, and ending at 12:01 a.m., P.s.t., April 5, 1959, are hereby fixed as follows:

- (i) District 1: 39,512 cartons;
- (ii) District 2: Unlimited movement;
- (iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

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

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

Dated: March 27, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Market-  
ing Service.

[F.R. Doc. 59-2708; Filed, Mar. 27, 1959;  
11:50 a.m.]

[Orange Reg. 358]

## PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Shipments

#### § 933.964 Orange Regulation 358:

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available infor-

mation, it is hereby found that the limitation of shipments of oranges, except Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, including Temple oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on March 24, 1959, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges, except Temple oranges, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used in this section, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used in this section shall have the same meaning as is given to the respective term in the amended United States Standards for Florida Oranges and Tangelos (§§ 51.1140 to 51.1186 of this title; 22 F.R. 6676).

(2) During the period beginning at 12:01 a.m., e.s.t., March 30, 1959, and ending at 12:01 a.m., e.s.t., April 13, 1959, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple oranges, grown in the production area, which do not grade at least U.S. No. 1 Bronze;

(ii) Any oranges, except Temple oranges, grown in the production area, which are of a size smaller than a size that will pack 288 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iii) Any oranges, except Temple oranges, grown in the production area, which are of a size larger than a size that will pack 126 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box.

Shipments of Temple oranges, grown in the production area, are, until 12:01 a.m., e.s.t., July 31, 1959, subject to the provisions of Orange Regulation 357, Amendment No. 1 (§ 933.961; 24 F.R. 1826).

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

Dated: March 25, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Market-  
ing Service.

[F.R. Doc. 59-2647; Filed, Mar. 27, 1959;  
8:50 a.m.]

[Grapefruit Reg. 306]

## PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Shipments

#### § 933.965 Grapefruit Regulation 306.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of all grapefruit, grown in the production area, are presently subject to regulation by grades and sizes, pur-

suant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on March 24, 1959, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used in this section have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used in this section, shall have the same meaning as is given to the respective term in the United States Standards for Florida Grapefruit (§§ 51.750 to 51.790 of this title); and the term "mature" shall have the same meaning as set forth in section 601.16 Florida Statutes, Chapters 26492 and 28090, known as the Florida Citrus Code of 1949, as supplemented by section 601.17 (Chapters 25149 and 28090) and also by section 601.18, as amended June 22, 1955 (Chapter 29760).

(2) During the period beginning at 12:01 a.m., e.s.t., March 30, 1959, and ending at 12:01 a.m., e.s.t., April 13, 1959, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any seeded grapefruit, grown in the production area, which are not mature and do not grade at least U.S. No. 1 Bronze;

(ii) Any seeded grapefruit, grown in the production area, which are of a size smaller than  $3\frac{1}{16}$  inches in diameter, measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the United States Standards for Florida Grapefruit (§§ 51.750 to 51.790 of this title);

(iii) Any white seedless grapefruit, grown in the production area, which are not mature and do not grade at least U.S. No. 1 Bronze;

(iv) Any pink seedless grapefruit, grown in the production area, which are

not mature and do not grade at least U.S. No. 1 Russet: *Provided*, That such grapefruit which grade U.S. No. 2 Russet, U.S. No. 2, or U.S. No. 2 Bright, may be shipped if such grapefruit meet the requirements as to form (shape) and color specified in the U.S. No. 1 grade; or

(v) Any seedless grapefruit, grown in the production area, which are smaller than  $3\frac{3}{16}$  inches in diameter, measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in said United States Standards for Florida Grapefruit.

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

Dated: March 25, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Marketing  
Service.

[F.R. Doc. 59-2646; Filed, Mar. 27, 1959;  
8:50 a.m.]

[Lemon Reg. 785]

**PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Limitation of Handling**

**§ 953.892 Lemon Regulation 785.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based becomes available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for

lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 25, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., March 29, 1959, and ending at 12:01 a.m., P.s.t., April 5, 1959, are hereby fixed as follows:

- (i) District 1: 13,020 cartons;
- (ii) District 2: 219,480 cartons;
- (iii) District 3: Unlimited movement.

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

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

Dated: March 26, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Marketing  
Service.

[F.R. Doc. 59-2687; Filed, Mar. 27, 1959;  
9:20 a.m.]

**PART 1021—TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS**

**Order Regulating Handling**

Sec. 1021.0 Findings and determinations.

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**AUTHORITY:** §§ 1021.0 to 1021.92, issued pursuant to sec. 5, 48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047.

#### § 1021.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31 as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (Part 900 of this chapter), a public hearing was held at Edinburg, Texas, November 5-7, 1958, upon a proposed marketing agreement and a proposed marketing order regulating the handling of tomatoes grown in the Lower Rio Grande Valley in Texas (Cameron, Hidalgo, Starr, and Willacy Counties). Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) This order, and all of the terms and conditions hereof, will tend to effectuate the declared policy of the act with

respect to tomatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as the prices to the producers thereof, parity prices, and by protecting the interests of the consumer (i) by approaching the level of prices which is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such tomatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such tomatoes as will be in the public interest;

(2) This order authorizes regulation of the handling of tomatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities as specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) This order is limited in its application to the smallest regional production area which is practicable consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to different subdivisions of the production area, would not effectively carry out the declared policy of the act;

(4) This order prescribes, so far as practicable, such different terms applicable to the different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of tomatoes grown in the production area; and

(5) All handling of tomatoes, as defined in this order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found that good cause exists for making the provisions of this order, effective not later than the time hereinafter specified so that the Texas Tomato Committee, the administrative agency provided for in the order can be organized and start to function as soon as possible. In this manner, it will be possible for regulations to be formulated and issued so that producers will be in a position to obtain the benefits of this program on their 1959 crop of tomatoes.

The provisions of the order are well known to handlers of tomatoes grown in the production area by reason of the following facts: (1) The public hearing, at which evidence was received from the industry and upon which this order was based, was held at Edinburg, Texas, November 5-7, 1958; (2) the recommended decision and the final decision were issued on December 31, 1958 (23 F.R. 10541), and February 4, 1959 (24 F.R. 792), respectively; (3) copies of the reg-

ulatory provisions of the order were made available, prior to or during the course of the referendum which was held during the period February 25 through March 2, 1959, to determine whether producers of tomatoes in the production area approved or favored issuance of this order, to all known parties who may be subject thereto; and (4) all known handlers in the production area were mailed a copy of the marketing agreement, the regulatory provisions of which are the same as those contained in this order. Compliance with the regulatory provisions of this order will not require advance preparation on the part of persons subject thereto which cannot be completed prior to the effective date of regulation pursuant hereto. It would be contrary to the public interest to delay the effective date hereof beyond the date hereinafter specified (5 U.S.C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping tomatoes covered by this order) of more than 50 percent of the volume of tomatoes covered by this order, refused or failed to sign the aforesaid proposed marketing agreement; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of tomatoes grown in the production area; and

(3) The issuance of this order is approved or favored (i) by at least two-thirds of the producers of tomatoes who participated in a referendum held during the period February 25 through March 2, 1959 and who, during the determined representative period (January 1 through December 31, 1958), have been engaged within the production area in the production of tomatoes for market, and (ii) by producers who participated in the aforesaid referendum who, during the aforesaid representative period, produced for market at least two-thirds of the volume of such tomatoes produced for market within the production area specified herein by all producers who participated in the said referendum.

*Order relative to handling.* It is, therefore, ordered that on and after the effective time hereof, the handling of tomatoes grown in the Lower Rio Grande Valley in Texas shall be in conformity to and in compliance with the terms and conditions of this order; and such terms and conditions are as follows:

#### DEFINITIONS

##### § 1021.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

**§ 1021.2 Act.**

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047).

**§ 1021.3 Person.**

"Person" means an individual, partnership, corporation, association, or any other business unit.

**§ 1021.4 Production area.**

"Production area" means all territory in the counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas.

**§ 1021.5 Tomatoes.**

"Tomatoes" means all varieties of the edible fruit (*Lycopersicon esculentum*) commonly known as tomatoes and grown within the production area.

**§ 1021.6 Handler.**

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of tomatoes owned by another person) who handles tomatoes or causes tomatoes to be handled.

**§ 1021.7 Handle.**

"Handle" or "ship" means to transport, sell, or in any way to place tomatoes in the current of the commerce between the production area and any point outside thereof: *Provided*, That such terms will not include the transportation, sale, or delivery within the production area of tomatoes to a handler who is registered as such with the committee.

**§ 1021.8 Producer.**

"Producer" means any person engaged in a proprietary capacity in the production of tomatoes for market.

**§ 1021.9 Producer-handler.**

"Producer-handler" means a person who buys and sells tomatoes grown in the production area, owns, or operates a packing shed which packs such tomatoes, and is also a producer of tomatoes in the production area.

**§ 1021.10 Grade and size.**

"Grade" means any one of the established grades of tomatoes and "size" means any one of the established sizes of tomatoes as defined and set forth in U.S. Standards for Fresh Tomatoes (§§ 51.1855 to 51.1876 of this title) or U.S. Consumer Standards for Fresh Tomatoes (§§ 51.1900 to 51.1913 of this title), both issued by the United States Department of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon, recommended by the committee and approved by the Secretary.

**§ 1021.11 Pack.**

"Pack" means any of the packs of tomatoes as defined and set forth in the United States Standards for Fresh Tomatoes issued by the United States Department of Agriculture (§§ 51.1855 to 51.1876 of this title), or any pack of tomatoes recommended by the committee and approved by the Secretary.

**§ 1021.12 Maturity.**

"Maturity" means specific degrees of ripeness for tomatoes as established by the committee with approval of the Secretary.

**§ 1021.13 Container.**

"Container" means a box, bag, crate, hamper, basket, package, tube, or any other type of unit used in the packaging, transportation, sale, shipment, or handling of tomatoes.

**§ 1021.14 Varieties.**

"Varieties" means and includes all classifications, subdivisions, or types of tomatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture or recommended by the committee, and approved by the Secretary.

**§ 1021.15 Committee.**

"Committee" means the Texas Valley Tomato Committee, established pursuant to § 1021.22.

**§ 1021.16 Fiscal period.**

"Fiscal period" means the annual period beginning March 1, and ending on the last day of February of the following year, or such annual beginning and ending dates as may be approved by the Secretary pursuant to recommendations of the committee.

**§ 1021.17 District.**

"District" means each of the geographic divisions of the production area initially established pursuant to § 1021.24 or as reestablished pursuant to § 1021.25.

**§ 1021.18 Export.**

"Export" means shipment of tomatoes beyond the boundaries of continental United States.

**COMMITTEE****§ 1021.22 Establishment and membership.**

(a) The Texas Valley Tomato Committee, consisting of nine producer members, of whom three shall be producer-handlers, is hereby established. For each member of the committee there shall be an alternate. Three of the alternate members shall also be producer-handlers.

(b) Each person selected as a committee member or alternate shall be an individual who is a producer or a producer-handler, or an officer or an employee of a producer or a producer-handler, in the district for which selected and a resident of the production area. An officer or employee of a cooperative association of tomato producers which markets the tomato production of its members shall be eligible to serve on the committee as a producer-handler member or alternate.

**§ 1021.23 Term of office.**

(a) The term of office of committee members and their respective alternates shall be for one year and shall begin as of August 1 and end as of July 31.

(b) Committee members and alternates shall serve during the term of office

for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

**§ 1021.24 Districts.**

For the purpose of determining the basis for selecting committee members the following districts of the production area are hereby initially established:

*District No. 1.* The County of Cameron in the State of Texas;

*District No. 2.* The County of Hidalgo in the State of Texas;

*District No. 3.* The County of Starr in the State of Texas; and

*District No. 4.* The County of Willacy in the State of Texas.

**§ 1021.25 Redistricting.**

The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to: (a) Shifts in tomato acreage within districts and within the production area during recent years; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of committee membership and districts; (d) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (e) other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than six months prior to such date.

**§ 1021.26 Selection.**

The Secretary shall select initially three members and their respective alternates from District 1; four members and their respective alternates from District 2; one member and his alternate from District 3; and one member and his alternate from District 4. No more than 2 producer handlers shall be selected from any one district.

**§ 1021.27 Nomination.**

The Secretary may select the members of the committee and alternates from nominations which may be made in the following manner:

(a) A meeting or meetings of producers and producer-handlers shall be held in each district to nominate members and alternates for the committee. For nominations to the initial committee, the meetings may be sponsored by the United States Department of Agriculture or by any agency or group requested to do so by such department. For nominations for succeeding members and alternates on the committee, the committee shall hold such meetings or cause them to be held prior to June 15 of each year, after the effective date of this subpart;

(b) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee.

(c) Nominations for committee members and alternates, shall be supplied to the Secretary in such manner and form as he may prescribe, not later than July 15, of each year;

(d) Only producers and producer-handlers may participate in designating nominees for members and alternates on the committee. In the event a person is engaged in producing tomatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees; and

(e) Regardless of the number of districts in which a person produces tomatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

#### § 1021.23 Failure to nominate.

If nominations are not made within the time and in the manner specified in § 1021.27, the Secretary may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for in §§ 1021.24 to 1021.26, inclusive.

#### § 1021.29 Acceptances.

Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

#### § 1021.30 Vacancies.

To fill committee vacancies, the Secretary may select such members or alternates from unselected nominees on the current nominee list from the district involved, or from nominations made in the manner specified in § 1021.27. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in §§ 1021.24 to 1021.26, inclusive.

#### § 1021.31 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence, or when designated to do so by the member for whom he is an alternate. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

#### § 1021.32 Procedure.

(a) Six members of the committee shall be necessary to constitute a quorum

and six concurring votes shall be required to pass any motion or approve any committee action. At assembled meetings all votes shall be cast in person.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing: *Provided*, That at any un-assembled meeting unanimous vote of all committee members will be required to approve any action.

#### § 1021.33 Expenses and compensation.

Committee members and alternates may be reimbursed for expenses necessarily incurred by them in the performance of duties and in the exercise of powers under this part.

#### § 1021.34 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

#### § 1021.35 Duties.

It shall be, among other things, the duty of the committee:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the salaries and define the duties of each such person, and to protect the handling of committees funds through fidelity bonds for employees;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to tomatoes;

(f) To prepare a marketing policy;

(g) To recommend marketing regulations to the Secretary;

(h) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege or exemptions, or both;

(i) To investigate an applicant's claim for exemptions;

(j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books and records shall be subject to examination at any time by the Secretary or by his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(k) At the beginning of each fiscal period, to prepare a budget of its ex-

penses for such fiscal period, together with a report thereon;

(l) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. A copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(m) To consult, cooperate, and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

#### EXPENSES AND ASSESSMENTS

#### § 1021.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of tomatoes under regulation handled by him as the first handler thereof during a fiscal period and the total quantity of tomatoes under regulation handled by all handlers as first handlers thereof during such fiscal period.

#### § 1021.41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

#### § 1021.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles tomatoes, which are regulated under this part, shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an

amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all tomatoes which were regulated under this part and which were handled by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

#### § 1021.43 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other commit-

tee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

#### RESEARCH AND DEVELOPMENT

##### § 1021.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of tomatoes. The expenses of such projects shall be paid from funds collected pursuant to § 1021.42.

#### REGULATION

##### § 1021.50 Marketing policy.

Prior to or at the same time as initial recommendations are made pursuant to § 1021.51, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in shipping tomatoes from the production area during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand and supply situation with respect to tomatoes. The committee shall publicly announce the submission of each such marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or any handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Market prices of tomatoes, including prices by grades, sizes, and quality in different packs, and such prices by foreign competing areas;

(b) Supply of tomatoes, by grade, size, and quality in the production area, and in other production areas, including foreign competing production areas;

(c) Trend and level of consumer income;

(d) Marketing conditions affecting tomato prices; and

(e) Other relevant factors.

##### § 1021.51 Recommendations for regulations.

The committee, upon complying with the requirements of § 1021.50, may recommend regulations to the Secretary whenever it finds that such regulations as are provided for in this subpart will tend to effectuate the declared policy of the act.

##### § 1021.52 Issuance of regulations.

(a) The Secretary shall limit by regulation the handling of tomatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act.

(b) Such regulation may:

(1) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities, or packs

of any or all varieties of tomatoes during any period; or

(2) Limit the handling of particular grades, sizes, qualities, or packs of tomatoes differently, for different varieties, for different stages of maturity, for different portions of the production area, for different containers, for different purposes specified in § 1021.54, or any combination of the foregoing, during any period; or

(3) Limit the shipment of tomatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity; or

(4) Fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of tomatoes.

##### § 1021.53 Minimum quantities.

The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which handling will be free from regulations issued or effective pursuant to § 1021.42, § 1021.52, § 1021.54, or § 1021.60, or any combination thereof.

##### § 1021.54 Handling for special purposes.

Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to § 1021.42, § 1021.52, § 1021.53, or § 1021.60, or any combination thereof, in order to facilitate shipments of tomatoes for the following purposes:

- (a) For export;
- (b) For relief or for charity;
- (c) For processing;
- (d) For experimental projects; or
- (e) For other purposes which may be specified.

##### § 1021.55 Notification of regulation.

The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

##### § 1021.56 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent tomatoes handled pursuant to § 1021.53 or § 1021.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege, if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to handle tomatoes pursuant to §§ 1021.53 and 1021.54; or

(2) Handlers shall obtain inspection provided by § 1021.60, or pay the assessment levied pursuant to § 1021.42, or both, in connection with shipments made under § 1021.54.

(3) Handlers shall obtain Certificates of Privilege from the committee for handling of tomatoes affected or to be

affected under the provisions of §§ 1021.53 and 1021.54.

(b) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that tomatoes handled by him for the purposes stated in §§ 1021.53 and 1021.54 were handled contrary to the provisions of this part.

(c) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of tomatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of tomatoes handled under duly issued certificates, and such other information as may be requested.

#### INSPECTION

##### § 1021.60 Inspection and certification.

(a) During any period in which handling of tomatoes is regulated pursuant to this subpart no handler shall handle tomatoes unless such tomatoes have been inspected by an authorized representative of the Federal Inspection Service, or such other inspection service as the Secretary shall designate, and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § 1021.53, or § 1021.54, or both. Handlers may be required, upon recommendation of the committee and approval of the Secretary, to mark or indicate on the containers that the tomatoes therein have been inspected.

(b) Regrading, resorting, or repacking any lot of tomatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle tomatoes after they have been regraded, resorted, repacked, or in any other way further prepared for market, unless each lot of such tomatoes is inspected by an authorized representative of the Federal Inspection Service, or such other inspection service as the Secretary shall designate: *Provided*, That the committee, with approval of the Secretary, may provide for waiving inspection requirements on any tomatoes in circumstances where it appears reasonably certain that, after regrading, resorting, or repacking, such tomatoes meet the applicable quality and other standards then in effect.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When tomatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(e) The committee may recommend and the Secretary may require that any tomatoes transported by motor vehicle shall be accompanied by a copy of the inspection certificate issued thereon, which certificate shall be surrendered to such authority as may be designated.

#### EXEMPTIONS

##### § 1021.70 Procedure.

The committee may adopt, with approval of the Secretary, the procedures

pursuant to which certificates of exemption will be issued to producers or handlers.

##### § 1021.71 Granting exemptions.

The committee shall issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee, that by reason of a regulation issued pursuant to § 1021.52 he will be prevented from handling as large a proportion of his production as the average proportion of production handled during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area and that the grade, size, or quality of the applicant's tomatoes have been adversely affected by acts beyond the applicant's control and beyond reasonable expectation. Each certificate shall permit the producer to handle the amount of tomatoes specified thereon. Such certificate shall be transferred with such tomatoes at time of transportation or sale.

##### § 1021.72 Investigation.

The committee shall be permitted at any time to make a thorough investigation of any producer's claim pertaining to exemptions.

##### § 1021.73 Appeal.

If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

##### § 1021.74 Records.

(a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of tomatoes covered by such exemption certificates, a record of appeals for reconsideration of applications, and such other information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to § 1021.70, § 1021.71, § 1021.72, or § 1021.73, or any combination thereof.

#### REPORTS

##### § 1021.80 Reports.

Upon the request of the committee, made with approval of the Secretary, each handler shall furnish to the com-

mittee in such manner and at such time as it may prescribe, reports and other information as may be necessary for the committee to perform its duties under this part. In this connection:

(a) Such reports may include, but are not necessarily limited to, the following: (1) The quantities of tomatoes received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation, and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such tomatoes; and (4) identification of the inspection certificates and the exemption certificates, if any, pursuant to which the tomatoes were handled, together with the destination of each exempted disposition and of all tomatoes handled pursuant to §§ 1021.53 and 1021.54.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the tomatoes received and disposed of by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

#### COMPLIANCE

##### § 1021.81 Compliance.

Except as provided in this part, no handler shall handle tomatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this part, or the rules and regulations thereunder, and no handler shall handle tomatoes except in conformity to the provisions of this part.

#### MISCELLANEOUS PROVISIONS

##### § 1021.82 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

##### § 1021.83 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

**§ 1021.84 Termination.**

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during a representative period, have been engaged in the production of tomatoes for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty percent of the volume of such tomatoes produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

**§ 1021.85 Proceedings after termination.**

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of liquidating the affairs of the committee of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

**§ 1021.86 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart, or of any regulations issued under this

subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

**§ 1021.87 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

**§ 1021.88 Agents.**

The Secretary may, by designation in writing, name any person, including any officer or employee of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

**§ 1021.89 Derogation.**

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 1021.90 Personal liability.**

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct, or gross negligence.

**§ 1021.91 Separability.**

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

**§ 1021.92 Amendments.**

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

(48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047)

Issued at Washington, D.C., this March 24, 1959, to become effective April 2, 1959.

[SEAL] CLARENCE L. MILLER,  
Assistant Secretary of Agriculture.

[F.R. Doc. 59-2649; Filed, Mar. 27, 1959; 8:50 a.m.]

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 7135]

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

##### Stanley Furs, Inc., et al.

Subpart—*Advertising falsely or misleadingly*: § 13.155 *Prices: Exaggerated*

as regular and customary; retail as cost, etc., or discounted.<sup>1</sup> Subpart—*Invoicing products falsely*: § 13.1108 *Invoicing products falsely*: Fur Products Labeling Act. Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition*: Fur Products Labeling Act; § 13.1280 *Price*. Subpart—*Misrepresenting oneself and goods—Prices*: § 13.1805 *Exaggerated as regular and customary*; § 13.1820 *Retail as cost, etc., or discounted*.<sup>2</sup> 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. Subpart—*Using misleading name—Goods*: § 13.2280 *Composition*: 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, Stanley Furs, Inc., et al., Denver, Colo., Docket 7135, February 28, 1959]

*In the Matter of Stanley Furs, Inc., a Corporation, and Stanley Calkins, Raymond Hartman and Yvonne Cavanaugh, Individually and as Officers of Said Corporation*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging furriers in Denver, Colo., with violating the Fur Products Labeling Act by labeling fur products with fictitious prices represented as regular retail selling prices, by deceptively identifying the animals producing certain furs on labels, setting forth the names of other animals on labels and invoices, and failing in other respects to label and invoice fur products as required; by advertising in newspapers which failed to disclose the name of the animal producing certain furs or contained that of another animal, failed to disclose that fur products contained artificially colored or cheap or waste fur, and misrepresented prices as cost plus tax or reduced from usual prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on February 27 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered*, That respondent, Stanley Furs, Inc., a corporation, and its officers, and respondents Stanley Calkins and Raymond Hartman, 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 or the manufacture for 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 manufacture for sale, sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole

<sup>1</sup> Amended to read as set forth.

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:

**A. Misbranding fur products by:**

1. Falsely or deceptively labeling or otherwise falsely identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured;

2. Representing on labels attached to fur products, or in any other manner, that certain amounts are the regular and usual retail prices of fur products when such amounts are in excess of the prices at which such products are usually and customarily sold by respondents at retail in the recent regular course of their business;

3. 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 the fact;

c. That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

d. That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the 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 in 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;

g. The item number of such fur product;

4. Setting forth on labels attached to fur products:

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

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

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

d. The name or names of an animal or animals other than the name or names prescribed by section 4(2) (A) of the Fur Products Labeling Act;

**B. Falsely or deceptively invoicing fur products by:**

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

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 under the rules and regulations;

b. That the fur product contains or is composed of used fur, when such is the fact;

c. That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

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

e. The name and address of the person issuing such invoices;

f. The name of the country of origin of any imported furs contained in the fur product;

2. Setting forth on invoices of fur products:

a. The name or names of an animal or animals other than the name or names prescribed by section 5(b) (1) (A) of the Fur Products Labeling Act;

b. Information required under section 5(b) (1) of the Fur Products Labeling Act and the rules and regulations thereunder in abbreviated form;

**C. 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 product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

b. That the fur products contain or are composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

c. That the fur products are composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

2. Contains the name or names of an animal or animals other than the name or names prescribed in section 5(a) (1) of the Fur Products Labeling Act;

3. Represents directly or by implication:

a. That the prices of fur products are at cost plus tax or words of similar import, when such is not the fact;

b. That prices of fur products are at cost of sale plus tax or words of similar import, when such is not the fact;

c. That respondents' regular price of any fur product is any amount which is in excess of the price at which respondents have regularly or customarily sold such products in the recent regular course of their business;

**D. Making claims or representations in advertisements respecting comparative prices or that prices are reduced from regular or usual prices or that prices are at cost plus tax or that prices are at cost of sale plus tax unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.**

*It is further ordered,* That the complaint, insofar as it relates to respondent

Yvonne Cavanaugh, he, and the same hereby is, dismissed.

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

*It is ordered,* That respondents Stanley Furs, Inc., a corporation, and Stanley Calkins and Raymond Hartman, individually and as officers of said corporation, 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 27, 1959.

By the Commission.

[SEAL] ROBERT M. FARRISH,  
Secretary.

[F.R. Doc. 59-2623; Filed, Mar. 27, 1959;  
8:46 a.m.]

[Docket 7007]

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

**Topval Corp. et al.**

Subpart—*Advertising falsely or misleadingly:* § 13.155 *Prices:* Exaggerated as regular and customary; § 13.195 *Safety:* § 13.205 *Scientific or other relevant facts:* § 13.215 *Seals, emblems, or awards:* § 13.235 *Source or origin:* Maker or seller, etc. Subpart—*Using misleading name—Goods:* § 13.2345 *Source or origin:* Maker.

(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, Topval Corporation et al., Lindenhurst, N.Y., Docket 7007, June 28, 1958]

*In the Matter of Topval Corporation, a Corporation, and Kendex Corporation, a Corporation, and Michael Kent, and Joseph Kent, Individually and as Officers of Said Corporations*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging two associated mail order sellers in Lindenhurst, N.Y., of electrical appliances, electric skillets, cooker fryers, and other merchandise, with representing falsely in advertising in nationally distributed magazines—frequently in the form of salesmen's opportunities intended to attract individuals desiring to go into their own mail order discount business—that fictitious and exaggerated amounts were their usual retail or wholesale prices, and that their merchandise had been advertised in Life Magazine; and with representing falsely by displaying the names "General Electric" and "Westinghouse", that certain of their products were made by those companies, and, by displaying the seals of Good Housekeeping Magazine and the Underwriters Laboratories, that their products had passed quality and safety tests.

Following acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on June 28 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered,* That respondents, Topval Corporation, a corporation, and its officers, and Kendex Corporation, a corporation, and its officers, and Michael H. Kent and Joseph H. Kent, individually and as officers of said corporations, and respondents' agents, representatives and employees directly, or through any corporate or other device, in connection with the offering for sale, sale and distribution of electric skillets, cooker fryers or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

1. Representing, directly or indirectly: (a) That any amount is the retail price of merchandise when such amount is in excess of the price at which such merchandise is usually and regularly sold at retail;

(b) That any amount is the wholesale price of merchandise when such amount is in excess of the price at which such merchandise is usually and regularly sold at wholesale;

(c) That merchandise has been advertised in Life Magazine; or has been advertised in any other magazine or publication, unless such is the fact.

2. Using the name of any company in connection with merchandise which has not been manufactured in its entirety by said company, or representing, directly or indirectly, that merchandise not manufactured in its entirety by a specified company, was so manufactured, provided however, that this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been manufactured by a specified company when the part is clearly and conspicuously identified.

3. Using the Good Housekeeping seal of approval in connection with their merchandise; or representing in any manner that their merchandise, or any article thereof, has been awarded said seal of approval; or that their merchandise, or any article thereof, has been approved by any other group or organization, unless such is the fact.

4. Using the seal of United Laboratories, Inc., in connection with their merchandise; or representing in any other manner that their merchandise or any article thereof, has been approved by said company; or that their merchandise, or any article thereof, has been approved by any other group or organization as to its safety, unless such is the fact.

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

*It is ordered,* That respondents Topval Corporation, a corporation, and Kendex Corporation, a corporation, and Michael H. Kent, erroneously referred to in the complaint as Michael Kent, and Joseph H. Kent, erroneously referred to in the complaint as Joseph Kent, individually and as officers of said corporations, shall, within sixty (60) days after service upon them of this order, file with the Com-

mission 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: June 27, 1958.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F.R. Doc. 59-2624; Filed, Mar. 27, 1959;  
8:46 a.m.]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

#### SUBCHAPTER A—MEAT INSPECTION REGULATIONS

#### PART 27—IMPORTED PRODUCTS

#### PART 29—INSPECTION AND HANDLING OF HORSE MEAT AND PRODUCTS THEREOF

##### Miscellaneous Amendments

On January 28, 1959, there was published in the FEDERAL REGISTER (24 F.R. 605) a notice of proposed amendment of Part 29 of the Federal Meat Inspection Regulations. After due consideration of all relevant matters, and pursuant to the authority conferred by the Meat Inspection Act, as amended (21 U.S.C. 71 et seq.), the Horsemeat Act (21 U.S.C. 96), and paragraphs (b) and (c) of section 306 of the Tariff Act of 1930, as amended (19 U.S.C. 1306 (b) and (c)), §§ 27.8, 27.19 and 29.10 of the Meat Inspection Regulations (9 CFR 27.8, 27.19, 29.10), are hereby amended as follows:

##### § 27.8 [Amendment]

1. Paragraph (o) of § 27.8 is amended to read:

(o) Division inspectors or Customs officers at border or seaboard ports shall report the sealing of cars, trucks, or other vehicles, and the sealing or identification of packages of foreign product on Form MI-410 to Division inspectors in charge at points where such product is to be inspected.

2. Section 27.19 is amended to read:

§ 27.19 Returned United States inspected and marked products; not importations.

United States inspected and passed and so marked products returned from foreign countries are not importations within the meaning of this part. Such return shipments shall be reported to the division by letter.

##### § 29.10 [Amendment]

3. Paragraph (b) of § 29.10 is amended to read:

(b) It has been determined that horse meat and horse meat food products from the following foreign countries covered by foreign horse meat inspection certificates of the country of origin as required by § 29.11 are eligible for importation

into the United States after inspection and marking as required by the applicable provisions of Parts 1 through 29 of this subchapter and upon compliance with any requirements of the Animal Inspection and Quarantine Division of the Agricultural Research Service:

Argentina.  
Canada.  
Mexico.

The amendment of § 29.10(b) will relieve restrictions by permitting the importation of horse meat and horse meat products from Canada which has now been found to have an adequate horse meat inspection system.

The amendments of §§ 27.8(o) and 27.19, which were not proposed in the notice of rule making, are formal in nature and made necessary because of the change in report form numbers. Since the amendments not included in the notice of rule making are not substantive, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) it is found upon good cause that further notice and other public procedure with respect to these amendments are impracticable and unnecessary, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER. Since the amendment of § 29.10(b) relieves restrictions, under said section 4 it may also be made effective less than 30 days after such publication.

The amendments shall become effective March 28, 1959.

(34 Stat. 1264, 41 Stat. 241, sec. 306, 46 Stat. 689, as amended; 19 U.S.C. 1306, 21 U.S.C. 89, 96)

Done at Washington, D.C. this 25th day of March 1959.

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

[F.R. Doc. 59-2650; Filed, Mar. 27, 1959;  
8:51 a.m.]

## Title 6—AGRICULTURAL CREDIT

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

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

[1958 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 9 Wheat]

#### PART 421—GRAINS AND RELATED COMMODITIES

#### Subpart—1958-Crop Wheat Loan and Purchase Agreement Program

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F.R. 3485, 5317, 5764, 6551, 7876, 8853 and 9503, containing specific requirements for the 1958-crop wheat price support program are hereby amended as follows:

Section 421.3046(h) is amended by adding the following counties and rates of payments per bushel:

County	MONTANA	Amount per bushel (cents) <sup>1</sup>
Beaverhead	-----	\$0.04
Dawson	-----	.01
Garfield	-----	.01
McCone	-----	.01
Valley	-----	.01

<sup>1</sup>No payment will be made where purchases of wheat under loan have been made by producers with Soil Bank Certificates.

(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)

Issued this 24th day of March 1959.

[SEAL] WALTER C. BERGER,  
Executive Vice President,  
Commodity Credit Corporation.

[F.R. Doc. 59-2651; Filed, Mar. 27, 1959; 8:51 a.m.]

## Title 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 54815]

#### PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHAN- DISE

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

##### Informal Entries and Effects of Citizens Dying Abroad

A customs field officer suggests the amendment of the Customs regulations to permit the effects of a citizen of the United States dying in a foreign country to be entered under an informal entry when they do not exceed \$250 in value. The Bureau approves the suggestion. Accordingly, the Customs regulations are amended as follows:

1. The fourth sentence of § 8.51(a) is amended to read: "This form may also be used for the entry of (1) books or other articles imported by a society, institution, school, or library and classifiable under paragraph 1631, Tariff Act of 1930, as amended; (2) effects not exceeding \$250 in value of citizens of the United States dying abroad; and (3) household and personal effects as described in section 498(a) (4) of the Tariff Act of 1930, as amended, when entered under paragraph 1615(g) (1) of the Tariff Act of 1930, as amended, and the value of the repairs or alterations thereto does not exceed \$250."

(Sec. 498(a), 46 Stat. 728, as amended; 19 U.S.C. 1498(a))

2. Section 10.14(a) is amended by deleting the period at the end and adding: "or if not exceeding \$250 in value, entry may be permitted under section 8.51."

(Secs. 201 (par. 1739), 624, 46 Stat. 680, 759; 19 U.S.C. 1201 (par. 1739), 1624)

[SEAL] RALPH KELLY,  
Commissioner of Customs.

Approved: March 20, 1959.

A. GILMORE FLUES,  
Acting Secretary of the Treasury.

[F.R. Doc. 59-2636; Filed, Mar. 27, 1959; 8:49 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Adminis- tration, Department of Health, Edu- cation, and Welfare

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

##### PART 121—FOOD ADDITIVES

##### Subpart A—Definitions and Proce- dural and Interpretative Regula- tions

By virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 409, 701, 72 Stat. 1785, 52 Stat. 1055, as amended 72 Stat. 948; 21 U.S.C. 348, 371), and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), and after having considered all comments on the proposed order published in the FEDERAL REGISTER of December 9, 1958 (23 F.R. 9511), the following regulations are promulgated:

- Sec.
- 121.1 Definitions and interpretations.
- 121.2 Pesticide chemicals in processed foods.
- 121.3 Substances added to food which are not generally recognized as safe and substances that are generally recognized as safe.
- 121.4 Tolerances for related food additives.
- 121.5 Safety factors to be considered.
- 121.6 General principles for evaluating the safety of food additives.
- 121.7 Food additives for which new-drug applications are required.
- 121.8 Food additives proposed for use in foods for which definitions and standards of identity have been prescribed.
- 121.9 Food additives for which certification is required.
- 121.51 Petitions proposing regulations for food additives.
- 121.52 Withdrawal of petitions without prejudice.
- 121.53 Substantive amendments to petitions.
- 121.54 Effective date.
- 121.55 Objections to regulations and requests for hearings.
- 121.56 Public hearing; notice.
- 121.57 Presiding officer.
- 121.58 Parties; burden of proof; appearances.
- 121.59 Request for stay of effectiveness of regulation pending a hearing.
- 121.60 Prehearing and other conferences.
- 121.61 Submission of documents in advance of hearing.
- 121.62 Excerpts from documents.
- 121.63 Submission and receipt of evidence.
- 121.64 Transcript of the testimony.
- 121.65 Oral and written arguments.
- 121.66 Indexing of record.
- 121.67 Certification of record.
- 121.68 Filing the record of the hearing.

- Sec.
- 121.69 Copies of the record of the hearing.
- 121.70 Proposed order after public hearing.
- 121.71 Final order after public hearing.
- 121.72 Adoption of regulation on initiative of Commissioner.
- 121.73 Judicial review.
- 121.74 Procedure for amending and repealing tolerances or exemptions from tolerances.
- 121.75 Exemption for investigational use.

AUTHORITY: §§ 121.1-121.75 issued under secs. 409, 701, 52 Stat. 1055, as amended, 72 Stat. 948; 72 Stat. 1784; 21 U.S.C. 348, 371. Interpret or apply secs. 201, 402, 72 Stat. 1784; 21 U.S.C. 321, 342.

##### § 121.1. Definitions and interpretations.

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Commissioner" means the Commissioner of Food and Drugs.

(d) As used in this part, the term "act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1938 (52 Stat. 1040 et seq., as amended; 21 U.S.C. 301-392).

(e) "Food additives" includes all substances not exempted by section 201(s) of the act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

(f) "Common use in food" refers to consumption of a substance by consumers, regardless of the number of manufacturers who may produce it.

(g) The word "substance" in the definition of the term "food additive" includes a food or food component consisting of one or more ingredients.

(h) "Scientific procedures" include not only original animal, analytical, and other scientific studies, but also an unprejudiced compilation of reliable information, both favorable and unfavorable, drawn from the scientific literature.

(i) "Safe" means that there is convincing evidence which establishes with reasonable certainty that no harm will result from the intended use of the food additive.

##### § 121.2 Pesticide chemicals in processed foods.

When pesticide chemical residues occur in processed foods due to the use of raw agricultural commodities that bore

or contained a pesticide chemical in conformity with an exemption granted or a tolerance prescribed under section 408 of the act, the processed food will not be regarded as adulterated so long as good manufacturing practice has been followed in removing any residue from the raw agricultural commodity in the processing (such as by peeling or washing) and so long as the concentration of the residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity. But when the concentration of residue in the processed food when ready to eat is higher than the tolerance prescribed for the raw agricultural commodity, the processed food is adulterated unless the higher concentration is permitted by a tolerance obtained under section 409 of the act. For example, if fruit bearing a residue of 7 parts per million of DDT permitted on the raw agricultural commodity is dried and a residue in excess of 7 parts per million of DDT results on the dried fruit, the dehydrated fruit is adulterated unless the higher tolerance for DDT is authorized by the regulations in this part. Food that is itself ready to eat, and which contains a higher residue than allowed for the raw agricultural commodity, may not be legalized by blending or mixing with other foods to reduce the residue in the mixed food below the tolerance prescribed for the raw agricultural commodity.

**§ 121.3 Substances added to food which are not generally recognized as safe and substances that are generally recognized as safe.**

(a) In general, any substance added to food which has no history of common use as a food ingredient should be regarded as a substance that is not generally recognized as safe for its intended food use, for the purpose of sections 201(s) and 402(a) (2) (C) of the act, unless it has been scientifically tested and shown to be safe.

(b) Section 121.101 contains a partial list of substances that are generally recognized among experts qualified by scientific training and experience to evaluate the safety of such substances as ingredients in food as safe for such use under the conditions set forth in that section. No substance will be removed from this list, nor will the permitted conditions of use be modified, without prior notice and a statement of the reasons for the action.

(c) Substances other than those listed in § 121.101 for which prior sanction or approval under the Federal Food, Drug, and Cosmetic Act has been given, are not listed. Upon written request, setting forth the specific product and a specific usage, the Commissioner will advise interested persons whether such use of such product has been sanctioned or approved. Food additives sanctioned for use in foods for which standards of identity have been prescribed are listed in the standards. Except in the case of an imminent hazard to public health, no prior sanction or approval will be withdrawn or modified without prior notice and a statement of the reasons for the action. Such notice and statement will be sent to the person to whom the sanction or

approval was granted and to any other person who has been advised concerning such sanction or approval, if practicable. Otherwise, the notice and statement will be published in the FEDERAL REGISTER.

(d) The Commissioner, upon written request, specifying the intended conditions of use and other pertinent information about a substance, will advise an interested person whether in his opinion the substance is a food additive.

(e) The training and experience necessary to qualify experts to evaluate the safety of food additives, for the purposes of section 201(s) of the act, are sufficient training and experience in biology, medicine, pharmacology, physiology, toxicology, veterinary medicine, or other appropriate science to recognize and evaluate the behavior and effects of chemical substances in the diet of man and of animals.

**§ 121.4 Tolerances for related food additives.**

(a) Food additives that cause similar or related pharmacological effects will be regarded as a class, and in the absence of evidence to the contrary, as having additive toxic effects and will be considered as related food additives.

(b) Tolerances established for such related food additives may limit the amount of a common component that may be present, or may limit the amount of biological activity (such as cholinesterase inhibition) that may be present, or may limit the total amount of related food additives that may be present.

(c) Where food additives from two or more chemicals in the same class are present in or on a food, the tolerance for the total of such additives shall be the same as that for the additive having the lowest numerical tolerance in this class, unless there are available methods that permit quantitative determination of the amount of each food additive present or unless it is shown that a higher tolerance is reasonably required for the combined additives to accomplish the physical or technical effect for which such combined additives are intended and that the higher tolerance will be safe.

(d) Where residues from two or more additives in the same class are present in or on a food and there are available methods that permit quantitative determination of each residue, the quantity of combined residues that are within the tolerance may be determined as follows:

(1) Determine the quantity of each residue present.

(2) Divide the quantity of each residue by the tolerance that would apply if it occurred alone, and multiply by 100 to determine the percentage of the permitted amount of residue present.

(3) Add the percentages so obtained for all residues present.

(4) The sum of the percentages shall not exceed 100 percent.

**§ 121.5 Safety factors to be considered.**

In accordance with section 409(c) (5) (C) of the act, the following safety factors will be applied in determining whether the proposed use of a food additive will be safe: Except where evidence is submitted which justifies use of a dif-

ferent safety factor, a safety factor in applying animal experimentation data to man of 100 to 1, will be used; that is, a food additive for use by man will not be granted a tolerance that will exceed 1/100th of the maximum amount demonstrated to be without harm to experimental animals.

**§ 121.6 General principles for evaluating the safety of food additives.**

(a) In reaching a decision on any petition filed under section 409 of the act, the Commissioner will give full consideration to the specific biological properties of the compound and the adequacy of the methods employed to demonstrate safety for the proposed use, and the Commissioner will be guided by the principles and procedures for establishing the safety of food additives stated in current publications of the National Academy of Sciences-National Research Council. A petition will not be denied, however, by reason of the petitioner's having followed procedures other than those outlined in the publications of the National Academy of Sciences-National Research Council if, from available evidence, the Commissioner finds that the procedures used give results as reliable as, or more reliable than, those reasonably to be expected from the use of the outlined procedures. In reaching a decision, the Commissioner will give due weight to the anticipated levels and patterns of consumption of the additive specified or reasonably inferable. For the purposes of this section, the principles for evaluating safety of additives set forth in the above-mentioned publications will apply to any substance that may properly be classified as a food additive as defined in section 201(s) of the act.

(b) Upon written request describing the proposed use of an additive and the proposed experiments to determine its safety, the Commissioner will advise a person who wishes to establish the safety of a food additive whether he believes the experiments planned will yield data adequate for an evaluation of the safety of the additive.

**§ 121.7 Food additives or pesticide chemicals for which new-drug applications are required.**

(a) A substance that is a new drug within the meaning of section 201(p) of the act may also be a food additive within the meaning of section 201(s) by reason of the fact that its intended use results or may reasonably be expected to result, directly or indirectly, in its or its ingredients' conversion products becoming a component or otherwise affecting the characteristics of a food. When an application for a new drug that is intended for administration to a food-producing animal is submitted, it will also be evaluated under section 408 or 409 of the act (giving due consideration to data previously filed by the applicant) when there is a reasonable possibility that a residue of the drug may be present or otherwise affect the characteristics of the edible products of such animals, and a regulation issued where necessary. Where a substance is both a new drug and a food additive, the submission of a new-drug

application in accordance with the regulations appearing in Part 130 of this chapter will also be construed as a petition for the establishment of a regulation for the use of the substance as a food additive. A new-drug application will not be permitted to become effective for a use that results in the substance becoming a food additive until a regulation is established under section 408 or 409 of the act. A food-additive regulation under section 409 of the act will not be established when the additive results from the use of a new drug for which a new-drug application cannot be made effective. The new-drug application and the establishment of a regulation respecting the food additive or pesticide chemical use will be acted upon simultaneously.

(b) With respect to those uses of a new drug that result in its becoming a food additive, the provisions of these regulations shall apply concerning the procedure to be followed in establishing a food-additive regulation. Upon determination that a new-drug application contains a petition for the establishment of a food-additive regulation, the New Drug Branch of the Food and Drug Administration shall so notify the applicant prior to the effective date of the application, and shall inform him that his application with respect to the uses of the new drug which result in its becoming a food additive will be processed under the regulations in this part. Upon the issuance of the food-additive regulation, the New Drug Branch will notify the applicant that his application is effective to the extent allowed by the regulation. In the event the proceeding for the food-additive regulation results in the denial of a regulation allowing the use of the new drug as a food additive, the applicant shall be notified that the refusal to permit his new-drug application to become effective is final with respect to the use of the new drug for uses resulting in its becoming a food additive.

**§ 121.3 Food additives proposed for use in foods for which definitions and standards of identity have been prescribed.**

(a) Where a petition is received for the issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a food additive in such definition and standard of identity, the provisions of the regulations in this part shall apply with respect to the information that must be submitted with respect to the food additive. Since section 409(b)(5) of the act requires that the Secretary publish notice of a petition for the establishment of a food-additive regulation within 30 days after filing, notice of a petition relating to a definition and standard of identity shall also be published within that time limitation if it includes a request, so designated, for the establishment of a regulation pertaining to a food additive.

(b) If a petition for a definition and standard of identity contains a proposal for a food-additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining

that the petition includes a proposal for a food-additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in this part.

(c) A regulation will not be issued allowing the use of a food additive in a food for which a definition and standard of identity is established, unless its issuance also complies with section 401 of the act.

**§ 121.9 Food additives for which certification is required.**

(a) An antibiotic drug that is subject to the certification requirements of sections 502(l) and 507 of the act may also be a food additive within the meaning of section 201(s), by reason of the fact that its intended use results or may reasonably be expected to result, directly or indirectly, in it, its ingredients, or conversion products becoming components of or otherwise affecting the characteristics of a food. Any such drug that is intended for administration to a food-producing animal will also be evaluated under section 408 or section 409 (giving due consideration to data previously filed by the applicant) when there is a reasonable possibility that a residue of the drug may be present or otherwise affect the characteristics of the edible products of such animals and a regulation issued where necessary. Where a substance is both a certifiable drug and a food additive, the submission of the information required by the regulations appearing in Parts 146, 146a, 146b, 146c, 146d, and 146e of this chapter will also be construed as a petition for the establishment of a regulation for the use of the substance as a food additive. An antibiotic application will not be permitted to become effective for a use that results in the substance becoming a food additive until a regulation is established under section 408 or section 409 of the act. The antibiotic application and the establishment of a regulation respecting the food additive use will be acted upon simultaneously.

(b) With respect to those uses of an antibiotic drug that result in its becoming a food additive, the provisions of the regulations in this part shall apply concerning the procedure to be followed in establishing a food-additive regulation. Upon determination that an antibiotic application contains a petition for the establishment of a food-additive regulation, the Division of Antibiotics of the Food and Drug Administration shall so notify the applicant prior to the effective date of the application and shall inform him that his application with respect to the uses of the antibiotic which result in its becoming a food additive will be processed under the regulations in this part. Upon the issuance of a food-additive regulation, the Division of Antibiotics will notify the applicant that his application is effective to the extent allowed by the regulation. In the event the proceeding for the food-additive regulation results in the denial of a regulation allowing the use of the antibiotic drug as a food additive, the applicant shall be notified that the denial of his antibiotic application is final with re-

spect to the use of such drug for use resulting in its becoming a food additive.

**§ 121.51 Petitions proposing regulations for food additives.**

(a) Petitions to be filed with the Commissioner under the provisions of section 409(b) of the act shall be submitted in triplicate. If any part of the material submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation. The petition shall state petitioner's post-office address to which published notices or orders issued or objections filed pursuant to section 409 of the act may be sent.

(b) Pertinent information may be incorporated in, and will be considered as part of, a petition on the basis of specific reference to such information submitted to and retained in the files of the Food and Drug Administration. However, any reference to unpublished information furnished by a person other than the applicant will not be considered unless use of such information is authorized in a written statement signed by the person who submitted it. Any reference to published information offered in support of a food-additive petition should be accompanied by reprints or photostatic copies of such references.

(c) Petitions shall include the following data and be submitted in the following form:

(Date)

Name of petitioner \_\_\_\_\_  
 Post-office address \_\_\_\_\_  
 Date \_\_\_\_\_  
 Name of food additive and proposed use \_\_\_\_\_

FOOD AND DRUG ADMINISTRATION,  
 DEPARTMENT OF HEALTH, EDUCATION, AND  
 WELFARE,  
 Washington 25, D.C.

DEAR SIR:

The undersigned, \_\_\_\_\_, submits this petition pursuant to section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act with respect to \_\_\_\_\_

(Name of the food additive and proposed use)

Attached hereto, in triplicate, and constituting a part of this petition, are the following:

A. The name and all pertinent information concerning the food additive, including chemical identity and composition of the food additive, its physical, chemical, and biological properties, and specifications prescribing the minimum content of the desired component(s) and identifying and limiting the reaction byproducts and other impurities. Where such information is not available, a statement as to the reasons why it is not should be submitted.

When the chemical identity and composition of the food additive is not known, the petition shall contain information in sufficient detail to permit evaluation regarding the method of manufacture and the analytical controls used during the various stages of manufacturing, processing, or packing of the food additive which are relied upon to establish that it is a substance of reproducible composition. Alternative methods and controls and variations in methods and controls within reasonable limits that do not affect the characteristics of the substance or the reliability of the controls may be specified.

If the food additive is a mixture of chemicals, the petition shall supply a list of all

substances used in the synthesis, extraction, or other method of preparation, regardless of whether they undergo chemical change in the process. Each substance should be identified by its common English name and complete chemical name, using structural formulas when necessary for specific identification. If any proprietary preparation is used as a component, the proprietary name should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed substance may be specified.

If the petitioner does not himself perform all the manufacturing, processing, and packing operations for a food additive, the petition shall identify each person who will perform a part of such operations and designate the part.

The petition shall include stability data, and, if the data indicate that it is needed to insure the identity, strength, quality, or purity of the additive, the expiration date that will be employed.

B. The amount of the food additive proposed for use and the purposes for which it is proposed, together with all directions, recommendations, and suggestions regarding the proposed use, as well as specimens of the labeling proposed for the food additive and any labeling that will be required by applicable provisions of the Federal Food, Drug, and Cosmetic Act on the finished food by reason of the use of the food additive. If the additive results or may reasonably be expected to result from the use of packaging material, the petitioner shall show how this may occur and what residues may reasonably be anticipated.

(Typewritten or other draft-labeling copy will be accepted for consideration of the petition, provided a statement is made that final printed labeling identical in content to the draft copy will be submitted as soon as available and prior to the marketing of the food additive.)

If the food additive is one for which a tolerance limitation is required to assure its safety, the level of use proposed should be no higher than the amount reasonably required to accomplish the intended physical or other technical effect, even though the safety data may support a higher tolerance.)

C. Data establishing that the food additive will have the intended physical or other technical effect or that it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food and the amount necessary to accomplish this. These data should include information in sufficient detail to permit evaluation with control data.

D. A description of practicable methods to determine the amount of the food additive in the raw, processed, and/or finished food and of any substance formed in or on such food because of its use. The test proposed shall be one that can be used for food-control purposes and that can be applied with consistent results by any properly equipped and trained laboratory personnel.

E. Full reports of investigations made with respect to the safety of the food additive.

(A petition may be regarded as incomplete unless it includes full reports of adequate tests reasonably applicable to show whether or not the food additive will be safe for its intended use. The reports ordinarily should include detailed data derived from appropriate animal and other biological experiments in which the methods used and the results obtained are clearly set forth. The petition shall not omit without explanation any reports of investigations that would bias an evaluation of the safety of the food additive.)

F. Proposed tolerances for the food additive, if tolerances are required in order to insure its safety. A petitioner may include a proposed regulation.

G. If submitting petition to modify an existing regulation issued pursuant to section 409(c)(1)(A) of the act, full information on each proposed change that is to be made in the original regulation must be submitted. The petition may omit statements made in the original petition concerning which no change is proposed. A supplemental petition must be submitted for any change beyond the variations provided for in the original petition and the regulation issued on the basis of the original petition.

Yours very truly,

Petitioner \_\_\_\_\_

By \_\_\_\_\_

(Indicate authority)

(d) The petitioner will be notified of the date on which his petition is filed; and an incomplete petition, or one that has not been submitted in triplicate, will usually be retained but not filed as a petition under section 409 of the act. The petitioner will be notified in what respects his petition is incomplete.

(e) The petition must be signed by the petitioner or by his attorney or agent, or (if a corporation) by an authorized official.

(f) The data specified under the several lettered headings should be submitted on separate sheets or sets of sheets, suitably identified. If such data have already been submitted with an earlier application, the present petition may incorporate it by specific reference to the earlier. If part of the data have been submitted by the manufacturer of the food additive as a master file, the petitioner may refer to the master file if and to the extent he obtains the manufacturer's written permission to do so. The manufacturer may authorize specific reference to the data without disclosure to the petitioner. Nothing herein shall prevent reference to published data.

(g) A petition shall be retained but shall not be filed if any of the data prescribed by section 409(b) of the act are lacking or are not set forth so as to be readily understood.

(h) Data in a petition regarding any method or process entitled to protection as a trade secret will be held confidential and not revealed unless it is necessary to do so in the record of an administrative hearing preliminary to judicial proceedings under section 409 of the act. Other data in the petition will not be revealed to persons other than the petitioner and persons engaged in the enforcement of the act beyond that which is necessary to comply with section 409(b)(5) (notice of the regulation proposed) and 409(c)(1) (order acting on the petition).

(i) (1) Except where the petition involves a new drug, within 15 days after receipt, the Commissioner will notify the petitioner of acceptance or nonacceptance of a petition, and if not accepted the reasons therefor. If accepted, the date of the notification letter sent to petitioner becomes the date of filing for the purposes of section 409(b)(5) of the act. If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish

to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified. The date of such notification becomes the date of filing. Where the petition involves a new drug, notification to the petitioner will be made within 30 days.

(2) The Commissioner will publish in the FEDERAL REGISTER within 30 days from the date of filing of such petition, a notice of the filing, the name of the petitioner, and a brief description of the proposal in general terms. In the case of a food additive which becomes a component of food by migration from packaging material, the notice shall include the name of the migratory substance, and where it is different from that of one of the original components, the name of the parent component, the maximum quantity of the migratory substance that is proposed for use in food, and the physical or other technical effect which the migratory substance or its parent component is intended to have in the packaging material. A copy of the notice will be mailed to the petitioner when the original is forwarded to the FEDERAL REGISTER for publication.

(j) The Commissioner may request a full description of the methods used in, and the facilities and controls used for, the production of the food additive, or a sample of the food additive, articles used as components thereof, or of the food in which the additive is proposed to be used, at any time while a petition is under consideration. The Commissioner shall specify in the request for a sample of the food additive, or articles used as components thereof, or of the food in or on which the additive is proposed to be used, a quantity deemed adequate to permit tests of analytical methods to determine quantities of the food additive present in foods for which it is intended to be used or adequate for any study or investigation reasonably required with respect to the safety of the food additive or the physical or technical effect it produces. The data used for computing the 90-day limit for the purposes of section 409(c)(2) of the act shall be moved forward 1 day for each day after the mailing date of the request taken by the petitioner to submit the sample. If the information or sample is requested a reasonable time in advance of the 180 days, but is not submitted within such 180 days after filing of the petition, the petition will be considered withdrawn without prejudice.

(k) The Commissioner will forward for publication in the FEDERAL REGISTER, within 90 days after filing of the petition (or within 180 days if the time is extended as provided for in section 409(c)(2) of the act), a regulation prescribing the conditions under which the food additive may be safely used (including, but not limited to, specifications as to the particular food or classes of food in or on which such additive may be used, the maximum quantity that may be used or permitted to remain in or on such food, the manner in which such additive may be added to or used in or on such food, and any directions or other labeling

or packaging requirements for such additive deemed necessary by him to assure the safety of such use), and prior to the forwarding of the order to the FEDERAL REGISTER for publication shall notify the petitioner of such order and the reasons for such action; or by order deny the petition, and shall notify the petitioner of such order and of the reasons for such action.

(1) If the Commissioner determines that additional time is needed to study and investigate the petition, he shall by written notice to the petitioner extend the 90-day period for not more than 180 days after the filing of the petition.

#### § 121.52 Withdrawal of petitions without prejudice.

(a) In some cases the Commissioner will notify the petitioner that the petition, while technically complete, is inadequate to justify the establishment of a regulation or the regulation requested by petitioner. This may be due to the fact that the data are not sufficiently clear or complete. In such cases, the petitioner may withdraw the petition pending its clarification or the obtaining of additional data. This withdrawal will be without prejudice to a future filing. Upon refiling, the time limitation will begin to run anew from the date of refiling.

(b) At any time before the order provided for in § 121.51(k) has been forwarded to the FEDERAL REGISTER for publication, the petitioner may withdraw the petition without prejudice to a future filing. Upon refiling, the time limitation will begin to run anew.

#### § 121.53 Substantive amendments to petitions.

After a petition has been filed, the petitioner may submit additional information or data in support thereof. In such cases, if the Commissioner determines that the additional information or data amounts to a substantive amendment, the petition as amended will be given a new filing date, and the time limitation will begin to run anew.

#### § 121.54 Effective date.

A regulation published in accordance with § 121.51(k) shall become effective upon publication in the FEDERAL REGISTER.

#### § 121.55 Objections to regulations and requests for hearings.

(a) Objections to an order promulgated pursuant to section 409(f) (1) of the act shall be submitted in quintuplicate to the Hearing Clerk of the Department at the address specified in such order. Each objection to a provision of the regulation shall be separately numbered.

(b) A statement of objections shall not be accepted for filing if:

(1) It is received for filing more than 30 days after the date of publication of the order in the FEDERAL REGISTER.

(2) It fails to establish that the objector will be adversely affected by the regulation.

(3) It does not specify with particularity the provisions of the regulation to which objection is taken.

(4) It does not state reasonable grounds for each objection raised. Grounds that it is reasonable to conclude are capable of being established by reliable evidence at the hearing, and which if proved would call for changing the provisions specified in the objections, will be deemed reasonable grounds.

(c) If the statement of objections must be filed, the Commissioner shall inform the objector of the reasons.

(d) If objections to a regulation issued pursuant to the filing of a petition are filed by a person other than the petitioner, the Food and Drug Administration shall send a copy of the objections by certified mail to the petitioner at the address given in the petition. Petitioner shall have 2 weeks from the date of receipt by him of the objections to make written reply.

#### § 121.56 Public hearing; notice.

If the objections and statements filed by any person, when they are considered with the record in the proceeding (including any reply to the objections that the petitioner may have filed), show that the person filing the objections is adversely affected and that the grounds stated in support of the objections are reasonable, and a public hearing on the objections is requested, the Commissioner shall cause to be published in the FEDERAL REGISTER a notice reciting the objections and announcing a public hearing to receive evidence on them. The notice shall designate the place where the hearing will be held, specify the time within which appearances must be filed, and specify the time (not earlier than 30 days after the date of publication of the notice in the FEDERAL REGISTER) when the hearing will commence. The hearing will convene at the place and time announced in the notice, but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without other notice than announcement thereof by the presiding officer at the hearing. Included in such notice shall be a statement indicating whether the regulation to which objection was taken shall be stayed pending the outcome of the hearing.

#### § 121.57 Presiding officer.

The hearing shall be conducted by a presiding officer, who shall be a hearing examiner appointed as provided in the Administrative Procedure Act (sec. 11, 60 Stat. 244, as amended; 5 U.S.C. 1010 et seq.) and designated by the Commissioner for conducting the hearing. Any such designation may be made or revoked by the Commissioner at any time. Hearings shall be conducted in an informal but orderly manner in accordance with the regulations in this part and the requirements of the Administrative Procedure Act. The presiding officer shall have the power to administer oaths and affirmations, to rule upon offers of proof and admissibility of evidence, to receive relevant evidence, to examine witnesses, to regulate the course of the hearing, to hold conferences for the simplification of the issues, and to dispose of procedural requests, but he shall not have power to decide any motion that involves

final determination of the merits of the proceeding.

#### § 121.58 Parties; burden of proof; appearances.

At the hearing, the person whose objections raised the issues to be determined shall be, within the meaning of section 7(c) of the Administrative Procedure Act, the proponent of the order sought, and accordingly shall have the burden of proof. Any interested person shall be given an opportunity to appear at the hearing, either in person or by his authorized representative, and to be heard with respect to matters relevant to the issues raised by the objections. Any interested person who desires to be heard at the hearing in person or through a representative shall, within the time specified in the notice of hearing, file with the presiding officer a written notice of appearance setting forth his name, address, and employment. If such person desires to be heard through a representative, such person or such representative shall file with the presiding officer a written appearance setting forth the name, address, and employment of such person. Any person or representative shall state with particularity in the notice of appearance his interest in the proceeding and shall set forth the specific provisions of the regulation concerning which objections have been made on which such person desires to be heard. The notice of appearance shall also set forth with particularity the position to be taken concerning the objections on which he wishes to be heard. No person shall be heard if he failed to file notice of his appearance within the time prescribed, in the absence of a clear showing of good cause why the notice of appearance was not filed. All present at the hearing shall conform to all reasonable standards of orderly and ethical conduct.

#### § 121.59 Request for stay of effectiveness of regulation pending a hearing.

When a hearing is requested under § 121.55, the request may also include a request for a stay of effectiveness of the order, in whole or in part, which request shall include the reasons for the stay together with a showing that the stay involves no hazard to the public health.

#### § 121.60 Prehearing and other conferences.

(a) The presiding officer, on his own motion or on the motion of any party or his representative, may direct all parties or their representatives to appear at a specific time and place for a prehearing conference to consider:

- (1) The simplification of the issues.
- (2) The possibility of obtaining stipulations, admissions of facts, and documents.
- (3) The possibility of the limitation of the number of witnesses.
- (4) The scheduling of witnesses to be called.
- (5) The advance submission of all documentary evidence.
- (6) Such other matters as may aid in the disposition of the proceeding.

The presiding officer shall make an order reciting the action taken at the confer-

ence, the agreements made by the parties or their representatives, and the scheduling of witnesses, and limiting the issues for hearing to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(b) The presiding officer may also direct all parties and their representatives to appear at conferences at any time during the hearing with a view to simplification, clarification, or shortening of the hearing.

**§ 121.61 Submission of documents in advance of hearing.**

(a) All documents to be offered at the hearing shall be submitted to the presiding officer and to the interested parties sufficiently in advance of the offer of such documents for introduction into the record to permit study and preparation of cross-examination and rebuttal evidence.

(b) The presiding officer, after consultation with the parties at a conference called in accordance with § 121.60, shall make an order specifying the time at which documents shall be submitted. He shall also specify in his order the time within which objection to the authenticity of such documents must be made to comply with paragraph (d) of this section.

(c) Documents not submitted in advance in accordance with the requirements of paragraphs (a) and (b) of this section shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the documents sooner.

(d) The authenticity of all documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the presiding officer upon notice to the other parties within the time specified by the presiding officer in accordance with paragraph (b) of this section, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

**§ 121.62 Excerpts from documents.**

When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the presiding officer and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document should be made available for examination and for use by opposing counsel for purposes of cross-examination.

**§ 121.63 Submission and receipt of evidence.**

(a) Each witness shall, before proceeding to testify, be sworn or make affirmation.

(b) When necessary to prevent undue prolongation of the hearing, the presiding officer may limit the number of times any witness may testify, the repetitious

examination and cross-examination of witnesses, or the amount of corroborative or cumulative evidence.

(c) The presiding officer shall admit only evidence which is relevant, material, and not unduly repetitious.

(d) Opinion evidence shall be admitted when the presiding officer is satisfied that the witness is properly qualified.

(e) The presiding officer shall file as an exhibit a copy of the FEDERAL REGISTER promulgating the regulation to which objections were taken and the objections that form the basis for the hearing. All documents constituting the record bearing on the point in controversy, and not entitled to protection under section 301(j) of the act, accumulated up to the start of the hearing shall be open for inspection by interested persons during office hours in the office of the Hearing Clerk of the Department, Room 5440, 330 Independence Avenue SW., Washington 25, D.C.

(f) If any person objects to the admission or rejection of any evidence or to other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the presiding officer. A ruling of the presiding officer on any such objection shall be a part of the transcript, together with such offer of proof as has been made.

**§ 121.64 Transcript of the testimony.**

Testimony given at a public hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the presiding officer of their authenticity, relevancy, and materiality, shall be received in evidence subject to the Administrative Procedure Act (sec. 7(c), 60 Stat. 238; 5 U.S.C. 1008(c)). Exhibits shall if practicable, be submitted in quintuplicate. In case the required number of copies are not made available, the presiding officer shall exercise his discretion in determining whether said exhibit shall be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the presiding officer. Where the testimony of a witness refers to a statute, or to a report or document, the presiding officer shall, after inquiry relating to the identification of such statute, report, or document, determine whether the same shall be produced at the hearing and physically be made a part of the evidence by reference. Where relevant and material matter offered in evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the presiding officer.

**§ 121.65 Oral and written arguments.**

(a) Unless the presiding officer issues an announcement at the hearing authorizing oral argument before him, it shall not be permitted.

(b) The presiding officer shall announce at the hearing a reasonable period within which interested persons may file written arguments based solely upon the evidence received at the hearing, citing the pages of the transcript of the testimony or properly identified exhibits where such evidence occurs.

**§ 121.66 Indexing of record.**

(a) Whenever it appears to the presiding officer that the record of hearing will be of such length that an index to the record will permit a more orderly analysis of the evidence and reduce delay, the presiding officer shall require counsel for the parties to prepare a daily topical index, which will be available to the presiding officer and all parties. Preparation of such an index shall be apportioned among all counsel present in such manner as appears just and proper in the circumstances.

(b) The index shall include each topic of testimony upon which evidence is taken, the name of each witness testifying upon the topic, the page of the record at which each portion of his testimony appeared, and the number of each exhibit relating to the topic. The index shall also contain the name of each witness, followed by the topics upon which he testified and the page of the record at which such testimony appears.

**§ 121.67 Certification of record.**

At the close of the hearing, the presiding officer shall afford witnesses and their counsel a short time (not longer than 30 days, except in unusual cases) in which to point out errors that may have been made in transcribing the testimony. The presiding officer shall promptly thereafter order such corrections made as in his judgment are required to make the transcript conform to the testimony, and he shall certify the transcript of testimony and the exhibits to the Commissioner.

**§ 121.68 Filing the record of the hearing.**

As soon as practicable after the close of the hearing, the complete record of the hearing shall be filed in the office of the Hearing Clerk. The record shall include the transcript of the testimony, all exhibits, and any written arguments that may have been filed.

**§ 121.69 Copies of the record of the hearing.**

The Department will make provision for a stenographic record of the testimony and for such copies of the transcript thereof as it requires for its own purposes. Any person desiring a copy of the record of the hearing or of any part thereof shall be entitled to the same upon payment of the costs thereof.

**§ 121.70 Proposed order after public hearing.**

As soon as practicable after the time for filing written arguments has ended, the Commissioner shall prepare and cause to be published in the FEDERAL REGISTER a proposed order which shall set forth in detail the findings of fact and conclusions, and recommend decision on the objections that were the

subject of the hearing and tentative regulations. The proposed order shall specify a reasonable time, ordinarily not to exceed 60 days, within which any interested person may file exceptions. The exceptions shall point out with particularity the alleged errors in said proposed order and shall contain a specific reference to the pages of the transcript of the testimony or to the exhibits on which each exception is based. Such exceptions may be accompanied by a memorandum or brief.

**§ 121.71 Final order after public hearing.**

As soon as practicable after the time for filing exceptions has passed, the record and the exceptions shall be presented to the Secretary and he shall cause to be published in the FEDERAL REGISTER his final order promulgating the regulation, which shall specify the date on which the order shall take effect.

**§ 121.72 Adoption of regulation on initiative of Commissioner.**

(a) The Commissioner upon his own initiative may propose the issuance of a regulation prescribing, with respect to any particular use of a food additive, the conditions under which such additive may be safely used. Notice of such proposal shall be published in the FEDERAL REGISTER and shall state the reasons for the proposal.

(b) Action upon a proposal made by the Commissioner shall, after publication of the notice, proceed as provided in § 121.51 and section 409 of the act.

**§ 121.73 Judicial review.**

The Secretary of Health, Education, and Welfare hereby designates the Assistant General Counsel for Food and Drugs of the Department of Health, Education, and Welfare as the officer upon whom copy of petition for judicial review shall be served. Such officer shall be responsible for filing in the court a transcript of proceedings and the record on which the order of the Secretary of Health, Education, and Welfare is based. The transcript and record shall be certified by the Secretary.

**§ 121.74 Procedure for amending and repealing tolerances or exemptions from tolerances.**

(a) The Commissioner or any interested person may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive or granting or repealing an exemption for such additive. Such a proposal by an interested person shall be in writing. If such proposal by an interested person furnishes reasonable grounds therefor, the Commissioner will publish a notice announcing the proposal. Proposals initiated by the Commissioner will likewise be published. Following such publication, the proceedings shall be the same as prescribed by section 409 of the act and the regulations in this part for the promulgation of a regulation.

(b) "Reasonable grounds" shall include an explanation showing wherein the person has a substantial interest in such regulation and an assertion of facts

(supported by data if available) showing that new information exists with respect to the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or repeal. New data should be furnished in the form specified in § 121.51 for submitting petitions.

**§ 121.75 Exemption for investigational use.**

A food additive, or a food containing such an additive intended for investigational use by qualified experts, shall be exempt from the requirements of section 409 of the act: *Provided*, That the food additive or the food containing the additive bears a label which states prominently "Caution—Contains new food additive—For investigational use only. Not to be used for human food or food for other than laboratory animals."

*Effective date.* This order shall become effective upon publication in the FEDERAL REGISTER.

Dated: March 23, 1959.

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

[F.R. Doc. 59-2625; Filed, Mar. 27, 1959;  
8:46 a.m.]

**Title 22—FOREIGN RELATIONS**

**Chapter I—Department of State**

[Dept. Reg. 108.392]

**PART 50—NATIONALITY PROCEDURES UNDER IMMIGRATION AND NATIONALITY ACT**

**Affidavit of Expatriated Persons**

Pursuant to the authority vested in me by paragraph 126 of Executive Order No. 7856 dated March 31, 1938, issued under the authority of section 1 of the act of Congress approved July 3, 1926 (44 Stat. 887; 22 U.S.C. 151c), I hereby amend § 50.16 *Affidavit of expatriated persons* of Title 22 of the Code of Federal Regulations to read as follows:

**§ 50.16 Affidavit of expatriated persons.**

When obtainable, an affidavit executed in quadruplicate by the expatriated person, in either the English language or other language best understood by the affiant, shall be attached to each copy of the certificate of the officer. If in language other than English, a certified English translation shall accompany the affidavit. The affidavit shall contain in substance:

(a) That the affiant has performed on a specified date one of the acts or fulfilled the conditions specified in Chapter 3, Title III of the Immigration and Nationality Act (66 Stat. 267) or Chapter IV of the Nationality Act of 1940 (54 Stat. 1168);

(b) That the act mentioned was his free and voluntary act and that no undue influence, compulsion, force or duress

was exerted upon him from any source whatever; and

(c) That he has read, or had read to him, his foregoing statement in the English or foreign language (whichever is used) and that he understands its contents.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the provisions thereof involve foreign affairs functions of the United States.

JOHN W. HANES, Jr.,  
*Administrator,  
Bureau of Security  
and Consular Affairs.*

MARCH 16, 1959.

[F.R. Doc. 59-2631; Filed, Mar. 27, 1959;  
8:47 a.m.]

**Title 43—PUBLIC LANDS:  
INTERIOR**

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

**APPENDIX—PUBLIC LAND ORDERS**

[Public Land Order 1823]

[Colorado 018672]

**COLORADO**

**Withdrawing Public Lands for Use of the Federal Aviation Agency as a Vortac Air Navigation Facility**

By virtue of the authority vested in the Secretary of the Interior by Section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214) it is ordered as follows:

Subject to valid existing rights, the following-described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the disposal 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 Federal Aviation Agency in the maintenance of air-navigation facilities:

**SIXTH PRINCIPAL MERIDIAN**

T. 1 N., R. 94 W.,  
Sec. 10, E $\frac{1}{2}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ .

The areas described aggregate 160 acres.

The Department of the Interior retains jurisdiction of the surface and subsurface resources of the lands. Disposals may be made of such resources under applicable law, consistent with the primary use of the lands for air navigation purposes.

ROGER ERNST,  
*Assistant Secretary of the Interior.*

MARCH 24, 1959.

[F.R. Doc. 59-2626; Filed, Mar. 27, 1959;  
8:47 a.m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF THE TREASURY

Bureau of Customs

[ 19 CFR Parts 14, 19, 24 ]

#### REIMBURSABLE SERVICES; REIMBURSEMENT OF EXPENSES

#### Reimbursement of Charges for Services and Expenses of Customs Employees

Notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that, under the authority of R.S. 161, 251, sec. 501, 65 Stat. 290, sec. 624, 46 Stat. 759 (5 U.S.C. 22, 140; 19 U.S.C. 66, 1624), it is proposed to amend §§ 14.2(b), 19.5(c), 19.5(d), 24.12(b) (1), 24.12(b) (2), 24.12(b) (3), 24.17(a) (4) and 24.17(c) of the Customs Regulations.

The purpose of these amendments is to provide for recovery to the full extent possible by the Government for services rendered for parties in interest and to provide a more equitable minimum charge for expenses incurred in view of the increased costs of billing for such charges. The terms of the proposed amendments, in tentative form, are as follows:

1. Section 14.2(b) is amended by deleting the words "30 cents or less" and by inserting in lieu thereof the following: "less than 50 cents. If the total amount chargeable amounts to 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made."

2. Section 19.5(c) is amended by placing a period after the words "proprietor of the warehouse" and by deleting the remainder of the sentence.

3. Section 19.5 is amended by deleting paragraph (d) and redesignating paragraphs (e) and (f) as (d) and (e), respectively.

4. Section 24.12(b) (1) is amended by inserting after the first sentence the following: "Where the amount, so computed, is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made."

5. Section 24.12(b) (2) is amended by deleting from the second and third sentences the words "50 cents" and inserting in lieu thereof "\$1".

6. Section 24.12(b) (3) is amended by adding after the last sentence the following: "If the amount, so computed, is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made."

7. Section 24.17(a) (4) is amended by deleting from the last sentence the words "30 cents or less" and by inserting in lieu thereof the words "less than 50 cents", and by inserting the following as a new last sentence: "Where the amount chargeable is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made."

8. Section 24.17(c) is amended to read as follows:

(c) The charge for any services enumerated in this section for which ex-

penses are required to be reimbursed shall include actual transportation expenses incurred, whether the services are performed within or without the port limits, except that no charge shall be made for transportation expenses when a customs warehouse officer is reporting to, as a first assignment, or leaving from, as a last assignment, the place where he is regularly assigned to duty.

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Bureau of Customs, Washington 25, D.C., and received not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL]

RALPH KELLY,  
Commissioner of Customs.

Approved: March 20, 1959.

A. GILMORE FLUES,  
Acting Secretary of the Treasury.

[F.R. Doc. 59-2637; Filed, Mar. 27, 1959;  
8:49 a.m.]

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[ 7 CFR Parts 904, 934, 996, 999 ]

[Docket Nos. AO-14-A27; AO-83-A23; AO-203-A10; AO-204-A9]

#### HANDLING OF MILK IN THE GREATER BOSTON, MERRIMACK VALLEY, SPRINGFIELD AND WORCESTER, MASSACHUSETTS, MARKETING AREAS

#### Decision With Respect to Proposed Amendments to the Tentative Marketing Agreements and to the 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), a public hearing was held at Boston, Massachusetts, on February 18-19, 1959, pursuant to notice thereof issued on February 4, 1959 (24 F.R. 978).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 12, 1959 (24 F.R. 1912) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of opportunity to file written exceptions thereto.

The material issues on the record of hearing relate to:

1. Revision of the "plant" and "receiving plant" definitions to provide greater specificity to such definitions as they relate to "reload" points.

2. Revision of the "dairy farmer", "dairy farmer for other markets", "producer", "milk", and "pool milk" definitions and the inclusion of a "diverted milk" definition to accommodate the efficiencies present in bulk tank milk handling and to alleviate administrative problems.

3. Revision of the assignment provisions with reference to movements of packaged fluid milk products from other Federal order markets into the Greater Boston, Merrimack Valley, Springfield, and Worcester, Massachusetts, marketing areas.

4. Revision of the classification provisions as they relate to bulk milk movements to plants under the Southeastern New England and Connecticut orders.

*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. *Revision of the plant and receiving plant definitions.* The "plant" and "receiving plant" definitions should be revised to provide greater specificity to such definitions as they relate to points at which milk is transferred from tank pickup truck to other vehicles. The present definitions are essentially tailored to conditions of delivery in cans and in large measure necessitate a determination, primarily by interpretation, as to whether bulk handling facilities meet the requirements. The only specific guide with respect to a receiving plant which the market administrator has is the requirement that weight sheets or other records of the individual farmer's deliveries be maintained on the premises.

The New England Milkshed Price Committee, constituted by representation of producer and handler interests and dairy marketing experts from the several New England colleges has devoted considerable study to problems related to bulk milk handling. Bulk tank handling provides a flexibility in the handling and movement of milk not possible under former can handling methods and bulk handling may result in the eventual disappearance of extensive facilities which in the past have constituted country receiving plants. During the last three years, 17 country plants in the upcountry production area have closed, of which 12 were the direct result of conversion to bulk tank handling. This trend can reasonably be expected to continue in the future at an accelerated rate.

Some can receiving plants have been replaced by reload points where milk is assembled and transferred from farm tank pickup trucks to over-the-road tankers or railroad cars for subsequent movement to its final destination. The facilities constituting these "reload points" are varied and range all the way from roadside transfer to structures not significantly different from the can receiving plant as traditionally constituted.

The committee took the position that because of the geographical structure of the New England milkshed and the great distances separating the production area from the city markets it is highly desirable that milk continue to be priced as near the farm as practicable. They pointed out that in most situations reloading to over-the-road tankers would necessarily take place in the process of moving milk to city markets and argued that such reload points, when of sufficiently substantial nature, represented appropriate points of pricing. They further suggested that pricing of bulk milk f.o.b. market, which would otherwise be the case if reload points were not recognized, involved an entirely new approach to the traditional method of pricing milk in New England. Handlers and producers alike are familiar with a basic price quoted in the area of production. Consequently, f.o.b. market pricing would be an unfamiliar innovation, and would be a source of confusion to producers.

It is not intended that the application of an order provision should encourage or discourage the development of bulk tank handling. It is essential, however, that some more specific standards be provided to establish point of pricing and pooling for milk handled by bulk tank. As previously indicated, the point of pricing under the present order provisions is largely related to the place where the individual weight sheets and records are kept. The committee appropriately concluded that this was a thin thread on which to determine point of pricing, recognizing that such records, in the case of bulk milk, may be carried on the pickup truck or retained until the end of the week in the home of the trucker and then forwarded to the handler responsible for the milk. In such cases, under the present terms of the order, the milk involved would necessarily be priced at the location of the plant where it was ultimately disposed of.

The standards recommended by the committee and herein proposed to be adopted would, in most instances, retain as points of pricing the same locations applicable under the present order provisions. They do, however, provide more specific standards which the market administrator may apply in the case of newly developed reload points. There appear to have been no serious problems, other than administrative, which have developed under the present definitions. The proposed definitions make clear that a reload facility to qualify as a point of pricing, must consist of land and buildings with facilities and equipment for handling or processing milk, operated exclusively by an individual or individuals engaged in receiving milk for resale or manufacture and that the washing and sanitizing of trucks must be done on the premises. Such conditions require an operation of sufficient magnitude to presume financial responsibility on the part of the operator and in this regard are similar to the present provisions. The washing and sanitizing of trucks on the premises replaces the requirement for maintenance of records. The committee argued that while presently no specific standards have been es-

tablished by the responsible health authorities governing reload points, it was the committee's conviction that standards would shortly be established, requiring at least the facilities herein recommended.

In several instances haulers who assemble bulk tank milk for delivery to a handler's plant have found it convenient to operate some form of transfer facilities in the country for the transfer of milk from farm pickup tank to larger over-the-road tankers. Under the present order provisions no serious problems have yet arisen since the extent of such facilities has not been such as to qualify them as receiving plants. Nevertheless, in the future, particularly if standards are laid down by the health authorities, it is entirely possible that reload facilities operated by haulers would meet the present requirements. These haulers are not dealers or handlers in the sense of buying or selling milk, but are merely engaged in performing transportation service. It would not be desirable to consider such operations as constituting a "plant" or "receiving plant" since the incidence of regulation would then fall on haulers rather than handlers who actually purchase the milk. The proposed "plant" definition would except such facilities since they would not be operated by a person "engaged in the business of receiving fluid milk products for resale or manufacture".

It is not clear that the washing and sanitizing function as proposed, and as herein recommended, as an essential requirement for receiving plant status will materially implement an appropriate determination of point of pricing. In the same manner that a handler may now alter the intended point of pricing by the manner in which he handles his records, he may continue to do so by the method and location used in washing his trucks. Hence it seems likely, except in the matter of relieving the market administrator of the responsibility of determining the temporary depository for any handlers' records, that the recommended provisions will result essentially in little or no change in the matter related to point of pricing. It will accommodate handlers, however, by relieving them of the necessity of maintaining at reload points records which more logically might be retained elsewhere.

The changes in "plant" and "receiving plant" definitions herein recommended will tend to alleviate problems thus far encountered in determination of appropriate pricing and pooling points for bulk tank milk. A number of questions were raised at the hearing intended to bring out hypothetical adjustments that individual handlers could make in their bulk handling operations which might result in pricing inequities as between handlers. Such developments have not occurred and there is no reason to presume at this time that they would have the implied result. The record of this hearing does not support further changes in the basic matter of point of pricing. Should future problems arise in matters relating to bulk tank handling under the order, they should appropriately be considered at a future hearing.

**2. Revision of other definitions.** The several orders should be amended by revision of the "dairy farmer", "dairy farmer for other markets", "producer", "milk" and "pool milk" definitions and the addition of a definition for "diverted milk" to alleviate administrative problems encountered under bulk tank handling and to permit handlers to take full advantage of the greater flexibilities of milk movements associated with such handling. These changes are necessary to identify more specifically those dairy farmers who are regular suppliers of the market and whose milk is entitled to participate in one of the respective pools.

The present "dairy farmer" definition refers to delivery of bulk milk to a plant. The former concept of "bulk" milk was milk other than in packaged form. As now generally used it refers to milk moved via bulk tank as contrasted to cans. In order that there can be no question of meaning it is appropriate that the reference to bulk milk be deleted.

The present definition employs the concept of a dairy farmer delivering his milk to a plant. Provisions later discussed are intended to make clear that once milk is picked up at the farm the purchasing handler is held responsible for the accounting of the milk. In recognition of this change in the application of regulation, the "dairy farmer" definition should be further revised to include "any person who produces milk which is moved from his farm to a plant other than as packaged milk".

The present "dairy farmer for other markets" definition, among other things, includes any dairy farmer whose milk was purchased by a dealer who operated both a regulated and unregulated plant if such dealer caused milk from the same farm to move as nonpool milk to an unregulated plant during the same month. This provision was intended to preclude a multiple plant handler from withdrawing milk of individual producers from the pool on certain days during the month when there was a Class I outlet in an outside market and returning it to the pool when such outlet was no longer available. With the flexibilities inherent in bulk tank milk handling, single plant handlers now have much the same opportunities as multiple plant operators to move milk in and out of the pool. In the interest of orderly marketing, it is not appropriate that handlers have the opportunity to keep outside market Class I sales out of the pool, with the privilege of pooling milk on those days when such outside sales are not available. The proposed modification would extend the same prohibition to single and multiple plant handlers, who might divert milk to a nonpool plant, and seek to withhold the Class I sale from the pool. A handler must decide on a month-to-month basis whether he desires to pool the milk of individual dairy farmers for the month. Other provisions of this definition, in which no changes were proposed, preclude the pooling during the flush months of any individual dairy farmer's milk if the handler received nonpool milk from the same farm during any month of the

short season. Hence, the decision of a handler not to pool the milk of a particular dairy farmer during certain months will preclude such dairy farmer from qualifying as a producer during the flush months.

Milk received at a pool plant as diverted milk from another Federal order plant should not be considered as milk from a "dairy farmer for other markets" if such diverted milk is considered producer milk under the other Federal order. Such milk would be classified and priced under the other Federal order and the provisions of the respective orders specifically prescribe the treatment of milk moving between regulated markets. A handler should not, however, have opportunity to split a dairy farmer's milk between regulated markets, moving it as producer milk to one market for Class I use part of the month and to another market, also as producer milk, for Class II disposition the remainder of the month. Such procedure would result in an undesirable relationship between markets in that one market would receive the Class I sales and another market would carry the burden of the surplus associated with the Class I sales. Under the proposed definitions such a disposition would cause the respective receipts in each market to be considered as milk from "dairy farmers for other markets". This is an application of the so called "all or none" rule, to the effect that a handler should be required to decide, on a month-to-month basis, in which pool he desires to pool the milk of individual dairy farmers and hence which pool will carry both the Class I sales and surplus associated with such sales.

There are only limited manufacturing facilities available for processing the necessary surplus in the Southeastern New England market. It is reasonable to expect that the milk in that area, which is not needed for Class I and related uses may be diverted to regulated plants under other New England orders for manufacturing during part of the months. Such milk is surplus to its normal market and it would be inappropriate to permit it producer status in the market to which diverted, even though the diverting handler did not report it as diverted milk, and hence producer milk, in the originating market. Under such circumstances the milk should be considered as milk from "dairy farmers for other markets" and the definition herein proposed so provides. While Southeastern New England is used as an example, similar movement between these orders should be accorded the same treatment.

Another minor change in the "dairy farmer for other markets" definition involves clarification of the meaning of the terms "handler" and "dealer" as used in this definition. No substantive change is intended. However, the language should be clear that a handler or dealer is held responsible under the order for acts performed by a person other than himself when such person is an affiliate of, or is controlled by or controls such handler or dealer and he cannot avoid responsibility for such acts through the media of separate corporate entities.

The "producer" definition should be modified to embrace the concept of milk "moved from a farm" to a plant rather than "delivered to a plant", for reasons previously set forth under the discussion of "dairy farmer". The definition as presently provided excepts a "dairy farmer for other markets", a dairy farmer with respect to exempt milk delivered, and a producer handler. These exceptions are retained. In addition it is desirable to except also dairy farmers who are producers under another Federal order. As stated in the discussion of "dairy farmer for other markets" a dairy farmer should not be permitted to hold producer status under two orders for milk originating from the same farm during any month and purchased by the same handler. The definition herein recommended will preserve this principle and prevent any conflict in application of the provisions of the several orders.

The present producer definition recognizes diversions from the usual plant of receipt to other plants and it is intended that the privilege of diversion shall be preserved with some modification. With the greater flexibility of movement under the bulk handling somewhat greater freedom of diversion is desirable. Clarity and brevity of the order provisions will be accommodated if a definition of diverted milk is provided. The present producer definition contains the term "ordinarily" delivered. By interpretation this has been deemed to mean more than half the time in the 12 months ending with the current month. The recommended definition of diverted milk, with certain exceptions, would recognize diversions only when the milk had moved to the plant of usual receipt on more than half of the delivery days in the 12-month period ending with the current month in which milk was moved from the producer's farm to the handler.

As can handling is replaced by bulk handling, plants may be closed or milk may be associated with plants at different locations. In addition, as bulk tank routes are organized, new producers may be picked up on trucks predominantly hauling milk of established producers being diverted to a plant other than the plant of normal receipt. Unless these situations are recognized established producers may lose their status or handlers will be forced to make uneconomic milk movements to assure producer status for individual dairy farmers. The order provisions should limit the ability of a handler to take full advantage of the evolution of milk handling only to the extent necessary to establish clearly the identity of milk, establish its association with the market, and to protect the integrity of regulation.

The proposed diversion provisions would permit a handler to add new producers to a diverted load if the majority of dairy farmers whose milk was included in the load had producer status. This will permit economic development of new bulk tank routes, provide equitable treatment of new producers, and assure the continued integrity of regulation. The provision would also provide a "fresh start" for producers shifting from can

to bulk tank delivering. Irrespective of what status a dairy farmer had under can operation, if his bulk tank milk were eligible for pooling if received at a pool plant, it could be diverted under the concept of normal delivery. That is, once a dairy farmer had associated his bulk operation with a pool plant his milk would be eligible for diversion if delivered to the pool plant the majority of the time.

The "milk" and "pool milk" definitions should be revised, in conjunction with revision of the dairy farmer definition previously discussed to make clear that the purchasing handler is held responsible for accounting for the milk once it is picked up at the farm and commingled with milk of other dairy farmers in the tank truck. The receipt of milk at a plant would no longer be necessary to provide "pool milk" status for milk received in tank trucks. Even though milk might never reach a plant, the responsible handler should be held accountable for milk which he caused to be accepted, measured, sampled, and transferred into the tank truck at the farm. Discrepancies which might occur from time to time between the weight or butterfat test when received at the farm and the weight or test at the plant should be treated as shrinkage for which the handler would be responsible.

3. *Revision of the assignment provisions with reference to movements of packaged fluid milk products from other Federal order markets into the Boston, Merrimack Valley, Springfield and Worcester, marketing areas.* The Boston and three secondary market orders should be amended to provide that fluid milk products, other than cream, moved in packaged form from a fully regulated plant under another Federal order to a regulated plant under one of these orders, or sold directly to consumers in a marketing area regulated under one of these orders, shall be assigned to Class I milk and credited to the market from which it originates.

These orders presently give recognition to packaged fluid milk products moving between the four markets and credit Class I utilization to the originating market. They also provide a Class I classification during the months of August through March for any receipts at a regulated plant from Order No. 27 pool plants which are classified and priced in Class I-A or I-B under that order. In all other circumstances, packaged fluid milk products received at a regulated plant from any unregulated plant are assigned to Class II. Any handler operating an unregulated plant from which nonpool milk is disposed of directly to consumers in one of these marketing areas is required to make compensatory payment on the milk so disposed of which is in excess of his purchases of pool milk. Hence, with the one exception under specified circumstances, of milk from Order No. 27, each pool is credited with any packaged movements into its area from plants not regulated under one or another of these orders.

Federal orders generally are so constructed as to permit free movement of

milk between markets. If a handler in one regulated market extends his operations and disposes of packaged fluid milk products in another regulated market such sales should be considered as a part of the fluid milk sales credited to producers in the market where the handler is regulated.

To permit unrestricted competition for sales among handlers, all of whose milk is priced and regulated on a uniform basis, full reciprocity in the movement of packaged milk as between regulated plants of different markets and on sales directly to consumers in another marketing area should be provided. Producers in the originating market supply the milk so disposed of and also carry the necessary surplus associated therewith. It is appropriate, therefore, that they receive credit for such Class I sales.

Adoption of this proposal will permit regulated handlers in the Southeastern New England and Connecticut markets to make direct distribution into these four marketing areas and such Class I sales will be credited to the originating market. Hence, all regulated handlers under the several New England orders will compete on an equal basis for Class I sales in any of these regulated areas. While it is unlikely that handlers in any other federally regulated markets would dispose of packaged fluid milk products in the marketing area covered by these orders; nevertheless, there is no reason why such movements, if they occur, should not receive the same treatment accorded movements between the New England markets. Some exception, however, must be provided in the case of movements from Order No. 27 pool plants since it is possible that such milk is not priced under that order. Assignment to Class I of receipts of packaged fluid milk products from Order No. 27 plants, and the waiving of compensatory payments on direct disposition from such plants to consumers in the marketing areas is therefore limited to milk which is classified and priced as Class I-A or I-B under that order.

4. *Revision of the classification provisions with reference to movements of bulk milk to plants under the Southeastern New England and Connecticut orders.* No change should be made in the classification provisions of the Boston, Merrimack Valley, Springfield and Worcester orders as they relate to the classification of bulk movements of fluid milk products to plants regulated under the Southeastern New England or Connecticut orders. Under the present provisions of the orders proposed to be amended milk so moved is classified as Class I milk. However, in the transferee market it is assigned to the lowest remaining utilization at the transferee plant after the prior assignment of receipts of nonfederally regulated other source milk and specified percentages of receipts of producer milk to the lowest available use class. The application of the present provisions of the respective orders, under certain circumstances, will require a Class I classification on bulk movements in the originating market and a Class II classification in the transferee market. Proponents argued that there should be compatibility of classi-

fication and assignment of bulk movement between Federal order markets and accordingly, they proposed that the Boston and three secondary market order provisions be changed to permit the classification of bulk movements from those markets into the Southeastern and Connecticut markets in the class in which assignment under the provision of the orders regulating these latter markets is required.

The Southeastern New England and Connecticut markets are large markets and it is expected that in general, they will maintain adequate reserve supplies to fulfill all of their Class I needs. However, during the months of July, August and September there is a very substantial influx of population, much of it from the Boston area, into the resort areas of the Southeastern New England marketing area, which substantially increases the fluid needs of that area during such months. It would be uneconomic for Southeastern handlers to maintain a year-round reserve supply to cover the increased milk sales during this limited vacation season. More logically such sales should accrue to the Boston and secondary market pools which largely supply the milk needs of these vacationers during the remaining nine months of the year. Accordingly, the provisions of the Southeastern New England order provide for the assignment of 15 percent of producer receipts to Class II prior to the assignment of other Federal order bulk fluid receipts to the remaining lowest use classification during the months of July, August and September. This procedure is expected to result in a Class I classification of any necessary bulk milk movements from other markets during these months. Hence, the problem of noncompatibility of classification and assignment on necessary bulk transfers from Boston or the three secondary market areas during the months of July through September is unlikely to occur. A similar analysis would be applicable in regard to the Connecticut area, for the period of July through October.

During the months of the year other than July, August and September, it is expected that the Southeastern and Connecticut producers will maintain at least an adequate supply to fulfill the fluid milk requirements of these respective markets. While a provision is contained in the Southeastern order for the assignment in months other than July, August and September of 5 percent of producer milk to Class II prior to the assignment of receipts of other Federal order milk, this provision was not intended to provide any handler, who chooses to buy part of his supply from the Boston or secondary market pools, assurance that such purchases would be assigned to Class I. It would be uneconomic to encourage movement of milk from Boston plants for Class I use when adequate local supplies were available for Class I use. While it is true that such movements, under certain circumstances, might promote equalization of blends as between markets; nevertheless, local producers who are regular producers for the Southeastern market should not be expected to take a Class II classification

on their available supplies while outside markets are credited with the market Class I utilization. In any event, the provisions of the Southeastern or Connecticut orders were not an issue at this hearing and their appropriateness can be ascertained only on the basis of operating experience over an extended period of time.

It is possible that during certain months of the year purchases by Connecticut or Southeastern handlers from the Boston or secondary markets, assigned to Class I under these orders, may be assigned in the main to Class II in the transferee market. This situation, however, is expected to encourage the use of available local milk in preference to milk from other markets. The proposed order change, while permitting freedom of choice of supply, at no apparent cost advantage, could result in the Boston and three secondary markets carrying the burden of the Class II utilization, including the necessary market reserves, of the Southeastern New England and Connecticut markets with only a minimum opportunity to share in the Class I sales. Producers in the transferee markets thus would be assured of a blended price near the Class I price, while blended prices in the transferor markets would be depressed.

It is essential, in the interest of orderly marketing that the blended prices as between the several New England markets be maintained in close alignment. While there is opportunity through the shifting of plants as between orders and the transfer of packaged sales as between markets to counter balance any disparities in blended prices which might result from application of the proposed amendment, nevertheless, the same interests are not necessarily involved and decisions on such matter must be more or less on a long range basis. It is concluded therefore, that the proposed amendment should not be adopted.

Other recommended changes are of minor nature to secure conformity of the proposed amended provisions with other provisions of the orders or to modernize obsolete name references.

*Rulings 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 set forth in the briefs 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.* (a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in

the marketing area, and the minimum prices specified in the proposed marketing agreements and the orders, 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 the marketing agreements upon which a hearing has been held.

*Rulings on exceptions.* In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*Marketing agreements and orders amending the orders, as amended.* Annexed hereto and made a part hereof are separate marketing agreements and orders, amending the orders, regulating the handling of milk in the Greater Boston, Merrimack Valley, Springfield and Worcester, Massachusetts, marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*Determination of representative period.* The month of December 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached orders amending the orders regulating the handling of milk in the Greater Boston, Merrimack Valley, Springfield, and Worcester, Massachusetts, marketing areas, are approved or favored by producers, as defined under the terms of the orders, as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing areas.

Issued at Washington, D.C., this 24th day of March 1959.

[SEAL] CLARENCE L. MILLER,  
Assistant Secretary.

*Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area*

§ 904.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all said previous findings

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

and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

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

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

§ 904.2 [Amendment]

1. Delete paragraphs (c), (d) (2) and (4), and (e) of § 904.2 and substitute therefor the following:

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk.

(d) \* \* \*

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as

having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include a producer-handler, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

§ 904.3 [Amendment]

2. Delete paragraphs (a) and (d) of § 904.3 and substitute therefor the following:

(a) "Plant" means the land and buildings, or separate portion thereof, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

§ 904.4 [Amendment]

3.a. Delete paragraphs (a), (f), (g) (2) and (3) of § 904.4 and substitute therefor the following:

(a) "Milk" means the commodity received from a dairy farmer as cows' milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(f) "Pool milk" means milk which a handler has received as milk from producers, and all fluid milk products derived from milk as received. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant, up to the total quantity of nonpool milk received at the unregulated plant; except exempt milk, emergency milk, receipts from New York-New Jersey order pool plants which are assigned to Class I milk pursuant to

§ 904.27, and receipts of packaged fluid milk products from a regulated plant under any other Federal order;

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a New York-New Jersey order pool plant at which such milk was classified and priced as Class I-A or I-B or a regulated plant under any other Federal order, without its intermediate movement to another plant.

b. Add a new paragraph (1) to § 904.4 to read as follows:

(1) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused pool milk to be moved from the farm, or caused pool milk to be moved from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

4. Delete § 904.27 and substitute therefor the following:

§ 904.27 Assignment of receipts from New York-New Jersey order pool plants.

(a) Receipts of packaged fluid milk products, other than cream, from New York-New Jersey order pool plants shall be assigned to Class I milk if classified and priced in Class I-A or I-B under that order.

(b) Receipts of fluid milk products from New York-New Jersey order pool plants, other than packaged fluid milk products, shall be assigned to Class II milk, except as provided in § 904.28, and except that receipts during the months of August through March which are classified and priced in Class I-A or I-B under the New York-New Jersey order shall be assigned to Class I milk.

*Order Amending the Order Regulating the Handling of Milk in the Merrimack Valley, Massachusetts, Marketing Area*

§ 934.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all said previous findings

and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

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

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Merrimack Valley, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

§ 934.2 [Amendment]

1. Delete paragraphs (c), (d) (2) and (4), and (e) of § 934.2 and substitute therefor the following:

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk.

(d) \* \* \*

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered

as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the item shall not include a producer-handler, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

§ 934.3 [Amendment]

2. Delete paragraphs (a) and (d) of § 934.3 and substitute therefor the following:

(a) "Plant" means the land and building, or separate portion thereof, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farm in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

§ 934.4 [Amendment]

3. a. Delete paragraphs (a), (f), (g) (2) and (3) of § 934.4 and substitute therefor the following:

(a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(f) "Pool milk" means milk which a handler has received as milk from producers, and all fluid milk products derived from milk so received. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(g) \* \* \*

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant, up to the total quantity of nonpool milk received at the unregulated plant; except exempt milk, receipts from New York-New Jersey order pool plants which are assigned to

\* See footnote on p. 2445.

Class I milk pursuant to § 934.27, receipts from regulated plants under the Boston, Springfield, or Worcester orders, and receipts of packaged fluid milk products from a regulated plant under any other Federal order;

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a New-York-New Jersey order pool plant at which such milk was classified and priced as Class I-A or I-B, or a regulated plant under any other Federal order, without its intermediate movement to another plant.

b. Add a new paragraph (k) to § 934.4 to read as follows:

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused pool milk to be moved from the farm, or caused pool milk to be moved from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

#### § 934.16 [Amendment]

4. Delete paragraph (e) of § 934.16 and substitute therefor the following:

(e) If moved as packaged fluid milk products to a plant subject to another Federal order, they shall be classified as Class I milk.

#### § 934.27 [Amendment]

5. Delete paragraphs (c) and (d) of § 934.27 and substitute therefor the following:

(c) Receipts from New York-New Jersey order pool plants shall be assigned to Class I milk if classified and priced in Class I-A or I-B under that order.

(d) Except as provided in paragraph (c) of this section, receipts of packaged fluid milk products, other than cream, from a regulated plant under any other Federal order shall be assigned to Class I milk.

#### Order Amending the Order Regulating the Handling of Milk in the Springfield, Massachusetts, Marketing Area

#### § 996.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid

order and of the previously issued amendments thereto; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

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

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

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

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

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Springfield, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

#### § 996.2 [Amendment]

1. Delete paragraphs (c), (d) (2) and (4), and (e) of § 996.2 and substitute therefor the following:

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk.

(d) \* \* \*

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to an unregulated plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate

of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include a producer-handler, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

#### § 996.3 [Amendment]

2. Delete paragraphs (a) and (d) of § 996.3 and substitute therefor the following:

(a) "Plant" means the land and buildings, or separate portion thereof, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmer's farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmer's farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

#### § 996.4 [Amendment]

3a. Delete paragraphs (a), (f), (g) (2) and (3) of § 996.4 and substitute therefor the following:

(a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(f) "Pool milk" means milk which a handler has received as milk from producers, and all fluid milk products derived from milk so received. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(g) \* \* \*

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant, up to the total quantity of nonpool milk received

<sup>1</sup> See footnote on p. 2445.

at the unregulated plant; except exempt milk, receipts from New York-New Jersey order pool plants which are assigned to Class I milk pursuant to § 996.27, receipts from regulated plants under the Boston, Merrimack Valley or Worcester orders, and receipts of packaged fluid milk products from a regulated plant under any other Federal order;

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a New York-New Jersey order pool plant at which such milk was classified and priced as Class I-A or I-B, or a regulated plant under any other Federal order, without its intermediate movement to another plant.

b. Add a new paragraph (k) to § 996.4 to read as follows:

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused pool milk to be moved from the farm, or caused pool milk to be moved from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

#### § 996.16 [Amendment]

4a. Delete paragraphs (e) and (f) of § 996.16 and substitute therefor the following:

(e) If moved as packaged fluid milk products to a plant subject to another Federal order, they shall be classified as Class I milk.

(f) Except as provided in paragraph (e) of this section, if moved to a plant subject to the New York-New Jersey order, they shall be classified as Class I milk if assigned to Class I-A or I-B under that order; otherwise they shall be classified as Class II milk.

b. Delete the words "New York" as they first appear in paragraph (g) of § 996.16 and substitute therefor the words "New York-New Jersey".

#### § 996.27 [Amendment]

5. Delete paragraphs (c) and (d) of § 996.27 and substitute therefor the following:

(c) Receipts from New York-New Jersey order pool plants shall be assigned to Class I milk if classified and priced in Class I-A or I-B under that order.

(d) Except as provided in paragraph (c) of this section, receipts of packaged fluid milk products, other than cream, from a regulated plant under any other Federal order shall be assigned to Class I milk.

#### Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Worcester, Massachusetts, Marketing Area

#### § 999.0 Findings and determinations.

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

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

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

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

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

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Worcester, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

#### § 999.2 [Amendment]

1. Delete paragraphs (c), (d) (2) and (4), and (e) of § 999.2 and substitute therefor the following:

(c) "Dairy farmer" means any person who produces milk which is moved from

<sup>1</sup> See footnote on p. 2445.

his farm to a plant other than as packaged milk.

(d) \* \* \*

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as noonpool milk to an unregulated plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include a producer-handler, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

#### § 999.3 [Amendment]

2. Delete paragraphs (a) and (d) of § 999.3 and substitute therefor the following:

(a) "Plant" means the land and buildings, or separate portion thereof, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmer's farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmer's farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

#### § 999.4 [Amendment]

3a. Delete paragraphs (a), (f), (g) (2) and (3) of § 999.4 and substitute therefor the following:

(a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(f) "Pool milk" means milk which a handler has received as milk from producers, and all fluid milk products derived from milk so received. The quan-

tity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(g) \* \* \*

(2) All fluid milk products, other than cream, received at a regulated plant from an unregulated plant, up to the total quantity of nonpool milk received at the unregulated plant; except exempt milk, receipts from New York-New Jersey order pool plants which are assigned to Class I milk pursuant to § 999.27, receipts from regulated plants under the Boston, Merrimack Valley, or Springfield orders, and receipts of packaged fluid milk products from a regulated plant under any other Federal order.

(3) All Class I milk, after subtracting receipts of Class I milk from regulated plants, which is disposed of to consumers in the marketing area from an unregulated plant, except a New York-New Jersey order pool plant at which such milk was classified and priced as Class I-A or I-B, or a regulated plant under any other Federal order, without its intermediate movement to another plant.

b. Add a new paragraph (k) to § 999.4 to read as follows:

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused pool milk to be moved from the farm, or caused pool milk to be moved from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

#### § 999.16 [Amendment]

4.a. Delete paragraphs (e) and (f) of § 999.16 and substitute therefor the following:

(e) If moved as packaged fluid milk products to a plant subject to another Federal order, they shall be classified as Class I milk.

(f) Except as provided in paragraph (e) of this section, if moved to a plant subject to the New York-New Jersey order, they shall be classified as Class

I milk if assigned to Class I-A or I-B under that order; otherwise they shall be classified as Class II milk.

b. Delete the words "New York" as they first appear in paragraph (g) of § 999.16 and substitute therefor the words "New York-New Jersey".

#### § 999.27 [Amendment]

5. Delete paragraphs (c) and (d) of § 999.27 and substitute therefor the following:

(c) Receipts from New York-New Jersey order pool plants shall be assigned to Class I milk if classified and priced in Class I-A or I-B under that order.

(d) Except as provided in paragraph (c) of this section, receipts of packaged fluid milk products, other than cream, from a regulated plant under any other Federal order shall be assigned to Class I milk.

[F.R. Doc. 59-2634; Filed, Mar. 27, 1959; 8:48 a.m.]

## ATOMIC ENERGY COMMISSION

[ 10 CFR Part 50 ]

### LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

#### Notice of Proposed Rule Making

The following proposed amendments are designed to implement the provisions of sections 182 b- and 189 a. of the Atomic Energy Act of 1954, as amended, by incorporating in this part a definition of "testing facility" and the statutory requirement of review by the Advisory Committee on Reactor Safeguards and formal hearings on license applications for power and test reactors.

Notice is hereby given that adoption of the following amendments is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendments should send them to the United States Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation, within 30 days after publication of this notice in the FEDERAL REGISTER.

#### § 50.2 [Amendment]

1. Paragraph (r) of § 50.2 is redesignated paragraph (s) and the following new paragraph (r) is added:

(r) "Testing facility" means a nuclear reactor which is of a type described in § 50.21(c) and for which a license has been applied for authorizing operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

2. The following new § 50.57 is added:

#### § 50.57 Hearings and Reports of the Advisory Committee on Reactor Safeguards.

(a) Each application for a license for a production or utilization facility which is of a type described in § 50.21(b) or § 50.22 and each application for a license for a testing facility shall, and any application for a production or utilization facility which is of a type described in § 50.21 (a) or (c) may be referred to the Advisory Committee on Reactor Safeguards for review and report thereon. Such report shall be made part of the record of the application and available to the public, except to the extent that security classification prevents disclosure.

(b) The Commission will hold a hearing after 30 days' notice and publication once in the FEDERAL REGISTER on each application for a license for a production or utilization facility which is of a type described in § 50.21(b) or § 50.22, and on each application for a license for a testing facility.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 20th day of March 1959.

For the Atomic Energy Commission.

A. R. LUEDECKE,  
General Manager.

[F.R. Doc. 59-2638; Filed, Mar. 27, 1959; 8:49 a.m.]

## CIVIL AERONAUTICS BOARD

[ 14 CFR Part 241 ]

[Economic Regs. Draft Release No. 108]

### UNIFORM SYSTEM OF ACCOUNTS FOR CERTIFICATED AIR CARRIERS

#### "Use It or Lose It" Policy

MARCH 24, 1959.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Part 241 of the Economic Regulations (14 CFR Part 241) designed to implement the "Use it or lose it" policy enunciated by the Board in its opinion in the Seven States Area Investigation, decided December 8, 1958 (Docket No. 7454 et al). The proposed amendment would require local service carriers to file monthly reports showing passenger loads for all flights and route segments over their systems.

The principal features of the proposed amendment are explained in the attached Explanatory Statement.

This regulation is proposed under authority of sections 204(a) and 407 of the Federal Aviation Act of 1958 (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of written data, views or arguments pertaining thereto, in duplicate, addressed to the Secretary, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications re-

ceived on or before April 27, 1959, will be considered by the Board before taking final action on the proposed rule.

By the Civil Aeronautics Board.

[SEAL]

MABEL McCART,  
Acting Secretary.

**Explanatory statement.** The Board, in its opinion in the Seven States Area Investigation, decided December 8, 1958 (Docket No. 7454 et al) adopted a "Use it or lose it" policy for local service carriers as a companion policy to awards granted in that investigation, and in future local service investigations. Under the "Use it or lose it" policy the Board will look toward an early and critical assessment of the traffic results of new authorizations to determine sufficient use of the air service they requested or should lose it. Specifically, in order not to "lose it", each city will be required to meet a minimum standard of use, e.g. originate an average of five or more passengers daily. Unless a city meets this minimum average origination for the twelve months following the initial six months of service, in the absence of unusual or compelling circumstances, a formal investigation will be instituted to determine whether that city should lose its air service for lack of use.

Traffic results of new route segments for the same twelve-month period will also be reviewed. If the average passenger load per flight on a segment in question is less than five passengers daily, appropriate proceedings will be started to determine whether suspension or deletion of the segment is required. In addition, for those route segments whose average passenger load per flight ranges between five and seven passengers, formal proceedings for termination of the service will be instituted, except where unusual circumstances, such as extreme isolation or national defense needs dictate the contrary.

It will be noted that the information required to be reported by this proposal would not be limited to only those new segments, segment extensions, or segment modifications awarded on a case to case basis in the above investigation or in future Board proceedings. This proposal would require all local service carriers to report to the Board passenger load information for all route segments in their respective systems and for all flights operating over such systems. Since it is very likely that local service carriers will in the future schedule a greater number of flights via on-segment junction points, that is, from one portion of a segment to a portion of another segment, the Board considers that the analytical purpose for which it needs the aforementioned information can be properly and adequately carried out only by having identical information for all flights and segments throughout the several route systems. The proposed rule would, therefore, require all local service carriers to file monthly schedules of CAB Form 41: Schedule T-5—"Passenger Loads by Segment" and Schedule T-6—"Passenger Loads by Flight."

Accordingly, it is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. By amending the list of schedules in § 241.22(a) by inserting immediately after Schedule T-4 the following schedules:

Schedule	Title	Frequency	Post-mark interval (days)
***	***	***	***
T-5	Passenger Loads by Segment—Local Service Air Carriers.	Monthly	30
T-6	Passenger Loads by Flight—Local Service Air Carriers.	do	30

2. By amending § 241.25 by adding the following instructions:

**Schedule T-5—Passenger Loads by Segment:**

(a) This schedule shall be filed by each local service air carrier.

(b) In the box, marked "Segment No.", upper left hand corner, insert the number of the segment as designated in the Certificate of Public Convenience and Necessity. Immediately below in the box marked "Terminals" insert under "A" the letter code for the terminal, terminals, or co-terminals, which begin the linear description of the segment as it appears in the certificate. Insert under "B" the letter code for the terminal, terminals, or co-terminals, with which the linear description ends. If the segment terminals have been modified by exemption authority, these terminals should be shown instead of those designated in the certificate.

(c) Under the column headed "Pairs of Points" insert in each pair of spaces the letter codes for the pairs of points on the designated segment between which scheduled service is rendered on a consecutive basis. If the segment has been modified by exemption authority, include also any such pairs between which consecutive service is rendered on the segment.

(d) Under the column headed "Number of One-way Flights Scheduled" enter the number of one-way flights operated between the pairs of points indicated in the previous column.

(e) Under the column headed "Revenue Aircraft Miles" enter the revenue aircraft miles operated during the month on all

flights between the pair of points indicated, regardless of (1) whether such flights also operated between other pairs of points on the segment, and (2) whether the flights also served points on other segments.

(f) Under the column headed "Revenue Passenger Miles" enter the passenger-miles generated during the month by all revenue passengers (including transit passengers) on all aircraft miles reported in the previous column.

(g) Under the column headed "Average Passenger Loads" enter the average number of passengers carried per flight between each pair of points for the month and the 12 months ending with the reporting month. On the bottom line, "Segment Totals" should be derived by dividing the total revenue passenger miles by the total revenue aircraft miles for the segment. (Show all averages to one decimal point.)

**Schedule T-6—Passenger Loads by Flight:**

(a) This schedule shall be filed by each local service air carrier.

(b) Under the column headed "Flight No." enter the flight number of each flight operated during the year ended with the reporting month. If the routing of a particular flight was changed but the number designation remained the same, report as a separate flight. If a flight did not operate during the reporting month, complete only the first, second, and last columns.

(c) Under the column headed "No. of Trips Operated" show the number of times actually operated during the month (count extra sections as separate flights).

(d) Under the column headed "Points Served and Passenger Loads": On the lines marked "Points Served" enter consecutively the letter code for each point on the flight. On the lines marked "Passenger Load" enter the average number of revenue passengers carried during the month between each pair of points on the flight. (Show all averages to one decimal point.)

(e) Under the column headed "Average Passenger Loads" enter the average number of revenue passengers carried per trip for the month and the 12 months ending with the reporting month. These will be derived figures obtained by dividing (1) the total number of revenue passenger-miles accumulated on the flight by (2) the total number of revenue aircraft miles accumulated on the flight.

[F.R. Doc. 59-2652; Filed, Mar. 27, 1959; 8:51 a.m.]

## NOTICES

### POST OFFICE DEPARTMENT

#### ORGANIZATION AND ADMINISTRATION

##### Controller

Federal Register Document 58-9359 published in the FEDERAL REGISTER of November 11, 1958, at pages 8758-8769, and amended by Federal Register Document 58-9818 (23 F.R. 9146) is further amended, by striking out "824.4—Controller" and inserting in lieu thereof, the following:

##### 824.4—CONTROLLER

a. Advises and assists the Regional Operations Director in the general direc-

<sup>1</sup> The proposed Form of this Schedule is filed as part of the original document.

tion of all financial matters within the region.

b. Compiles and prepares the regional budget and maintains accounting records related to the control of funds; develops regional targets.

c. Evaluates and interprets operating conditions disclosed by accounting reports.

d. Makes unit cost studies and makes recommendations as a basis for effecting cost reductions.

e. Assures the security of funds, revenues, and assets.

f. Compiles accounting cost analyses, financial, and statistical reports for use in headquarters and regional decision-making.

g. Maintains general and cost ledgers for regional accounts; settles postmaster accounts; processes transportation payment claims; processes employees' ac-

counts; withholds income taxes and makes other deductions from compensation of officers and employees as authorized or required by law.

h. Carries out regional disbursing functions.

i. Adjudicates and settles tort claims under \$100 and postmasters' claims for unavoidable losses by fire, burglary, or casualty of \$25 and under, in accordance with policies and standards prescribed by the General Counsel.

j. Adjudicates and settles postmasters' claims of \$25 and under for physical losses and losses by improper payment, other than those covered in 824.4i, in accordance with policies and standards prescribed by the Assistant Postmaster General, Bureau of Finance.

k. Authorizes post office cash reserves and bank accounts up to \$50,000.

l. Approves the payment of postal savings accounts of deceased or incompetent depositors to other than the depositor.

m. Designates and revokes post offices as postal savings depositories, United States savings bond issuing agents, and United States savings stamp offices; establishes and discontinues international money order business at post offices.

n. Pays unclaimed postal savings accounts on application of depositor.

o. Administers lockbox rental matters other than misuse cases.

p. Determines extent of employee liability for loss of funds and stamps.

q. Designates assistant disbursing officers.

r. Designates new depository banks; establishes maximum and minimum balances; analyzes bank charges for depositories maintaining postal funds of under \$50,000.

(R.S. 161, as amended, 396, as amended; sec. 1(b), 63 Stat. 1066; 5 U.S.C. 22, 133z-15, 369)

[SEAL] HERBERT B. WARBURTON,  
General Counsel.

[F.R. Doc. 59-2643; Filed, Mar. 27, 1959; 8:49 a.m.]

## DIRECTOR OF REAL ESTATE

### Redelegation of Authority With Respect to Real Property Management

The following is the text of Order Number 166 of the Assistant Postmaster General, Bureau of Facilities, dated March 11, 1959:

Pursuant to authority of Order No. 55734, dated September 21, 1954 (19 F.R. 6169), and Order No. 55884, dated April 28, 1955 (20 F.R. 3548), authority is hereby delegated to the Director of Real Estate, Division of Real Estate, or to any person acting as such officer in the Post Office Department, to take final action in his own name with respect to real property management throughout the United States and its possessions, including Guam, as follows:—

A. *Month-to-month rentals.* To make agreements for space on a month-to-month basis where the annual rental is less than \$1,000.

B. *Temporary space.* To make agreements for space for holiday or seasonal needs for fixed periods not in excess of two months where the rental is not in excess of \$25,000 a month and to make agreements for space for fixed periods not in excess of six months to meet emergency conditions where the rental is not in excess of \$15,000 a month.

C. *Land options.* To make the basic decision when the consideration does not exceed \$1.

1. As to whether an advertisement for space is to be handled under the assignable site option procedures.

2. As to whether advertisement for space is to be handled without benefit of an assignable site option.

3. To use options for advertising purposes on sites not exceeding \$50,000 providing the option price does not exceed 30% of the total estimated cost of land and improvements.

4. To assign site options to successful bidder regardless of amount.

D. *Leases.* 1. To make lease extension agreements for periods of not to exceed three years' term and an annual rental of \$15,000.

2. To accept agreements to lease space for postal purposes when the term of the lease covered by the agreement is for 20 years or less and does not exceed \$15,000 in annual rental.

3. To sign and execute lease documents when the term of the lease is for 20 years or less and does not exceed \$15,000 in annual rental.

4. To exercise or reject options to renew leases when its basic term of the lease is for 20 years or less and does not exceed \$15,000 in annual rental.

5. To execute contracts or agreements for truck parking space for periods not in excess of 5 years in terms and \$15,000 in annual rental.

6. To cancel or terminate leases, contracts or agreements where the term of the lease is for 20 years or less and does not exceed \$15,000 in annual rental.

7. To make amendments to bids, leases, contracts or agreements regardless of annual rental or term of years, for increases in space, building requirements, services or improvements and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed 25% of annual rental specified or \$5,000, whichever is the lesser, and is to be paid for by the Post Office Department either in a lump sum or by amortization of the cost over the term of the lease.

E. *Repairs and maintenance.* To take bids for repairs and maintenance and deduct the cost of same from lessor's rental payments when leased facilities are improperly maintained.

F. *Paid advertising.* To commit the Government for advertising of leased postal facilities and authorize payment of same.

G. *Miscellaneous expenditures.* To authorize the payment of fees for services necessary in the performance of the authority herein delegated where the cost of such services do not exceed \$2,000.

The order shall be effective March 12, 1959.

This supersedes and cancels Orders No. 101 dated September 12, 1955, and No. 152 dated October 8, 1957.

(R.S. 161, as amended, sec. 1(b), 63 Stat. 1066, 5 U.S.C. 22, 133z-15, 369)

[SEAL] HERBERT B. WARBURTON,  
General Counsel.

[F.R. Doc. 59-2644; Filed, Mar. 27, 1959; 8:50 a.m.]

## SPECIAL DELIVERY SERVICE, UNION OF SOVIET SOCIALIST REPUBLICS; IMPORT RESTRICTIONS BY URUGUAY

1. Effective at once, special delivery service for postal union articles is established between the United States and the Union of Soviet Socialist Republics. The fees and other conditions stated in § 168.3 of Title 39, Code of Federal Regulations (24 F.R. 2119) will apply.

2. The Postal Administration of Uruguay has given notice that for domestic reasons, parcels will not be accepted for the localities of Colonia and Nueva Palmira.

Until further notice, parcel post must not be accepted when addressed to the above places in Uruguay.

(R.S. 161, as amended, 396, as amended, 398, as amended, 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,  
General Counsel.

[F.R. Doc. 59-2645; Filed, Mar. 27, 1959; 8:50 a.m.]

## DEPARTMENT OF JUSTICE

Office of Alien Property

ANGELA GRASSIA ET AL.

### Notice of Intention To Return Vested Property

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

#### Claim No., Claimant, Property, and Location

Claim No. 42897:  
Angela Grassia, Via Pietro Fullone 26, Catania, Italy; \$265.72 in the Treasury of the United States.

Isabella Grassia, Viale Liberta 181, Catania, Italy; \$265.72 in the Treasury of the United States.

Concetta Grassia, Viale Liberta 181, Catania, Italy; \$265.71 in the Treasury of the United States.

Carmelo Pirello, Via Papale 10, Catania, Italy; \$44.28 in the Treasury of the United States.

Eloisa Pirello, Via Cavaliere 80, Catania, Italy; \$44.29 in the Treasury of the United States.

Annunziata (a/k/a Nunziata) Pirello, Palazzina Ina-Casa, Nicastro, Catanzaro, Italy; \$44.28 in the Treasury of the United States.  
 Maria Catena Pirello, Piazza Mercato 2, Nicastro, Catanzaro, Italy; \$44.28 in the Treasury of the United States.

Francesco Pirello, Palazzina Ferrovie Stato, Sambase, Catanzaro, Italy; \$44.29 in the Treasury of the United States.

Giovanni Pirello, Via Cavaliere 23, Catania, Italy; \$44.29 in the Treasury of the United States.

Cesare Panebianco, Via Sant'Orsola 6, Milan, Italy; \$66.43 in the Treasury of the United States.

Rosa Albergo Panebianco, Via Mirandola 11, Rome, Italy; \$66.43 in the Treasury of the United States.

Carmelo Panebianco, % Questura di Ancona, Ancona, Italy; \$66.43 in the Treasury of the United States.

Rosario Panebianco, Via Monte Grappa 156, Bari, Italy; \$66.43 in the Treasury of the United States.

Claim No. 42893:  
 Annita Grassia, Gioia Sannitica, Caserta, Italy; \$442.86 in the Treasury of the United States.

Astolfo Grassia, Via Francesco Daniels 16, Caserta, Italy; \$442.86 in the Treasury of the United States.

Salvatore Grassia, Gioia Sannitica, Caserta, Italy; \$442.86 in the Treasury of the United States.

Claim No. 58638:  
 Concetta Castagna; \$8.99 in the Treasury of the United States.

Agata Castagna; \$8.99 in the Treasury of the United States.

Diego Castagna; \$8.99 in the Treasury of the United States.

Giovanna Castagna; \$8.98 in the Treasury of the United States.

Umberto (a/k/a Husberto) Castagna; \$8.98 in the Treasury of the United States.

Iolanda Castagna; \$8.98 in the Treasury of the United States.

All of Contessa Adelasia 5, Palermo, Italy.

Maria Castagna, Rochester, New York; \$8.99 in the Treasury of the United States.

Vesting Order No. 841.

Executed at Washington, D.C., on

March 24, 1959.

For the Attorney General.

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

[F.R. Doc. 59-2835; Filed, Mar. 27, 1959;  
 8:48 a.m.]

## Office of the Attorney General

[Order 175-59]

### ORGANIZATION OF THE DEPARTMENT OF JUSTICE

By virtue of the authority vested in me by law, including particularly section 161 of the Revised Statutes of the United States (5 U.S.C. 22), and section 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261), and as Attorney General of the United States, it is hereby ordered as follows:

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**SECTION 1. Organizational structure of the Department of Justice.** The Department of Justice shall consist of the following principal offices, divisions, bureaus, and boards:

**OFFICES**

- Office of the Attorney General.
- Office of the Deputy Attorney General.
- Office of the Solicitor General.
- Office of Legal Counsel.
- Office of Alien Property.
- Office of the Pardon Attorney.

**DIVISIONS**

- Antitrust Division.
- Civil Division.
- Civil Rights Division.
- Criminal Division.
- Internal Security Division.
- Lands Division.
- Tax Division.
- Administrative Division.

**BUREAUS**

- Federal Bureau of Investigation.
- Bureau of Prisons.
- Immigration and Naturalization Service.

**BOARDS**

- Board of Immigration Appeals.
- Board of Parole.

**SEC. 2. Office of the Attorney General—(a) Attorney General.** The Attorney General shall:

(1) Supervise and direct the administration and operation of the Department of Justice, including the offices of United States Attorneys and United States Marshals, which are within the Department of Justice.

(2) Represent the United States in legal matters generally.

(3) Furnish advice and opinions, formal and informal, on legal matters to the President and the Cabinet and to the heads of the executive departments and agencies of the Government, as provided by law.

(4) Appear in person to represent the Government in the Supreme Court of the United States, or in any other court, in which he may deem it appropriate.

(5) Take possession and dispose of certain unclaimed, privately-owned, personal property (including abandoned property), under the authority delegated to him by the Administrator of General Services (16 F.R. 7335).

(6) Designate, pursuant to Executive Orders No. 9738 of October 4, 1946 and No. 10254 of June 15, 1951, officers and agencies of the Department of Justice to act as disbursing officers for the Office of Alien Property.

(7) Designate, pursuant to Executive Order No. 10590 of January 18, 1955, the Employment Policy Officer, and necessary Deputy Employment Policy Officers of the Department of Justice.

(8) Perform or supervise the performance of other duties required by statute or Executive order.

**(b) Executive Assistant.** The Executive Assistant to the Attorney General established in the Office of the Attorney General shall:

(1) Assist the Attorney General in the review of Executive orders, opinions, interpretations, decisions of the Board of Immigration Appeals, pardon matters, antitrust complaints and consent decrees, contracts, agreements, and proposed offers in compromise, and other matters submitted for the Attorney General's action.

(2) Exercise the power and authority vested in the Attorney General by section 5003 of title 18 of the United States Code, upon certification by the Director of the Bureau of Prisons that proper and adequate treatment facilities and personnel are available, to contract with State or Territorial officials for the custody, care, subsistence, education, treatment, and training of State or Territorial prisoners.

(3) Perform such other duties and functions as may be specially assigned from time to time by the Attorney General.

**(c) Director of Public Information.** There shall be in the Office of the Attorney General a Director of Public Information who shall:

(1) Handle matters pertaining to relations with the public generally.

(2) Disseminate information to the press, the radio and television services,

the public, members of Congress, officials of government, schools, colleges, and civic organizations.

(3) Coordinate the relations of the Department of Justice with news media.

(4) Serve as a central agency for information relating to the work and activities of all agencies of the Department.

(5) Prepare public statements and news releases.

(6) Coordinate departmental publications.

**(d) Committee on Incentive Awards.** The Committee on Incentive Awards shall be a part of the Office of the Attorney General and shall:

(1) Consist of the Deputy Attorney General, who shall be the chairman thereof, the Executive Assistant to the Attorney General, the Director of the Federal Bureau of Investigation, and the Administrative Assistant Attorney General, who shall be the Secretary of the Committee.

(2) Consider and make recommendations to the Attorney General concerning honorary awards and cash awards in excess of \$500.00 to be granted for suggestions or inventions, sustained superior performance, or special acts or services in the public interest.

(3) Consider and make recommendations to the Attorney General for transmittal to the Civil Service Commission and the President for Presidential awards under section 304(b) of the Government Employees Incentive Awards Act, 68 Stat. 1113.

(4) Act upon recommendations for outstanding performance ratings under the Performance Rating Plan of the Department.

**(e) Young American Medals Committee.** There shall be in the Office of the Attorney General a Young American Medals Committee, which shall be composed of three members, one of whom shall be the Director of Public Information, who shall be the Executive Secretary of the Committee. The Chairman of the Committee shall be designated by the Attorney General. The Committee shall issue regulations relating to the establishment of the Young American Medal for Bravery and Young American Medal for Service provided for by the act of August 3, 1950, 64 Stat. 397, and governing the requirements and procedures for the award of such medals. The regulations of the Committee in effect on the effective date of this order shall continue in effect until amended, modified, or revoked by the Committee.

**(f) Fiscal Review Committee.** The Fiscal Review Committee shall be a part of the Office of the Attorney General and shall be composed of the Attorney General, the Deputy Attorney General, and the Administrative Assistant Attorney General. The Committee shall establish budget policy and review budget estimates to determine whether they conform to departmental and budget policy.

**(g) Attorney General's Observer on the Planning Board of the National Security Council.** (1) The Attorney General's Observer on the Planning Board of the National Security Council and his alternate shall be nominated as individuals

by the Attorney General in accordance with the procedure established by the National Security Council, and shall represent the Department in all National Security Council staff and planning-board matters.

(2) All offices, divisions, bureaus, and boards of the Department, with the exception of the Federal Bureau of Investigation, shall consult with the Attorney General's Observer on matters which are of interest to them and also of interest to the National Security Council, Operations Coordinating Board, Interdepartmental Committee on Internal Security, Interdepartmental Intelligence Conference, or other agencies within the framework of the National Security Council.

**SEC. 3. Office of the Deputy Attorney General—(a) Deputy Attorney General.** The Deputy Attorney General shall act as Attorney General and perform all the duties of the Office of Attorney General in case of a vacancy in that office or in case of the absence or disability of the Attorney General and shall:

(1) Maintain liaison between the Department and the Congress.

(2) Assist the Attorney General in the over-all supervision and direction of the Department, including coordination of the activities of the departmental divisions and other units.

(3) Assist the Attorney General in the formulation of departmental policies and programs, and in the development of ways and means of effectuating them.

(4) Keep currently informed concerning the operations of the Department, and bring to the consideration of the Attorney General matters requiring his personal attention or action.

(5) Administer the Attorney General's Recruitment Program for Honor Law Graduates.

(6) Approve Incentive Awards not in excess of \$500.00.

(7) Prepare, for the consideration of the Attorney General, recommendations for Presidential appointments to judicial positions and positions within the Department.

(8) Draft proposed departmental legislation and, except as provided in section 18(a) (8) hereof, prepare and submit reports and recommendations on pending legislation, in response to requests of Congressional committees or other agencies, and on enrolled bills.

(9) Under regulations prescribed by the Attorney General, be responsible for coordinating the recruitment and training program of the Department of Justice unit of the National Defense Executive Reserve, and for recruiting, training, and maintaining an adequate and effective Reserve in a specified area involving essential emergency functions.

(10) Approve per-diem allowances, concurrently with the Administrative Assistant Attorney General, for travel by airplane, train, or boat outside the continental United States in excess of the amounts fixed by paragraph 6.2c of the Standardized Government Travel Regulations.

(b) *Executive Office for United States Attorneys.* The Executive Office for United States Attorneys, established in the Office of the Deputy Attorney Gen-

eral by Order No. 8-53 of April 6, 1953, under the supervision of the Deputy Attorney General, shall provide general executive assistance and supervision to the offices of the United States Attorneys, and coordinate and direct the relationship of agencies of the Department with such offices.

(c) *Executive Office for United States Marshals.* The Executive Office for United States Marshals, established in the Office of the Deputy Attorney General by Order No. 137-56 of November 23, 1956, shall be under the supervision of the Deputy Attorney General, and shall provide general executive assistance and supervision to the offices of the United States Marshals, coordinate and direct the relationship of agencies of the Department with such offices, and approve the staffing requirements of the offices of the United States Marshals. (28 U.S.C. 542; 48 U.S.C. 1614; E.O. No. 6166, June 10, 1933; sec. 6.)

**SEC. 4. Office of the Solicitor General—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Solicitor General, in consultation with each agency or official concerned:

(1) Conducting, or assigning and supervising, all Supreme Court cases, including appeals, petitions for and in opposition to certiorari, briefs and arguments, and, in accordance with section 23(d) of this order, settlement thereof.

(2) Authorizing or declining to authorize appeals by the Government to all appellate courts, including petitions for rehearing *en banc*.

(3) Authorizing the filing of all briefs *amicus curiae* by the Government in all appellate courts.

(4) Surveying and listing appellate cases in the courts of appeals in which the Government is participating.

(b) *Authorizing intervention by the Government in certain cases.* The Solicitor General may in consultation with each agency or official concerned, authorize intervention by the Government in cases involving the constitutionality of acts of Congress.

**SEC. 5. Office of Legal Counsel—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Office of Legal Counsel:

(1) Preparing the formal opinions of the Attorney General; rendering informal opinions and legal advice to the various agencies of the Government; and assisting the Attorney General in the performance of his functions as legal adviser to the President and as a member of, and legal adviser to, the Cabinet.

(2) Preparing and making necessary revisions of proposed Executive orders and proclamations, and advising the Attorney General as to their form and legality prior to their transmission by the Attorney General to the President; and

performing like functions with respect to regulations and other similar matters which require the approval of the President or the Attorney General.

(3) Approving proposed orders of the Attorney General as to form and legality and as to consistency and conformity with existing orders and memoranda.

(4) Handling matters arising out of devises and bequests and inter-vivos gifts to the United States, except litigation and determinations as to the validity of title to any lands involved.

(5) Acting in a liaison capacity for cooperation with the Council of State Governments concerning matters of departmental concern which are of mutual interest to the State and Federal governments.

(6) Coordinating the work of the Department of Justice with respect to the participation of the United States in the United Nations and related international organizations.

(7) Rendering opinions to the Attorney General and to the heads of the various organizational units of the Department on questions of law arising in the administration of the Department.

(8) Coordinating the implementation of recommendations, pertinent to the operations of the Department of Justice, made in the Report on Legal Services and Procedure by the Commission on Organization of the Executive Branch of the Government.

(9) When requested, advising the Attorney General in connection with his review of decisions of the Board of Immigration Appeals, the Office of Alien Property, and other organizational units of the Department.

(10) Designating within the Office of Legal Counsel (i) a liaison officer, and an alternate, as a representative of the Department in all matters concerning the filing of departmental documents with the Office of the Federal Register, and (ii) a certifying officer, and an alternate, to certify copies of documents (except those issued by the Commissioner of Immigration and Naturalization or by the Director of the Office of Alien Property, or their designees) required to be filed with the Office of the Federal Register (1 CFR 1.21).

(b) *Conscientious Objector Section.* There shall be in the Office of Legal Counsel a Conscientious Objector Section, which shall, under the general supervision and direction of the Office of Legal Counsel, carry out the functions, duties, and responsibilities of the Department of Justice arising under or pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(j)), in accordance with the Attorney General's Order No. 118-56 of June 9, 1956, and such other orders as the Attorney General may issue from time to time.

(c) *Office of Administrative Procedure.* There shall be in the Office of Legal Counsel an Office of Administrative Procedure which shall, under the administrative direction of the Assistant Attorney General in charge of the Office of Legal Counsel, carry out the functions and duties assigned to it by the Attorney General's Order No. 142-57 of February

6, 1957, and such other functions and duties as the Attorney General may from time to time assign to it.

**Sec. 6. Office of Alien Property—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Director, Office of Alien Property:

(1) Exercising or performing all the authority, rights, privileges, powers, duties, and functions delegated to or vested in the Attorney General under the Trading With the Enemy Act, as amended, Title II of the International Claims Settlement Act of 1949, as amended, the act of September 28, 1950, 64 Stat. 1079 (50 U.S.C. App. Sup. 40), the Philippine Property Act of 1946, as amended, and the Executive orders relating to such acts, including, but not limited to, vesting, supervising, controlling, administering, liquidating, selling, paying debt claims out of, returning, and settling of intercustodial disputes relating to, property subject to one or more of such acts.

(2) Conducting and directing all civil litigation with respect to the Trading With the Enemy Act, except as provided in section 9(a)(2) of this order, Title II of the International Claims Settlement Act, the Foreign Funds Control program and the Foreign Assets Control program.

(3) Designating within the Office of Alien Property a certifying officer, and an alternate, to certify copies of documents issued by the Director, or his designee, which are required to be filed with the Office of the Federal Register.

(b) *Authority to act for Attorney General.* The Assistant Attorney General, Director, Office of Alien Property, shall act for and on behalf of the Attorney General.

(c) *Delegation of functions.* All the authority, rights, privileges, powers, duties, and functions of the Assistant Attorney General, Director, Office of Alien Property, may be exercised or performed by any agencies, instrumentalities, agents, delegates, or other personnel designated by him.

**Sec. 7. Office of the Pardon Attorney—(a) Applications for clemency.** Subject to the general supervision and direction of the Attorney General, the Pardon Attorney shall have charge of the receipt, investigation, and disposition of applications to the President for pardon and other forms of Executive clemency.

(b) *Recommendations.* The Pardon Attorney shall submit all recommendations in pardon cases to the Attorney General through the office of the Executive Assistant to the Attorney General.

**Sec. 8. Antitrust Division—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

(1) General enforcement, by criminal actions and civil suits, of the Federal antitrust laws, including the studies of possible antitrust violations, the conducting of grand jury proceedings, the preparation and trial of antitrust cases, the prosecution of appeals, the negotiation and enforcement of final judgments, and participation as *amicus curiae* in private antitrust litigation.

(2) Representing the United States in suits before three-judge district courts under sections 2321 to 2325 of title 28 of the United States Code to enforce, suspend, enjoin, annul, or set aside, in whole or in part, any order of the Interstate Commerce Commission.

(3) Enforcement, by criminal proceedings, of section 10 of the Clayton Act (38 Stat. 734; 15 U.S.C. 20), requiring competitive bidding in transactions involving securities, supplies, or other articles of commerce and in the making of certain contracts for construction or maintenance by common carriers.

(4) Enforcement of civil penalties against common carriers by wire or radio unjustly or unreasonably discriminating among persons, classes of persons, or localities (47 U.S.C. 202(a)).

(5) Upon appropriate certification by the Federal Trade Commission, and except as provided in section 11(a)(4) of this order, the institution of proceedings for collecting penalties arising from violations of the Federal Trade Commission Act.

(6) Preparing the approval of the Attorney General whenever such approval, from the standpoint of the antitrust laws, is required as a prerequisite to the development of Defense-Production-Act voluntary programs or agreements and small business production or raw material pools.

(7) Preparing the advice of the Attorney General whenever such advice, from the standpoint of the antitrust laws, is required in connection with the disposal of Government-owned surplus property or in connection with the national-defense program or atomic energy, and advising the Attorney General with respect to the disposal of property formerly held by enemy aliens.

(8) Gathering information and preparing reports required or requested by the Congress or the Attorney General as to the effect upon the free enterprise system of various Federal laws or programs, including the Defense Production Act, the Small Business Act, the joint resolution of July 28, 1955, giving consent to the Interstate Compact to Conserve Oil and Gas, and the program for the disposal of Government-owned synthetic rubber facilities.

(b) *Intervening before administrative agencies in certain proceedings.* The Assistant Attorney General in charge of the Antitrust Division may intervene or participate before administrative agencies functioning wholly or partly under regulatory statutes in administrative proceedings which require an accommodation between the purposes of the antitrust laws and the purposes of such statutes, including such agencies as the Federal Trade Commission, Federal Re-

serve Board, Interstate Commerce Commission, Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Board, and Federal Power Commission, except proceedings referred to an agency by a Federal court as an incident to litigation being conducted under the supervision of another division.

(c) *Handling judicial proceedings to review regulatory orders of certain agencies.* With respect to Government departments and administrative agencies functioning wholly or partly under regulatory statutes relating to trade regulation, transportation, communications, alcoholic beverage control, and atomic energy, the Assistant Attorney General in charge of the Antitrust Division shall handle or supervise the handling of, proceedings in Federal courts of appeals, under various statutes, to review regulatory orders of the Civil Aeronautics Board, Administrator of Civil Aeronautics, Federal Communications Commission, Atomic Energy Commission, Federal Maritime Board, and Maritime Administration, and of the Secretary of the Treasury or his delegates under the Federal Alcohol Administration Act.

**Sec. 9. Civil Division—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Civil Division:

(1) Admiralty and shipping cases—civil and admiralty litigation in any court by or against the United States, its officers and agents, which involves ships or shipping (except suits to enjoin final orders of the Federal Maritime Board under the Shipping Act of 1916 and under the Intercoastal Shipping Act assigned to the Antitrust Division by section 8 hereof), defense of regulatory orders of the Maritime Administration affecting navigable waters or shipping thereon (except as assigned to the Lands Division by section 13(a)(1) of this order), workmen's compensation, and litigation and waiver of claims under reciprocal-aid maritime agreements with foreign governments.

(2) Court of Claims cases—defense of all suits against the United States in the Court of Claims, except cases assigned to the Lands Division and to the Tax Division by sections 13 and 14 of this order, respectively.

(3) Customs cases—all litigation incident to the reappraisal and classification of imported goods, including the defense of all suits in the Customs Court and presentation of customs appeals in the Court of Customs and Patent Appeals.

(4) Fraud cases—civil claims arising from fraud on the Government (other than land and tax frauds), including alleged claims under the False Claims Act, the Surplus Property Act, the Anti-Kickback Act, the Contract Settlement Act, and common law fraud.

(5) Japanese evacuation claims and litigation and administrative actions

relative to the renunciation of United States nationality.

(6) Patent and allied cases—patent, copyright, and trademark litigation (except matters assigned to the Office of Alien Property by section 6 of this order) before United States courts and the Patent Office, including patent infringement suits in the Court of Claims, interference proceedings, defense of the Register of Copyrights in his administrative acts, and civil patent-fraud cases; and participation in the administration of the Patent Interchange Agreement.

(7) Tort cases—Defense of tort suits against the United States arising under the Federal Tort Claims Act and special acts of Congress, and similar litigation against cost-plus Government contractors and Federal employees whose official conduct is involved (except actions against Government contractors and Federal employees which are assigned to the Lands Division by sections 13(a) (1) and (3); and prosecution of tort claims in favor of the United States arising from situations within the scope of the Federal Tort Claims Act.

(8) Veterans' affairs cases—all civil litigation involving the rights and liabilities of veterans and their dependents and beneficiaries not otherwise assigned, including suits relating to War Risk, United States Government Life, and National Service Life Insurance, re-employment rights in private industry, the education and loan-guaranty programs of the Veterans' Administration, the escheat and vesting of funds under special statutes and the recovery of sums improperly paid to servicemen and veterans and their allottees, dependents, and beneficiaries.

(9) General civil matters—litigation by and against the United States, its agencies, and officers in all courts and administrative tribunals to enforce Government rights, functions, and monetary claims (except fines and bail-bond forfeitures assigned to the Criminal Division under section 11 of this order), and to defend challenged actions of Government agencies and officers, not otherwise assigned, including, but not limited to, civil penalties and forfeitures, actions in the Tax Court under the Renegotiation Act, claims against private persons or organizations for which the Government is, or may ultimately be, liable, actions affecting property on which the United States has liens under section 2410 of title 28 of the United States Code, reparations suits brought by the United States as a shipper under the Interstate Commerce Act; civil actions by the United States for penalties for violations of car service orders (49 U.S.C. 1(15) and (17a)); actions restraining violations of Part II of the Interstate Commerce Act (49 U.S.C. 322(b) and 322(h)); civil actions under Part I of the Interstate Commerce Act (49 U.S.C. 6(10) and 16(9)); injunctions against violations of Interstate Commerce Commission orders (49 U.S.C. 16(12)); mandamus to compel the furnishing of information to the Interstate Commerce Commission (49 U.S.C. 19a(1) and 20(9)); recovery of rebates under the Elkins Act (49 U.S.C.

41(3)); compelling the appearance of witnesses before the Interstate Commerce Commission and enforcement of subpoenas and punishment for contempt (49 U.S.C. 12(3)); suits to enjoin final orders of the Secretary of Agriculture under the Perishable Agricultural Commodities Act (7 U.S.C. 499g), and the Packers and Stockyards Act (7 U.S.C. 217); and suits to set aside orders of State regulatory agencies (49 U.S.C. 13(4)).

(b) *Certain civil litigation.* The Assistant Attorney General in charge of the Civil Division shall, in addition to litigation coming within the scope of subsection (a) of this section, direct all other civil litigation including claims by or against the United States, its agencies or officers, in domestic or foreign courts, special proceedings, and similar civil matters, not otherwise assigned.

Sec. 10. *Civil Rights Division*—(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Civil Rights Division:

(1) Enforcement of all Federal statutes affecting civil rights, including those pertaining to elections and voting, and authorization of litigation in such enforcement, including criminal prosecutions and civil actions and proceedings on behalf of the Government; and appellate proceedings in all such cases.

(2) Requesting and reviewing investigations arising from reports or complaints of public officials or private citizens with respect to matters affecting civil rights.

(3) Conferring with individuals and groups who call upon the Department in connection with civil-rights matters, advising such individuals and groups thereon, and initiating action appropriate thereto.

(4) Coordination within the Department of Justice of all matters affecting civil rights.

(5) Consultation with and assistance to other Federal departments and agencies and State and local agencies on matters affecting civil rights.

(6) Research on civil-rights matters, and the making of recommendations to the Attorney General as to proposed policies and legislation relating thereto.

(7) Resolving questions that arise as to Federal prisoners held in custody by Federal officers or in Federal prisons.

(8) Habeas-corpus proceedings of all types excepting those had pursuant to sections 11(a) (7) and 11(a) (10) of this order.

(b) *Assistance to other Federal agencies.* Upon request, the Assistant Attorney General in charge of the Civil Rights Division may assist the Commission on Civil Rights or other similar Federal bodies in carrying out research and formulating recommendations.

Sec. 11. *Criminal Division*—(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted,

handled, or supervised by, the Assistant Attorney General in charge of the Criminal Division:

(1) Prosecutions for Federal crimes not otherwise specifically assigned.

(2) Cases involving criminal frauds against the United States (except tax fraud cases assigned to the Tax Division by section 14 of this order and false-statement and perjury cases assigned to the Internal Security Division by section 12(a) (1) of this order.

(3) All criminal and civil litigation under the Federal Food, Drug, and Cosmetic Act.

(4) Libels or civil penalty actions (including petitions for remission or mitigation of civil penalties and forfeitures, offers in compromise and related proceedings) under the Civil Aeronautics Act, Contraband Transportation Act, customs laws, Export Control Act, Federal Alcohol Administration Act, Federal Caustic Poisons Act, Federal Insecticide, Fungicide, and Rodenticide Act, Federal Seed Act, Federal Trade Commission Act (in case foods, drugs, or cosmetics are involved), Gold Reserve Act, Hours of Service Act, laws relating to liquor, narcotics, gambling, and firearms, Locomotive Inspection Act, Prison-Made Goods Act, Safety Appliance Act, Standard Container Act, Sugar Act of 1948, and Twenty-Eight Hour Law.

(5) Proceedings with respect to the recovery of fines and bail-bond forfeitures.

(6) Subject to the provisions of section 23 of this order, consideration, acceptance, or rejection of offers in compromise of criminal and tax liability under the laws relating to liquor, narcotics, gambling, and firearms, in cases in which the criminal liability remains unresolved.

(7) All litigation arising under the immigration and nationality laws (except Japanese renunciation proceedings, which are assigned to the Civil Division by section 9(a) (5) hereof, and suits under the Tucker Act for the recovery of money covered into the Treasury on forfeited immigration bonds), and the passport and visa laws (except litigation involving subversives, which is assigned to the Internal Security Division by section 12(a) of this order, and injunction actions against the Secretary of State to require the issuance of passports, which are within the jurisdiction of the Civil Division under section 9(a) (9) of this order).

(8) Coordination of enforcement activities directed against organized crime and racketeering.

(9) Enforcement or registration requirements of the Slot Machine Act and maintenance of registrations thereunder.

(10) Habeas corpus proceedings relating to the Universal Military Training and Service Act.

(11) International extradition proceedings.

(12) Relation of military to civil authority with respect to criminal matters affecting both.

(b) *Exclusive or concurrent jurisdiction.* The Assistant Attorney General in charge of the Criminal Division is authorized to determine administratively whether the Federal Government has exclusive or concurrent jurisdiction

over offenses committed upon lands acquired by the United States, and to consider problems arising therefrom.

**SEC. 12. Internal Security Division—**  
(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Internal Security Division.

(1) Enforcement of all criminal laws relating to subversive activities and kindred offenses directed against the internal security of the United States, including the laws relating to treason, espionage, sedition, criminal prosecutions under the Atomic Energy Act and the Smith Act, and other criminal offenses such as perjury and false statements relating to subversive activities or involving individuals with a subversive background.

(2) Administration and enforcement of the Foreign Agents Registration Act of 1938, as amended; the act of August 1, 1956, 70 Stat. 899 (50 U.S.C. 851-857), including the determination in writing that the registration of any person coming within the purview of the act would not be in the interest of national security; the Voorhis Act, and the Subversive Activities Control Act of 1950, as amended.

(3) Presentation of cases before the Subversive Activities Control Board and before Department of Justice hearing officers with respect to designation of organizations under Executive Order No. 10450 of April 27, 1953, as amended.

(4) All civil cases relating to internal-security matters arising since February 14, 1957.

(5) All emergency-mobilization planning and civil-defense planning for the Department of Justice.

(6) Administration of the Department of Justice Security Office, headed by the Security Officer (Order No. 25-53 of August 31, 1953).

(7) Interpretation of Executive Order No. 10450 of April 27, 1953, as amended, pursuant to section 13 thereof, relating to security requirements for government employment.

(b) *Representative capacities.* The Assistant Attorney General in charge of the Internal Security Division shall:

(1) Represent the Department of Justice on the Personnel Security Advisory Committee and be the Chairman thereof; and have authority to designate an officer or employee of the Internal Security Division as Vice Chairman of the Committee and assign to him appropriate duties and responsibilities.

(2) Be a member and serve as Chairman of the committee which represents the Department of Justice in the development and implementation of plans for exchanging visits between the Iron Curtain countries and the United States and have authority to designate an alternate to serve on such committee.

(3) Provide Department of Justice representation on the Interdepartmental Committee on Internal Security.

(4) Be responsible for keeping other interested departments and agencies currently informed as to the names of

persons performing duties under paragraphs (1), (2), and (3) of this subsection.

**SEC. 13. Lands Division—**(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Lands Division:

(1) Suits and matters of a civil nature in Federal, State, and foreign courts relating to the public domain and all other lands and real property of the United States (including condemnation proceedings for the acquisition of property); actions related to the disposal of real property (including the foreclosure of mortgages executed in connection with the disposal); actions to remove clouds from and to quiet title, to recover possession, to recover delinquent rentals, to recover damages, to determine boundaries, to cancel patents or other conveyances of real property or interests therein, to set aside *ad valorem* taxes, assessments, special assessments, and tax sales (including actions involving payments in lieu of taxes), to establish rights in minerals (including mineral leases), oil reserves, and other natural resources; and actions to establish and protect water rights and to protect the navigation servitude and rights in navigable waters; defense of actions for compensation for the claimed taking by the United States of real property or any interest in real property (including water rights); defense of actions seeking to establish an interest in real property adverse to the United States; and defense of actions for damages resulting from the use of real property by the United States or its officers, agents, or contractors.

(2) Representation of the interests of the United States in all civil litigation in Federal and State courts and before the Indian Claims Commission pertaining to Indians, Indian tribes, and Indian affairs, and matters relating to Indian property, real or personal.

(3) Defense of officers, employees, and contractors of the United States with respect to, and handling of injunction and mandamus proceedings and other litigation relating to, the use or control of or title to real property as to which the United States asserts ownership or the right of possession or control.

(4) Rendering opinions as to the validity of title to all lands acquired by the United States, except as otherwise specified by statute.

(b) *Delegation respecting title opinions.* The Assistant Attorney General in charge of the Lands Division, or such members of his staff as he may specifically designate in writing, are authorized to sign the name of the Attorney General to opinions on the validity of titles to property acquired by or on behalf of the United States, except those which, in the opinion of the Assistant Attorney General involve questions of policy or for any other reason require the personal attention of the Attorney General.

**SEC. 14. Tax Division—**(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Tax Division:

(1) Prosecution and defense in all courts, other than the Tax Court, of civil suits, and the handling of other matters, arising under the internal revenue laws, and litigation resulting from the taxing provisions of other Federal statutes (except civil forfeiture and civil penalty matters arising under laws relating to liquor, narcotics, gambling, and firearms assigned to the Criminal Division by section 11(a)(4) of this order).

(2) Criminal proceedings arising under the internal revenue laws, except the following: proceedings pertaining to misconduct of Internal Revenue Service personnel, to taxes on liquor, narcotics, firearms, coin-operated gambling and amusement machines, and to wagering, forcible rescue of seized property (26 U.S.C. 7212(b)), corrupt or forcible interference with an officer or employee acting under the Internal Revenue laws (26 U.S.C. 7212(a)), unauthorized disclosure of information (26 U.S.C. 7213), and counterfeiting, mutilation, removal, or re-use of stamps (26 U.S.C. 7208).

(3) Enforcement of tax liens, and mandamus, injunctions, and other special actions or general matters arising in connection with internal revenue matters.

(4) Appellate proceedings in connection with civil and criminal cases enumerated in paragraphs (1) through (3) of subsection (a) of this section and in subsection (b) of this section, including petitions to review decisions of the Tax Court of the United States.

(b) *Delegation respecting immunity matters.* The Assistant Attorney General in charge of the Tax Division is authorized to handle matters involving the immunity of the Federal Government from State or local taxation (except actions to set aside *ad valorem* taxes, assessments, special assessments, and tax sales of Federal real property, and matters involving payments in lieu of taxes), as well as State or local taxation involving contractors performing contracts for or on behalf of the United States.

**SEC. 15. Administrative Division—**(a) *General functions.* Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be administered by, or under the direction of, the Administrative Assistant Attorney General:

(1) Budget, financial, and fiscal matters; allotment of funds under regulations prescribed by the Attorney General with the approval of the Director of the Bureau of the Budget; appropriations, and control of expenditures; accounting and auditing; examination of contracts; examination and inspection of judicial offices; inspection and review of administrative operations; forms-and-reports-control program; collection and

compilation of statistics; transcription and reproduction; supplies; printing and procurement; property accountability; custody and maintenance of mail, files, and records) including administration of the document system described in section 24 of this order; buildings and space; telephone and other necessary services; payrolls, overtime pay, vouchers, and transportation requests; personnel matters and transactions; garage and automotive equipment; health services; official bond program, legal and legislative matters pertaining to administrative operations of the Department; arranging for foreign and military witnesses, and payment of expert-witness fees; and generally the administration of similar staff services.

(2) Formulation, presentation, and execution of the Department's budget program; review and discussion with the operating units of the Department of all matters relating to the budget before their presentation to the Fiscal Review Committee of the Department, in order to review and establish budgetary and accounting standards and to work with the divisions, offices, bureaus, and boards of the Department in attaining them; analysis of proposed budget programs of the divisions, offices, bureaus, and boards, or proposed changes therein and the making of recommendations to the budget offices; follow-up on the execution of the budget through a system of financial and work reporting; continuous study, in cooperation with the divisions, offices, bureaus, and boards, of budget and planning facilities, organization structure, operating procedure and facilities, and work methods of the Department; and preparation and review of orders, regulations, and related documents of general administrative and fiscal application.

(3) Improvement of administrative organization and practices, and making management studies.

(b) *Libraries.* Under the general supervision of the Administrative Assistant Attorney General, the Librarian of the Department shall have control and direction of the functions of the Main Library and other libraries of the Department with the exception of those in the Bureau of Prisons, the Federal Bureau of Investigation, and the Immigration and Naturalization Service.

(c) *Delegations.* The Administrative Assistant Attorney General is authorized to exercise the power and authority vested in the Attorney General by law to take final action in the following-described matters:

(1) *Appropriations allotment.* Allotment to organizational units of the Department of appropriations or funds made available to the Department within the amounts permitted by the apportionments made by the Bureau of the Budget pursuant to section 665 of title 31 of the United States Code.

(2) *Application for Comptroller General decisions.* Application to the Comptroller General for decisions upon questions involving payments to be made by the Department of Justice (31 U.S.C. 74).

(3) *Bonds of United States Marshals.* Determination of the amounts of bonds

required of United States Marshals under section 544 of title 28 of the United States Code.

(4) *Mileage allowances for United States Marshals.* Fixing maximum mileage allowances for United States Marshals under paragraph 3 of section 553 of title 28 of the United States Code.

(5) *Travel outside continental United States.* Approval, concurrently with the Deputy Attorney General (sec. 3(a) (10)), of per-diem allowances for travel by airplane, train or boat outside the continental United States in excess of the amounts fixed by paragraph 6.2c of the Standardized Government Travel Regulations.

(6) *Experts, consultants—temporary employment.* Temporary employment of experts or consultants or organizations thereof, including stenographic reporting services, pursuant to section 15 of the act of August 2, 1946, 60 Stat. 810 (5 U.S.C. 55a).

(7) *Rates for payment of certain expenses connected with witnesses and informants.* Authorizing or approving rates for payment of notarial fees, including stenographic services required in connection with depositions, and compensation and expenses of witnesses and informants (5 U.S.C. 341).

(8) *Highway mileage guide for payments to witnesses.* Designating a highway mileage guide containing a short-line nationwide table of distances for use in determining mileage payable to witnesses under section 1821 of title 28 of the United States Code.

(9) *Subsistence expenses up to \$25.00.* Allowance of actual subsistence expenses in excess of \$12 but not in excess of \$25 per day in accordance with section 1 of the act of July 28, 1955, 69 Stat. 394 (5 U.S.C. 836).

(10) *Extraordinary expenses in executing acts of Congress.* Allowance of payment of extraordinary expenses incurred by ministerial officers of the United States in executing acts of Congress (28 U.S.C. 1929).

(11) *Regulations for compensatory time off.* Issuance of regulations providing for the granting of compensatory time off from duty in lieu of overtime compensation (5 U.S.C. 912).

(12) *Promotion policy.* Establishing standards and procedures to facilitate achievement of the objectives of the promotion policy of the Department as defined by the Attorney General.

(13) *Certificates of need for space.* Signing of certificates of need for space, as required by section 101 of the act of July 22, 1954, 68 Stat. 518, 519.

(14) *Certificates required for printing illustrations.* Making the certificate required with respect to the necessity for including illustrations in printing pursuant to section 1 of the act of March 3, 1905, 33 Stat. 1213 (44 U.S.C. 118).

(15) *Certificates relating to long distance telephone calls.* Making certificates with respect to the necessity of long distance telephone calls pursuant to section 4 of the act of May 10, 1939, 53 Stat. 738 (31 U.S.C. 680a).

(16) *Acceptance of service of summons.* Accepting service of summons, complaint, or other paper, as a repre-

sentative of the Attorney General, under the Federal Rules of Civil and Criminal Procedure, or in any suit within the purview of subsection (a) of section 208 of the Department of Justice Appropriation Act 1953 (66 Stat. 560; 43 U.S.C. 666(a)).

(17) *Designations for listing persons to receive Federal Register and other publications.* Designating an officer, and an alternate, to place on the mailing list names of persons entitled to receive the FEDERAL REGISTER, the Code of Federal Regulations, and the United States Government Organization Manual (1 CFR 1.21).

(d) *Authority—Federal Tort Claims.* The Administrative Assistant Attorney General shall have authority to consider, ascertain, adjust, determine, and settle any claims involving the Department under Part 2 of the Federal Tort Claims Act (60 Stat. 843), and is authorized to certify such claims for payments.

(e) *Administrative supervision over certain agencies.* The Administrative Assistant Attorney General is authorized to exercise administrative supervision over the Board of Immigration Appeals, the Board of Parole, and the Office of the Pardon Attorney.

(f) *Authority with respect to certain personal property.* The Administrative Assistant Attorney General is authorized to exercise the power and authority vested in the Attorney General by the Administrator of General Services (16 F.R. 7335), except to determine when title is vested in the United States, to take final action with respect to certain unclaimed, privately-owned personal property (including abandoned property) of an estimated value of \$100.00 or less, and cash or negotiable instruments not to exceed \$500.00 (17 F.R. 1165).

(g) *Selection and assignment of employees for training.* The Administrative Assistant Attorney General is authorized as to all organizational units of the Department (including United States Attorneys and Marshals) to exercise the authority vested in the Attorney General by section 10 of the Government Employees Training Act (72 Stat. 332) with respect to the selection and assignment of employees for training by, in, or through non-Government facilities under that act and the payment of the expenses of such training or the reimbursement of employees therefor.

(h) *Authority with respect to Imprest Fund Cashiers.* The Administrative Assistant Attorney General is authorized to take the necessary steps to carry out procedures for designating Imprest Fund Cashiers by name or title of position and approve bonds as provided in the Joint Regulation for Small Purchases Utilizing Funds. Existing authorizations to request designations and to approve bonds shall remain in effect unless and until terminated by the Attorney General or the Administrative Assistant Attorney General.

(i) *Redelegation of authority.* The Administrative Assistant Attorney General is authorized to redelegate to any of his subordinates or to any other officers or employees in the Department any of the power or authority vested in him by

this section. Existing redelegations by the Administrative Assistant Attorney General shall continue in force and effect until modified or revoked.

SEC. 16. *Federal Bureau of Investigation*—(a) *General functions*. Subject to the general supervision and direction of the Attorney General, the Director of the Federal Bureau of Investigation shall:

(1) Investigate violations of the laws of the United States and collect evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency.

(2) Conduct the acquisition, collection, exchange, classification, and preservation of identification records, including personal fingerprints voluntarily submitted, on a mutually beneficial basis, from law enforcement and other governmental agencies, insurance companies, railroad police, national banks, member banks of the Federal Reserve System and FDIC-Reserve-Insured Banks; provide expert testimony in Federal or local courts as to fingerprint examinations; and provide identification assistance in disasters and in missing-persons type cases.

(3) Conduct personnel investigations requisite to the work of the Department of Justice and whenever required by statute or otherwise.

(4) Carry out the Presidential directive of September 6, 1939, as reaffirmed by Presidential directives of January 8, 1943, July 24, 1950, and December 15, 1953, designating the Federal Bureau of Investigation to take charge of investigative work in matters relating to espionage, sabotage, subversive activities, and related matters.

(5) Conduct training in police science matters as a cooperative measure for the benefit of duly authorized municipal, county, and State law-enforcement agencies; operate the Federal Bureau of Investigation National Academy; and operate a training program and facilities for personnel of the Federal Bureau of Investigation.

(6) Operate a central clearinghouse for police statistics under the Uniform Crime Reporting Program.

(7) Operate the Federal Bureau of Investigation Laboratory, to serve not only the Federal Bureau of Investigation, but also to provide, without cost, technical and scientific assistance, including expert testimony in Federal or local courts, for all duly constituted law-enforcement agencies, other organizational units of the Department of Justice, and other Federal agencies, which may desire to avail themselves of the service.

(8) Make recommendations to the Civil Service Commission in connection with applications for retirement under section 6(c) of the Civil Service Retirement Act, as amended by the act of July 31, 1956, 70 Stat. 749.

(b) *Seizure of gambling devices*. The Director, Associate Director, Assistant to the Director, Assistant Directors, inspectors and agents of the Federal Bureau of Investigation are authorized to exercise the power and authority vested in

the Attorney General under the act of January 2, 1951, 64 Stat. 1135, to make seizures of gambling devices.

(c) *Representation on committee for visit-exchange*. The Director of the Federal Bureau of Investigation shall be a member of the committee which represents the Department of Justice in the development and implementation of plans for exchanging visits between the Iron Curtain countries and the United States and shall have authority to designate an alternate to serve on such committee.

(d) *Certificates for expenses of unforeseen emergencies*. The Director of the Federal Bureau of Investigation is authorized to exercise the power and authority vested in the Attorney General by section 5 of the act of July 28, 1950, 64 Stat. 380 (5 U.S.C. 341c), to make certificates with respect to expenses of unforeseen emergencies of a confidential character: *Provided*, That each such certificate made by the Director of the Federal Bureau of Investigation shall be approved by the Attorney General.

SEC. 17. *Bureau of Prisons*—(a) *General functions*. Subject to the general supervision and direction of the Attorney General, the Director of the Bureau of Prisons shall direct all activities of the Bureau of Prisons, including:

(1) Management and regulation of all Federal penal and correctional institutions (except military or naval institutions), including jails in Alaska and prison commissaries.

(2) Provision of suitable quarters for, and safekeeping, care, and subsistence of, all persons charged with or convicted of offenses against the United States or held as witnesses or otherwise, including prisoners in Alaska.

(3) Provision for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States.

(4) Classification, commitment, control, or treatment of persons, including insane prisoners or juvenile delinquents, charged with or convicted of offenses against the United States.

(5) Payment of rewards with respect to escaped Federal prisoners.

(6) Certification with respect to the insanity or mental incompetence of a prisoner whose sentence is about to expire pursuant to section 4247 of title 18 of the United States Code.

(7) Certification with respect to the availability of proper and adequate treatment facilities and personnel pursuant to section 5003 of title 18 of the United States Code.

(b) *Delegations*. The Director of the Bureau of Prisons is authorized to exercise or perform any of the authority, functions, or duties conferred or imposed upon the Attorney General by any law relating to the commitment, control, or treatment of persons (including insane prisoners and juvenile delinquents) charged with or convicted of offenses against the United States, including the taking of final action in the following-described matters:

(1) Requesting the detail of Public Health Service officers for the purpose of furnishing services to Federal penal

and correctional institutions (18 U.S.C. 4005).

(2) Consideration, determination, adjustment, and payment of claims in accordance with section 1 of the act of June 10, 1949, 63 Stat. 167 (31 U.S.C. 238).

(3) Designating places of confinement where the sentences of prisoners (including persons committed to the National Training School for Boys) shall be served, and ordering transfers from one institution to another whether maintained by the Federal Government or otherwise (18 U.S.C. 4082).

(4) Designation of agents for the transportation of prisoners (18 U.S.C. 4008).

(5) Accepting gifts or bequests of money for credit to the "Commissary Funds, Federal Prisons" (31 U.S.C. 725s-4).

(6) Prescribing regulations for the use of surplus funds in "Commissary Funds, Federal Prisons" to provide advances not in excess of \$150 to prisoners at the time of their release (18 U.S.C. 4284).

(7) Allowance, forfeiture, and restoration of all good time (18 U.S.C. 4161, 4162, 4165, and 4166).

(8) Release of prisoners held solely for nonpayment of fine (18 U.S.C. 3569).

(9) Furnishing transportation, clothing, and payments to released prisoners (18 U.S.C. 4281).

(10) Removal of insane prisoners to suitable institutions and retransfer to penal or correctional institutions upon recovery (18 U.S.C. 4241, 4242).

(11) Granting permits to State or public agencies for rights of way upon lands administered by the Director in accordance with the provisions of sections 931c and 961 of title 43 of the United States Code.

(12) Designating, in his discretion, the Director of the Alcoholic Rehabilitation Clinic, as the representative of the Attorney General to carry out the purpose of the act of August 4, 1947, 615 Stat. 744, with respect to persons committed for diagnosis, classification, and treatment (D.C. Code 24-506(b)).

(c) *Redelegation of authority*. The Director of the Bureau of Prisons is authorized to redelegate to any of his subordinates any of the authority, functions, or duties vested in him by this section. Existing redelegations by the Director of the Bureau of Prisons shall continue in force and effect until modified or revoked.

(d) *Functions of Commissioner of Federal Prison Industries*. The Director of the Bureau of Prisons is authorized as *ex officio* Commissioner of Federal Prison Industries and in accordance with the policy fixed by its Board of Directors to:

(1) Exercise jurisdiction over all industrial enterprises in all Federal penal and correctional institutions.

(2) Sponsor vocational training programs in Federal penal and correctional institutions.

(e) *Compensation to Federal Prisoners*. The Board of Directors of Federal Prison Industries, or such officer of the corporation as the Board may designate, may exercise the authority vested

in the Attorney General by section 4126 of title 18 of the United States Code to prescribe rules and regulations governing the payment of compensation to inmates of Federal penal and correctional institutions employed in any industry, or performing outstanding services in institutional operations, and to inmates or their dependents for injuries suffered in any industry.

**SEC. 18. Immigration and Naturalization Service—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the Commissioner of Immigration and Naturalization shall:

(1) Subject to the limitations contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) and the provisions for review by the Board of Immigration Appeals, administer and enforce the Immigration and Nationality Act and all other laws relating to immigration (including, but not limited to, admission, exclusion, and deportation), naturalization, and nationality.

(2) For the purposes of paragraph (1) of this subsection, and as limited therein, exercise or perform any of the authority, functions, or duties conferred or imposed upon the Attorney General by the laws mentioned in that paragraph, including the authority to issue regulations.

(3) Investigate alleged violations of the immigration and nationality laws, and make recommendations for prosecutions when deemed advisable.

(4) Patrol the borders of the United States to prevent the entry of aliens into the United States in violation of law.

(5) Supervise naturalization work in the specific courts designated by section 310 of the Immigration and Nationality Act (8 U.S.C. 1421) to have jurisdiction in such matters, including the requiring of accountings from the clerks of such courts for naturalization fees collected, investigation through field officers of the qualifications of citizenship applicants, and representation of the Government at all court hearings.

(6) Cooperate with the public schools in providing citizenship textbooks and other services for the preparation of candidates for naturalization.

(7) Register and fingerprint aliens in the United States, as required by section 262 of the Immigration and Nationality Act (8 U.S.C. 1304).

(8) Prepare reports on private bills pertaining to immigration matters.

(9) Designate within the Immigration and Naturalization Service a certifying officer, and an alternate, to certify copies of documents issued by the Commissioner, or his designee, which are required to be filed with the Office of the Federal Register.

(b) *Certificates for expenses of unforeseen emergencies.* The Commissioner of Immigration and Naturalization is authorized to exercise the power and authority vested in the Attorney General by section 6 of the act of July 28, 1950, 64 Stat. 380 (5 U.S.C. 341d), to make certificates with respect to expenses of unforeseen emergencies of a confidential character: *Provided*, That each such certificate made by the Com-

missioner of Immigration and Naturalization shall be approved by the Attorney General.

(c) *Representation on committee for visit-exchange.* The Commissioner of Immigration and Naturalization shall be a member of the committee which represents the Department of Justice in the development and implementation of plans for exchanging visits between the Iron Curtain countries and the United States and shall have authority to designate an alternate to serve on such committee.

(d) *Redelegation of authority.* The authority conferred by subsection (a) of this section upon the Commissioner of Immigration and Naturalization may be redelegated by him to such extent as he may deem desirable, to any officer or employee of the Immigration and Naturalization Service as he may designate. Existing redelegations by the Commissioner shall continue in force and effect until modified or revoked.

**SEC. 19. Board of Immigration Appeals—(a) General functions.** Subject to the general supervision and direction of the Attorney General, the Board of Immigration Appeals shall review and determine:

(1) Appeals from decisions of special inquiry officers in exclusion and deportation cases.

(2) Appeals from decisions of district directors on applications for the advance exercise of the discretionary authority contained in section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) and from decisions of district directors, or the Assistant Commissioner, Examinations Division, on applications for the advance exercise of the discretionary authority contained in section 212(d)(3) of that act (8 U.S.C. 1182(d)(3)).

(3) Appeals from decisions of district directors involving administrative fines and penalties, including mitigation thereof.

(4) Appeals from decisions of district directors on positions filed in accordance with section 205 of the Immigration and Nationality Act (8 U.S.C. 1155) and from decisions revoking the approval of such petitions in accordance with section 206 of that act (8 U.S.C. 1156).

(5) Appeals from determinations of regional commissioners or district directors relating to the bond, conditional parole, or detention of an alien under section 242 of the Immigration and Nationality Act.

(6) Cases involving the decisions referred to in paragraphs (1) through (4) of this subsection which may be certified to the Board by the Commissioner, Assistant Commissioner, Examinations Division, or regional commissioners, or which the Board may require to be certified to it.

(b) *Decisions subject to review by Attorney General.* The Board shall refer to the Attorney General for review of its decision all cases which:

(1) The Attorney General directs the Board to refer to him.

(2) The Chairman or a majority of the Board believes should be referred to the Attorney General for review.

(3) The Commissioner or the Assistant Commissioner, Examinations Division, requests be referred to the Attorney General for review.

(c) *Finality of decision.* Except in those cases referred to the Attorney General in accordance with subsection (b) of this section, the decision of the Board shall be final. The Board may, however, return a case to the Immigration and Naturalization Service for such further action as may be appropriate therein, without entering a final decision on its merits.

(d) *Delegation of authority.* Subject to any specific limitation prescribed by regulation, in considering and determining cases before it, the Board shall exercise such discretion and authority conferred upon the Attorney General by law as is appropriate and necessary for the disposition of the case, except that the Board shall have no authority to consider or determine the manner in which, at whose expense, or to which country, an alien shall be deported.

**SEC. 20. The Board of Parole—(a) General functions.** Subject to the general supervision and direction of the Attorney General as to policy and programming, the Board of Parole shall have:

(1) Sole authority to grant, modify, or revoke paroles of all United States prisoners.

(2) Responsibility for the supervision through Federal probation officers, of Federal parolees and Federal mandatory releasees upon the expiration of their sentences with allowances for statutory good time, and for prescribing and modifying the terms and conditions governing the prisoner during parole or mandatory release.

(3) Sole authority to issue warrants for violation of parole or mandatory release.

(4) Sole authority to re-parole or re-release on mandatory release.

(b) *Delegations.* The Board of Parole is authorized to exercise:

(1) The authority vested in the Attorney General by section 3569 of title 18 of the United States Code to make a finding that a parolee is unable to pay a fine in whole or in part and to direct release of such parolee based on such finding.

(2) The authority vested in the Attorney General by section 3655 of title 18 of the United States Code to request probation officers to perform such duties with respect to persons on parole as the Board of Parole deems necessary for maintaining proper supervision of such persons.

(c) *Youth Correction Division.* The Youth Correction Division of the Board of Parole shall:

(1) Consult with, and make recommendations to the Director of the Bureau of Prisons as to general treatment and correctional policies for committed youth offenders.

(2) Make recommendations to the Director of the Bureau of Prisons as to individuals committed under the Youth Corrections Act.

(3) Report within 60 days to the committing court the findings as to individ-

uals committed for observation and study.

(4) Prescribe the terms and conditions governing those under supervision.

(5) Have authority to order parole for youth offenders committed under the Federal Youth Corrections Act, as well as juvenile offenders sentenced by the Juvenile Court of the District of Columbia who are committed to the National Training School for Boys, and juvenile delinquents sentenced under the Federal Juvenile Delinquency Act; to direct Federal probation officers to submit reports as to parole supervision of committed youth offenders; to limit and define the powers and duties of voluntary supervisory agents and sponsors; to issue warrants for the retaking of parole or mandatory-release violators, and order the return to custody for further treatment of committed youth offenders; to revoke parole or mandatory release; to re-parole or re-release under supervision; and to discharge committed youth offenders unconditionally at its discretion after one year of parole supervision.

**Sec. 21. Additional assignments and responsibilities of heads of organizational units and United States Attorneys—(a) Functions common to heads of organizational units.** Subject to the general supervision and direction of the Attorney General, the head of each office, division, bureau, and board within the Department shall:

(1) Direct and supervise the personnel, administration, and operation of the office, division, bureau, or board of which he is in charge.

(2) Under regulations prescribed by the Attorney General with the approval of the Director of the Bureau of the Budget, have authority to reallocate funds allotted by the Administrative Assistant Attorney General and to redelegate to persons within his organizational unit authority and responsibility for the reallocation of such funds and control of obligations and expenditures within reallocations.

(3) In case of absence from his office, designate his first assistant to act in his stead during such absence: *Provided*, that in unusual circumstances, or in the absence of the first assistant, or in case there is no office of first assistant, a person other than the first assistant may be so designated.

(4) Perform such special assignments as may from time to time be made to him by the Attorney General.

(b) *Designation of Acting United States Attorneys.* Each United States Attorney is authorized to designate any Assistant United States Attorney in his office to perform the functions and duties of the United States Attorney during his absence from office, and to sign all necessary documents and papers as Acting United States Attorney while performing such functions and duties.

**Sec. 22. Authorizations with respect to personnel and certain administrative matters—(a) Deputy Attorney General.** The Deputy Attorney General is authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertain-

ing to the employment, removal, and general administration of attorneys in the Department of Justice in all Classification Act grades up to and including GS-14 and to review any personnel action taken by any officer of the Department of Justice.

(b) *Administrative Assistant Attorney General.* Except for the authority conferred in subsections (c) and (d) of this section, the Administrative Assistant Attorney General is authorized to exercise the power and authority vested in the Attorney General by law to take final action on matters pertaining to the employment and general administration of personnel, except attorneys, in the Department of Justice in Classification Act grades GS-1 through GS-13 and in wage-board positions, and to classify positions in the Department under the Classification Act and wage-board systems regardless of grade. He shall also have authority to post-audit and correct any personnel actions throughout the Department, and to inspect at any time any personnel operations of the Federal Bureau of Investigation, the Federal Bureau of Prisons, the Federal Prison Industries, and the Immigration and Naturalization Service.

(c) *Federal Bureau of Investigation.* Except as to persons in the positions of Associate Director, Assistant to the Director, and Assistant Director of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation is authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel, including personnel in wage-board positions, in the Federal Bureau of Investigation. All personnel actions taken by the Director of the Federal Bureau of Investigation under this subsection shall be subject to post-audit and correction by the Administrative Assistant Attorney General and to review by the Deputy Attorney General.

(d) *Bureau of Prisons, Federal Prison Industries, and Immigration and Naturalization Service.* The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, and the Commissioner of Immigration and Naturalization are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel, except attorneys, in the Bureau of Prisons, Federal Prison Industries, and the Immigration and Naturalization Service, respectively, in Classification Act grades GS-1 through GS-13 and in wage-board positions. All personnel actions taken under this subsection shall be subject to post-audit and correction by the Administrative Assistant Attorney General and

to review by the Deputy Attorney General.

(e) *Procurement matters.* Except as to those matters designated by the Administrative Assistant Attorney General, to whom the responsibility for control of expenditures is assigned by section 15(a) of this order, the Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, and the Commissioner of Immigration and Naturalization are, as to their respective jurisdictions, authorized to exercise the authority vested in the Attorney General by law with respect to procurement matters.

(f) *Authority relating to advertisements, and purchase of certain supplies and services.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Director of the Office of Alien Property, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to exercise the power and authority vested in the Attorney General by law to take final action in the following-described matters:

(1) Authorizing the publication of advertisements, notices, or proposals under section 3828 of the Revised Statutes of the United States (44 U.S.C. 324).

(2) Making determinations as to the acquisition of articles, materials, or supplies in accordance with sections 2 and 3 of the Buy American Act (47 Stat. 1520; 41 U.S.C. 10a, 10b).

(3) Placing orders with other agencies of the Government for materials or services, and accepting orders therefor, in accordance with section 686 of title 31 of the United States Code.

(g) *Audit and ledger accounts.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Immigration and Naturalization, and the Director of the Office of Alien Property are, as to their respective jurisdictions, authorized to audit vouchers and to maintain general ledger accounts with respect to appropriations allotted to them.

(h) *Per diem and travel allowances.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Director of the Office of Alien Property, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to exercise the power and authority vested in the Attorney General by law to take final action in the following-described matters:

(1) Authorizing travel, subsistence, and mileage allowances under sections 836 and 837 of title 5 of the United States Code in accordance with regulations prescribed by the Bureau of the Budget or

the Administrative Assistant Attorney General.

(2) Fixing rates under sections 836 and 837 of title 5 of the United States Code not to exceed \$12 per day for subsistence or 10 cents per mile for use of privately-owned automobiles for travel within the continental United States.

(3) Authorizing travel advances pursuant to section 838 of title 5 of the United States Code.

(4) Authorizing travel at Government expense upon change of headquarters, including travel of the officer or employee transferred and transportation of his immediate family, household goods, and personal effects, under section 1 of the act of August 2, 1946, 60 Stat. 806 and section 7 of the act of August 2, 1946, as amended (5 U.S.C. 73-b-3).

(5) Authorizing or approving, for purposes of security, the use of compartments or other transportation accommodations superior to lowest first-class accommodations under applicable travel regulations subject to section 6 of the act of August 2, 1946, 60 Stat. 808.

(i) *Incentive awards plan.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to exercise the power and authority vested in the Attorney General by law with respect to the administration of the Incentive Awards Plan and to approve honorary awards and cash awards under such plan not in excess of \$500.

(j) *Determination of basic work-week.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to exercise the authority vested in the Attorney General by section 604(a) of the Federal Employees Pay Act of 1945, as amended (68 Stat. 1112), to determine that the organizational unit concerned would be seriously handicapped in carrying out its functions or that costs would be substantially increased except upon modification of the basic work-week, and whenever such determination is made to fix the basic work-week of officers and employees of the unit concerned.

(k) *Overtime pay.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), may, subject to any regulations which the Attorney General

may prescribe, authorize overtime pay (including additional compensation in lieu of overtime not to exceed 15 percent pursuant to section 208(a) of the Federal Employees Pay Act Amendments of 1954) for such positions as may be designated by them.

(l) *Seals.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Director of the Office of Alien Property, and the Chairman of the Board of Parole shall each have custody of the seal pertaining to his respective jurisdiction and he, or such person or persons as he may designate, may execute under seal any certification required to authenticate any books, records, papers or other documents as true copies of official records of their respective jurisdictions. The Administrative Assistant Attorney General shall have custody of the seal of the Department of Justice, and he, or such person or persons as he may designate, may execute under seal any certification required to authenticate any books, records, papers or other documents as true copies of official records of the Department of Justice.

(m) *Certification of obligations.* The following-designated officials are authorized to make the certifications required by section 1311(c) of the Supplemental Appropriation Act, 1955 (68 Stat. 831; 31 U.S.C. 200(c)): for the Federal Bureau of Investigation, the Assistant Director, Administrative Division; for the Bureau of Prisons, the Budget Officer; for Federal Prison Industries, the Secretary; for the Immigration and Naturalization Service, the Assistant Commissioner, Administrative Division; for the Office of Alien Property, the Administrative Officer; and for all other organizational units of the Department (including United States Attorneys and Marshals), the Administrative Assistant Attorney General.

(n) *Certification of vouchers.* The following-named officials are authorized to designate officers and employees to certify vouchers under section 1 of the act of December 29, 1941, 55 Stat. 875 (31 U.S.C. 82b): for the Federal Bureau of Investigation, the Director; for the Bureau of Prisons, the Director and the Associate Commissioner, Federal Prison Industries; for Federal Prison Industries, the Associate Commissioner and the Director, Bureau of Prisons; for the Immigration and Naturalization Service, the Commissioner; and for all other organizational units of the Department (including United States Attorneys and Marshals), the Administrative Assistant Attorney General.

(o) *Certification as to bonding of disbursing employees.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, as to their respective jurisdictions, and the Administrative Assistant Attorney General as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to certify

that disbursing employees or officers are bonded pursuant to the act of August 9, 1955, 69 Stat. 618.

(p) *Collection of erroneous payments.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, for their respective jurisdictions, and the Administrative Assistant Attorney General, for all other organizational units of the Department (including United States Attorneys and Marshals), are authorized, in accordance with the regulations prescribed by the Attorney General under section 2 of the act of July 15, 1954, 68 Stat. 482, to collect indebtedness resulting from erroneous payments to employees. The Administrative Assistant Attorney General is authorized to redelegate his authority under this subsection to United States Marshals with respect to the collection of such indebtedness from United States Attorneys and Marshals.

(q) *Administering oath of office.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Director of the Office of Alien Property, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to designate, in writing, pursuant to the provisions of section 206 of the act of June 26, 1943, 57 Stat. 196 (5 U.S.C. 16a), officers or employees to administer the oath of office required by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16), and to administer any other oath required by law in connection with employment in the executive branch of the Federal Government.

(r) *Approval of funds for attendance at meetings.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Immigration and Naturalization, the Director of the Office of Alien Property, as to their respective jurisdictions, and the Administrative Assistant Attorney General, as to all other organizational units of the Department (including United States Attorneys and Marshals), are authorized to exercise the power and authority vested in the Attorney General by law to prescribe regulations for the expenditure of appropriated funds available for expenses of attendance at meetings of organizations.

(s) *Selection and assignment of employees for training.* The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, and the Commissioner of Immigration and Naturalization as to their respective jurisdictions, and the Administrative Assistant Attorney General as to all other organizational units of the Department (including United States Attorneys and Marshals), are hereby authorized to exercise the authority vested in the Attorney General by section

10 of the Government Employees Training Act (72 Stat. 332) with respect to the selection and assignment of employees for training by, in, or through Government facilities and the payment or reimbursement of expenses for such training.

(b) *Redelegation of authority.* Except as to the authority delegated by subsection (m) of this section, the authority conferred by this section upon the Deputy Attorney General and the Administrative Assistant Attorney General may be redelegated by them respectively to any of their subordinates or to any other officers or employees in the Department. Subject to the same limitation the authority conferred upon the Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, and the Director of the Office of Alien Property may be redelegated by them, respectively, to such officers and employees under their jurisdiction and to such United States Attorneys as they may designate. Existing delegations of authority to officers and employees and to United States Attorneys, not inconsistent with this section, made by the officers named in this subsection shall continue in force and effect until modified or revoked.

SEC. 23. *Authority to compromise and close civil claims.*—(a) *Offers which may be accepted by Assistant Attorneys General.* Each Assistant Attorney General is authorized with respect to matters assigned to his division or office, to accept offers in compromise of claims in behalf of the United States in all cases in which the gross amount of the original claim does not exceed \$100,000, and of claims against the United States in all cases, or in administrative actions to settle, in which the amount of the proposed settlement does not exceed \$50,000, except:

(1) When for any reason, the compromise of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated in the preceding part of this subsection.

(2) When because a novel question of law or a question of policy is presented, or for any other reason, the offer should, in the opinion of the Assistant Attorney General concerned, receive the personal attention of the Attorney General.

(3) When the Assistant Attorney General concerned proposes to accept over the opposition of the agency or agencies involved an offer in compromise of a claim in behalf of the United States in a case in which the gross amount of the original claim exceeds \$10,000, or of a claim against the United States in a case in which the amount of the proposed settlement exceeds \$10,000.

(b) *Recommendations to Attorney General of acceptance of certain offers.* In all cases in which the amount of the original claim or the amount of the offer in proposed settlement exceeds the applicable amount specified in subsection (a) of this section and in any case falling

within any of the exceptions enumerated in the said subsection, the Assistant Attorney General concerned shall, if in his opinion the offer of compromise, or administrative action to settle, should be accepted, transmit his recommendation to the Attorney General to that effect.

(c) *Offers which may be rejected by Assistant Attorneys General.* Each Assistant Attorney General is authorized, with respect to matters assigned to his division or office, to reject offers in compromise of any claims in behalf of the United States, or, in compromises or administrative actions to settle, against the United States, except in those cases which come within paragraph (2) of subsection (a) of this section.

(d) *Approval by Solicitor General of action on compromise offers in certain cases.* In any Supreme Court case the acceptance, recommendation of acceptance, or rejection, under subsection (a), (b), or (c) of this section, of a compromise offer by the Assistant Attorney General concerned, shall have the approval of the Solicitor General. In any case in which the Solicitor General has authorized an appeal to any other court, a compromise offer, or any other action, which would terminate the appeal, shall be accepted or acted upon by the Assistant Attorney General concerned only upon advice from the Solicitor General that the principles of law involved do not require appellate review in that case.

(e) *Civil claims which may be closed by Assistant Attorneys General.* Each Assistant Attorney General is authorized, with respect to matters assigned to his division or office, to close (other than by compromise or by entry of judgment) civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed \$100,000, except:

(1) When for any reason, the closing of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims the total gross amounts of which exceed \$100,000.

(2) When because a novel question of law or a question of policy is presented, or for any other reason, the proposed closing should, in the opinion of the Assistant Attorney General concerned, receive the personal attention of the Attorney General.

(3) When the agency or agencies concerned oppose the closing of any claim the gross amount of which exceeds \$10,000.

(f) *Recommendations to Attorney General that certain claims be closed.* In case the gross amount of the original claim asserted by the Government exceeds \$100,000, or one of the exceptions enumerated in subsection (e) of this section is involved, the Assistant Attorney General concerned shall, if in his opinion the claim should be closed, transmit his recommendation to that effect, together with a report on the matter, to the Attorney General for review and final action. Such report shall be in such form as the Attorney General may require.

(g) *Memorandum pertaining to closed claim.* In each case in which a claim is closed under subsection (e) of this sec-

tion, the Assistant Attorney General concerned shall execute and place in the file pertaining to the claim a memorandum which shall contain a description of the claim and a full statement of the reasons for closing it.

(h) *Submission to Attorney General by Director of Office of Alien Property of certain proposed allowances and disallowances.* In addition to the matters which he is required to submit to the Attorney General under preceding subsections of this section, the Assistant Attorney General, Director, Office of Alien Property, shall submit to the Attorney General for such review as he may desire to make the following:

(1) Any proposed allowance by the Director, without hearing, of a title or debt claim pursuant to §§ 502.102, 502.201, or 502.202 of the Rules of Procedure of the Office of Alien Property for Claims (8 CFR 502.102, 502.201, 502.202).

(2) Any final determination of a title or debt claim, whether by allowance or disallowance, pursuant to sections 502.22, 502.23, 502.25, or 502.105 of the said Rules of Procedure for Claims (8 CFR 502.22, 502.23, 502.25, 502.105).

(3) Any proposed allowance or disallowance by the Director, without hearing, of a title claim under section 9(a) of the Trading With the Enemy Act, as amended, filed less than two years after the date of vesting in or transfer to the Alien Property Custodian or the Attorney General of the property or interest in respect of which the claim is made:

*Provided,* That any such title or debt claim is within one of the following-described categories.

(i) Any title claim which involves the return of assets having a value of \$50,000 or more, or any debt claim in the amount of \$50,000 or more.

(ii) Any title claim which will, as a practical matter, control the disposition of related title claims involving, with the principal claim, assets having a value of \$50,000 or more; or any debt claim which will, as a practical matter, control the disposition of related debt claims in the aggregate amount, including the principal claim, of \$50,000 or more.

(iii) Any title claim or debt claim presenting a novel question of law or a question of policy which, in the opinion of the Director, should receive the personal attention of the Attorney General.

(iv) Any sale or other disposition of vested property involving assets of \$50,000 or more.

(i) *Redelegation by Assistant Attorney General in charge of Civil Division.* The Assistant Attorney General in charge of the Civil Division is authorized to redelegate, to such extent and subject to such limitations as he may deem advisable, to the First Assistant, to the Second Assistant, to section chiefs, to attorneys in charge of field offices in the Civil Division, and to United States Attorneys the authority delegated to him by subsections (a), (c), and (e) of this section.

(j) *Redelegation by Assistant Attorney General in charge of Criminal Division.* The Assistant Attorney General in charge of the Criminal Division is au-

thorized to redelegate, to such extent and subject to such limitations as he may deem advisable, to the First Assistant and to the Second Assistant in the Criminal Division and to United States Attorneys the authority delegated to him by subsections (a), (c), and (e) of this section.

(k) *Redelegation by Assistant Attorney General in charge of Lands Division.* The Assistant Attorney General in charge of the Lands Division is authorized to redelegate, to such extent and subject to such limitations as he may deem advisable, to the First Assistant, to the Chief of the Land Acquisition Section, and to the Chief of the Trial Section in the Lands Division, and to United States Attorneys the authority delegated to him by subsections (a), (c) and (e) of this section.

(l) *Redelegation by Assistant Attorney General in charge of Tax Division.* The Assistant Attorney General in charge of the Tax Division is authorized to redelegate, to such extent and subject to such limitations as he may deem advisable, to the First Assistant, to the Second Assistant, and to the Chief of the Compromise Section in the Tax Division, and to United States Attorneys the authority delegated to him by subsections (a), (c), and (e) of this section.

(m) *Approval by Attorney General of redelegations.* Redelegations under subsections (i), (j), (k), and (l) of this section shall be in writing and shall be approved by the Attorney General before becoming effective.

(n) *Continuing effect of existing delegations and redelegations.* Existing delegations and redelegations of authority to the officers and attorneys by the Assistant Attorneys General specified in subsections (i), (j), (k), and (l) of this section to compromise or close claims shall continue in force and effect until modified or revoked by the Assistant Attorney General in charge of the division concerned.

(o) *Definition of "gross amount of original claim."* The phrase "gross amount of the original claim", as used in this section and as applied to any civil fraud claim described in section 9(a)(4) of this order, shall mean the amount of single damages involved.

(p) *Interest on monetary limits.* In computing the gross amount of the original claim and the amount of the proposed settlement pursuant to this section, accrued interest shall be excluded.

Sec. 24. *Orders and memoranda—(a) Orders of the Attorney General.* All documents relating to the organization of the Department or to the assignment, transfer, or delegation of authority, functions, or duties by the Attorney General or to general departmental policy shall hereafter be designated as orders and shall be issued only by the Attorney General or Acting Attorney General in a separate, numbered series. Classified orders shall be identified as such, included within the numbered series, and limited to the distribution provided for in the order or determined by the Administrative Assistant Attorney General. All documents amending, modifying, or revoking such orders, in whole or in part, shall likewise be designated

as orders within such numbered series, and no other designation of such documents shall be used.

(b) *Department memoranda.* All documents issued by the Administrative Assistant Attorney General relating to administrative matters which affect the Department as a whole or the field and all documents, relating to policies, procedures, regulations, or instructions, issued by the head of any organizational unit to United States Attorneys or Marshals, shall hereafter be designated as memoranda and shall be in a numbered series separate from that mentioned in subsection (a) of this section. All documents amending, modifying, or revoking such memoranda, in whole or in part, shall likewise be designated as memoranda within such numbered series, and no other designation of such documents shall be used.

(c) *Distribution of orders and memoranda.* The distribution to be given orders and memoranda issued under subsections (a) and (b), respectively, of this section shall, unless provided by order of the Attorney General, be determined by the Administrative Assistant Attorney General.

(d) *Documents of a temporary nature or limited effect.* Documents which are of a temporary nature or of limited effect (e.g., announcements, notices, bulletins, or letters) shall not be issued as orders or memoranda within the numbered series referred to in subsections (a) and (b) of this section.

(e) *Submission of proposed orders to Office of Legal Counsel.* All orders prepared for the signature of the Attorney General shall be submitted to the Office of Legal Counsel for approval as to form and legality, and as to consistency and conformity with existing orders and memoranda.

(f) *Requirements for documents.* Each document issued under subsections (a), (b) or (g) of this section shall be given a suitable title, shall cite the authority for its issuance and shall indicate specifically the extent to which any other order, memorandum, or directive is superseded, modified, or revoked by it.

(g) *Distinction in description of different classes of documents.* Memoranda or directives issued by the head of any organizational unit to his subordinates which contain delegations of authority or which relate to the organization, functions, policies or procedures of the unit of which he is the head shall be clearly distinguishable in description and designation from the documents referred to in subsections (a), (b), and (d) of this section. Any such memorandum or directive shall indicate specifically the extent to which any other such memorandum or directive is superseded, modified, or revoked by it.

(h) *Permanent record and file of certain memoranda and directives.* Copies of memoranda and directives described in subsection (g) of this section shall, promptly upon issuance, be furnished the Administrative Assistant Attorney General, who shall maintain a permanent record and file thereof.

Sec. 25. *Sections and sub-units—(a) Changes within organizational units.* The head of each office, division, bureau,

and board may from time to time establish or terminate, or transfer the functions of, sections or other sub-units within his office, division, bureau, or board as he may deem necessary or appropriate, but shall report such action promptly to the Attorney General in writing in each instance.

(b) *Continuance in effect of the existing organization of departmental units.* The existing organization of each office, division, bureau, and board with respect to sections and sub-units shall continue in full force and effect until changed in accordance with this section.

Sec. 26. *Jurisdictional disagreements—Procedure with respect to jurisdictional disagreements.* Any disagreement between or among heads of the offices, divisions, bureaus, or boards of the Department as to their respective jurisdictions shall be resolved by the Attorney General, who may, if he so desires, issue an order in the numbered series disposing of the matter.

Sec. 27. *Superseding of prior documents and exceptions—(a) Superseding of documents relating to departmental organization and functions.* Order No. 3732 of September 25, 1942, and all supplements thereto are hereby superseded. All other orders, supplements, memoranda, circulars, and other documents, or parts thereof, are hereby superseded to the extent that they relate to the organization of the Department, or to the assignment, transfer, or delegation of authority, functions, or duties to the head of any organizational unit of the Department: *Provided*, That nothing in this section shall be construed to modify Order No. 3229 (Revised) of January 13, 1953, relating to the production, disclosure, or use of records or information regarded as confidential, or to modify any orders or regulations of the Attorney General issued pursuant to Executive Order No. 10450 of April 27, 1953, or No. 10501 of November 5, 1953, as amended.

(b) *Existing delegations or assignments to U.S. Attorneys or U.S. Marshals.* Unless otherwise indicated herein this order shall not be construed as superseding any part of any document making an assignment or delegation to United States Attorneys or United States Marshals.

Sec. 28. *Effective date—Effective date of this order.* This order shall become effective on April 1, 1959.

Dated: January 19, 1959.

WILLIAM P. ROGERS,  
Attorney General.

[F.R. Doc. 59-2653; Filed, Mar. 27, 1959;  
8:51 a.m.]

## DEPARTMENT OF THE INTERIOR

Bureau of Mines

CERTAIN OFFICIALS

Redelegation of Authority To Execute  
Contracts

Pursuant to the authority delegated in subparagraph 205.2.4A, Bureau of Mines Manual, the following written redelegation is hereby made:

The following officials may enter into contracts and approve purchase orders for equipment, supplies and services in amounts not to exceed \$100,000 for any one contract:

Chief, Branch of Property Management, Washington Office.

Chief, Section of Purchasing, Washington Office; *Provided*, That the limitation for any one contract shall be \$5,000.

This document cancels and supersedes F.R. Document 57-10622 (22 F.R. 10700), dated December 19, 1957.

Dated: March 23, 1959.

W. E. RICE,  
*Chief,*

*Division of Administration.*

[F.R. Doc. 59-2627; Filed, Mar. 27, 1959; 8:47 a.m.]

## DEPARTMENT OF COMMERCE

### Federal Maritime Board

[Docket No. S-81]

### PRUDENTIAL STEAMSHIP CORP.

#### Amended Notice of Hearing

The notice published in the FEDERAL REGISTER on January 6, 1959 (24 F.R. 111) concerning a public hearing to be held under section 605(c) of the Merchant Marine Act, 1936, as amended, upon an application of Prudential Steamship Corporation, for an operating-differential subsidy agreement, is hereby amended to delete the description of the service on which subsidy was shown to have been requested, and to substitute in lieu thereof the following description. In all other respects the notice of January 6, 1959, remains unchanged.

From United States North Atlantic ports (Maine-Virginia, inclusive), loading at New York and other United States North Atlantic ports to ports in the Mediterranean Sea, Black Sea, Portugal, Spain (South of Portugal) and Spanish and French Morocco, returning to United States North Atlantic ports via Trade Route No. 10 ports with a minimum of 20 and a maximum of 32 sailings per year on an approximately fortnightly schedule.

The hearing will be before an Examiner, at a time and place to be announced, in accordance with the Federal Maritime Board's rules of practice and procedure and a recommended decision will be issued.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in the proceeding are requested to notify the Secretary, Federal Maritime Board, Washington 25, D.C., in writing, in triplicate, by the close of business on April 17, 1959.

Dated: March 25, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,  
*Secretary.*

[F.R. Doc. 59-2618; Filed, Mar. 27, 1959; 8:45 a.m.]

## Office of the Secretary HAROLD A. MONTAG

### 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 during the last six months:

A. Deletions:  
Jones & Laughlin Steel Corp.  
Phelps-Dodge Corp.  
Penn-Idaho Mining Co.  
B. Additions:  
American Metals Climax, Inc.  
Virginian Railway Co.  
Stanley Warner Corp.  
Penn-Idaho Mines, Inc.

This statement is made as of March 11, 1959.

HAROLD A. MONTAG.

MARCH 16, 1959.

[F.R. Doc. 59-2619; Filed, Mar. 27, 1959; 8:45 a.m.]

## WILBUR F. DUERINGER

### 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 during the last six months.

A. Deletions: No change.  
B. Additions: No change.

This statement is made as of March 12, 1959.

WILBUR F. DUERINGER.

MARCH 12, 1959.

[F.R. Doc. 59-2620; Filed, Mar. 27, 1959; 8:45 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-70]

### GENERAL ELECTRIC CO.

#### Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 3, set forth below, to License TR-1 authorizing General Electric Company to add a helium-cooled loop to its testing reactor located in Alameda County, Calif., as described in the licensee's Amendment No. 8 to its license application dated January 9, 1959. The Commission has found that operation of the facility in accordance with the terms and conditions of the license as amended will not present any 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 the construction and operation of the proposed loop does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the testing reactor.

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 the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after issuance of the license amendment. For further details, see (1) the application for license amendment submitted by General Electric Company, and (2) a hazards analysis of the proposed tests prepared by the Division of Licensing and Regulation, 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.

For the Atomic Energy Commission.

Dated at Germantown, Md., this 20th day of March 1959.

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

[License TR-1; Amdt. 3]

1. In addition to the activities previously authorized by the Commission in License No. TR-1, General Electric Company is authorized to install and operate in its testing reactor, located in Alameda County, California, a helium-cooled loop as described in the Company's Amendment No. 8 dated January 9, 1959, to its license application.

In performing any tests in the helium-cooled loop, General Electric Company shall observe the limits on operations specified in Section 1 of the Final Summary Safeguards Report. General Electric Company may make changes in the design of the helium-cooled loop and in the limits or procedures specified in paragraph 4.9 of the Final Summary Safeguards Report only in accordance with the procedures specified in Section 1.1 of the Company's application, as amended, by paragraph 3a of License No. TR-1, as amended.

2. A new subparagraph 3a(4) of License TR-1 is hereby added to read as follows:

3a(4) As used in this license the term "Final Summary Safeguards Report" means the "Final Summary Safeguards Report for the General Electric Test Reactor", dated February 20, 1958 (GEAP-2064, Classification 1), as amended by General Electric Company's amendments to its license application dated May 15, 1958, June 18, 1958, January 7, 1959, January 9, 1959, and January 12, 1959.

3. A new subparagraph 3a(5) of License TR-1 is hereby added to read as follows:

3a(5) As used in section 1.1 of the Final Summary Safeguards Report and in paragraph 3a of this license, a proposed change shall be deemed to involve "hazards considerations materially less than those considered

in Sections 9 and 10" if either (1) the proposed change does not involve nuclear safety considerations; or (2) the probability of the types of accidents analyzed in Sections 9 and 10 would be materially decreased, and the consequences of the types of accidents analyzed in Sections 9 and 10 would be materially decreased, and the proposed change would not create a credible probability of an accident of a different type than any analyzed in Sections 9 and 10. The hazards involved shall be deemed to be "greater than or materially different from those analyzed in the Final Summary Safeguards Report" if (1) the probability of a type of accident analyzed in the Final Summary Safeguards Report would be increased; or (2) if the consequences of any type of accident analyzed in the Final Summary Safeguards Report would be increased; or (3) if there is a credible probability of an accident of a materially different type than any analyzed in the Final Summary Safeguards Report.

This amendment is effective as of the date of issuance.

Date of issuance: March 20, 1959.

For the Atomic Energy Commission.

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

[F.R. Doc. 59-2615; Filed, Mar. 27, 1959;  
8:45 a.m.]

[Docket No. 50-34]

**WESTINGHOUSE ELECTRIC CORP.**  
**Notice of Amendment to Facility License**

Please take notice that the Atomic Energy Commission has issued to Westinghouse Electric Corporation, Amendment No. 5, set forth below, to Facility License No. CX-6 extending the expiration date for operation of the critical experiments facility located at Waltz Mill in Westmoreland County, Pennsylvania, for a two year period to April 17, 1961.

Dated at Germantown, Md., this 23d day of March 1959.

For the Atomic Energy Commission.

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

[License No. CX-6; Amdt. 5]

Paragraph 5 of Facility License No. CX-6 is hereby amended to read as follows: "This license is effective as of the date of issuance and shall expire at midnight April 17, 1961, unless sooner terminated."

Date of issuance: March 23, 1959.

For the Atomic Energy Commission.

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

[F.R. Doc. 59-2616; Filed, Mar. 27, 1959;  
8:45 a.m.]

[Docket Nos. 50-125, 50-126, 50-127]

**GENERAL DYNAMICS CORP.**

**Notice of Filing of Applications for Facility Export Licenses**

Please take notice that General Dynamics Corporation, P.O. Box 608, San

Diego, Calif., has submitted three applications dated February 23, 1959, for licenses authorizing the export of the following nuclear reactors to the countries indicated:

1. A 30-kilowatt TRIGA research reactor to Belo Horizonte, Brazil. (Docket No. 50-125)
2. A 100-kilowatt TRIGA Mark II research reactor to Vienna, Austria. (Docket No. 50-126)
3. A 100-kilowatt TRIGA Mark II research reactor to Seoul, Korea. (Docket No. 50-127)

Pursuant to section 104 of the Atomic Energy Act of 1954 and 10 CFR Ch. I, Part 50, "Licensing of Production and Utilization Facilities", and upon findings that (a) the reactor proposed to be exported is a utilization facility as defined in said Act and regulations, and (b) the issuance of a license for the export thereof is within the scope of and is consistent with the terms of an agreement for co-operation with the country to which the facility is to be exported, the Commission may issue a facility export license authorizing the export of the reactor to that country.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the subject reactors.

In accordance with the procedures set forth in the Commission's rules of practice (10 CFR Part 2) a petition for leave to intervene in these proceedings must be served upon the parties and filed with the Atomic Energy Commission within 30 days after the filing of this notice with the Federal Register Division.

A copy of each application is on file in the AEC Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 23d day of March 1959.

For the Atomic Energy Commission.

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

[F.R. Doc. 59-2617; Filed, Mar. 27, 1959;  
8:45 a.m.]

**FEDERAL COMMUNICATIONS COMMISSION**

[Docket No. 11314; FCC 59M-374]

**SPARTAN RADIOCASTING CO. (WSPA-TV)**

**Order Continuing Hearing and Scheduling Prehearing Conference**

In re application of The Spartan Radiocasting Company (WSPA-TV), Spartanburg, South Carolina, Docket No. 11314, File No. BMPCT-2042; for modification of construction permit.

The Hearing Examiner having under consideration a joint motion, filed March 23, 1959, in behalf of the applicant and protestants Wilton E. Hall and Greenville Television Company, for cancellation of the date April 2, 1959, now specified for commencement of hearing in the above-entitled proceeding, and for the sched-

uling of a further prehearing conference on April 17, 1959;

It appearing, that the Commission's Broadcast Bureau, the only other party to the proceeding, does not oppose the instant motion and that good cause is shown in support thereof;

*It is ordered*, This 24th day of March 1959, that the motion is granted; that hearing in the above-entitled proceeding is continued without date; and that a further prehearing conference will be held in the Offices of the Commission, Washington, D.C., on April 17, 1959.

Released: March 25, 1959.

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

[F.R. Doc. 59-2639; Filed, Mar. 27, 1959;  
8:49 a.m.]

[Docket Nos. 12566, 12774; FCC 59M-378]

**SANFORD L. HIRSCHBERG ET AL.**

**Order Continuing Hearing Conference**

In re applications of Sanford L. Hirschberg and Gerald R. McGuire, Cohoes-Watervliet, New York, Docket No. 12566, File No. BP-11261; and W. Frank Short and H. Clay Esbenschade, d/b as Fairview Broadcasters, Rensselaer, New York, Docket No. 12774, File No. BP-12209; for construction permits for new standard broadcast stations.

Upon oral motion of counsel for Sanford L. Hirschberg and Gerald R. McGuire, applicants in the above-entitled matter, and with the approval of all other parties: *It is ordered*, This 24th day of March 1959, that the prehearing conference presently scheduled to commence on March 27, 1959, is hereby rescheduled to commence at 10:00 a.m., April 10, 1959, in the offices of the Commission, Washington, D.C.

Released: March 25, 1959.

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

[F.R. Doc. 59-2640; Filed, Mar. 27, 1959;  
8:49 a.m.]

[Docket No. 12696; FCC 59M-371]

**BOOTH BROADCASTING CO. (WBBC)**

**Order Continuing Hearing**

In re application of Booth Broadcasting Company (WBBC), Flint, Michigan, Docket No. 12696, File No. BP-11661, for construction permit.

The Hearing Examiner having under consideration an oral request on behalf of the applicant for a continuance of the hearing now scheduled to commence on March 25, 1959;

It appearing that the request has been made for the appearance of a certain witness, which circumstance will require additional time; and

It further appearing that there is no opposition to the requested continuance;

It is ordered, This 24th day of March 1959, that the hearing is continued from March 25 to April 1, 1959.

Released: March 25, 1959.

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

[F.R. Doc. 59-2641; Filed, Mar. 27, 1959;  
8:49 a.m.]

[Docket No. 12769, FCC 59M-373]

### STANLEY BLUMENTHAL

#### Order Continuing 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.

The Hearing Examiner having under consideration a request by the respondent, filed March 11, 1959, that hearing in the above-entitled proceeding be continued indefinitely;

It appearing, that the Commission's General Counsel and the Chief of the Field Engineering and Monitoring Bureau join in respondent's request, and that good cause exists to warrant the granting thereof;

It is ordered, This 24th day of March 1959, that the request is granted, and that hearing in the above-entitled proceeding is continued without date.

Released: March 25, 1959.

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

[F.R. Doc. 59-2642; Filed, Mar. 27, 1959;  
8:49 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 25, 1959.

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

#### LONG-AND-SHORT HAUL

FSA No. 35316: *Paper and paper boxes between southern territory.* Filed by O. W. South, Jr., Agent (SFA No. A3785), for interested rail carriers. Rates on paper boxes, covers, fillers, partitions or wrappers, carloads, also paper or fibre-board, noibn, carloads between points in southern territory; also between such points, on the one hand and St. Louis, Mo., East St. Louis, Ill., and intermediate points in Illinois and Indiana, on the other.

Grounds for relief: Short-line distance formulas, grouping, operation through higher-rated intermediate territory, and short-line arbitraries.

Tariff: Supplement 69 to Southern Freight Tariff Bureau tariff I.C.C. 1601. FSA No. 35317: *Asphalt, road oil and wax tailings from and to points in the southwest.* Filed by Southwestern Freight Bureau, Agent (No. B-7509), for interested rail carriers. Rates on asphalt (asphaltum), petroleum road oil, and petroleum wax tailings, tank-car loads from specified points in southwestern territory and Kansas to destinations in southwestern territory and points in Kansas described in the application.

Grounds for relief: Short-line distance formulas and truck competition.

Tariffs: Supplement 223 to Southwestern Freight Bureau tariff I.C.C. 4086. Supplement 23 to Western Trunk Line Committee tariff I.C.C. A-4208 and other schedules listed in the application.

FSA No. 35318: *Vegetable meal and related articles in the west.* Filed by Western Trunk Line Committee, Agent (No. A-2049), for interested rail carriers. Rates on vegetable meal, whole pressed cottonseed, cottonseed hulls, and related articles, carloads between specified points in western trunk line territory as described in the application.

Grounds for relief: Short-line distance formula, grouping, and application of rates through points in higher-rated intermediate territories.

Tariffs: Western Trunk Line tariff I.C.C. A-4272. Supplement 29 to Western Trunk Lines tariff I.C.C. A-4241. Supplement 103 to Southwestern Freight Tariff Bureau tariff I.C.C. 3972.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-2628; Filed, Mar. 27, 1959;  
8:47 a.m.]

[Notice 101]

### MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 25, 1959.

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

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 60318. By order of March 16, 1959, the Transfer Board approved the transfer to John H. Cohee, doing business as Cohee & Riley Trucking Co., Hulett, Wyoming, of the operating rights in Certificate No. MC 103715, issued April 25, 1950, to John H. Cohee and James T. Riley, a Partnership, doing business as Cohee & Riley Trucking Company, Hulett, Wyoming, authorizing the transportation, over irregular routes,

of livestock, wool, grain, lumber, and ties, from points in Crook County, Wyo., to rail heads in Crook County, and from points in Crook County, Wyo., to Rapid City and Belle Fourche, S. Dak., feed and farm machinery, from Rapid City and Belle Fourche, S. Dak., to points in Crook County, Wyo., and general commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Crook County, Wyo., on the one hand, and, on the other, points in Lawrence and Butte Counties, S. Dak.

No. MC-FC 61702. By order of March 16, 1959, the Transfer Board approved the transfer to S. Siskind & Sons, Inc., New York (Bronx), N.Y., of Certificates Nos. MC 11990 and MC 11990 Sub 2, issued February 5, 1958 and January 31, 1958, respectively, in the name of Sam Siskind, Sidney Siskind and Abraham Siskind, a partnership, doing business as S. Siskind & Sons, New York (Bronx), N.Y., authorizing the transportation, over irregular routes, of store fixtures, except as a household goods movement as defined by the Commission, from New York, N.Y., to Baltimore, Md., Washington, D.C., Providence, R.I., and points in New Jersey, New York, Connecticut, Massachusetts, and Pennsylvania; household goods as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Massachusetts and Rhode Island; between New York, N.Y., and points in Nassau County, N.Y., on the one hand, and, on the other, Baltimore, Md., and points in Connecticut, New Jersey, New York, and Pennsylvania; and baggage, between New York, N.Y., on the one hand, and, on the other, Camp Towanda and Lake Bryn Mawr Camp, near Honesdale, Pa., Camp Winston, near Monticello, N.Y., Camp Mohaph, near Glen Spey, N.Y., and Camp Tunis Lake, near Andes, N.Y. David Brodsky, 1776 Broadway, New York 19, N.Y., for applicants.

No. MC-FC 61846. By order of March 13, 1959, the Transfer Board approved the transfer to LuVerne J. Siebenahler, Hardwick, Minn., of Certificate No. MC 95497 issued April 8, 1941, in the name of B. J. Scott, Hardwick, Minn., authorizing the transportation of livestock, from Hardwick, Minn., and points within 15 miles of Hardwick, to Sioux City, Iowa, and Sioux Falls, S. Dak.; and livestock, tankage, and mill feed, from Sioux City and Sioux Falls to Hardwick and points within 15 miles of Hardwick. Walter A. Tofteland, Canfield Building, Rock County, LuVerne, Minn., for applicants.

No. MC-FC 61848. By order of March 16, 1959, the Transfer Board approved the transfer to Max Lynch and Keith Taylor, a partnership, doing business as Lynch and Taylor, Fontanelle, Iowa, of Certificate in No. MC 108149, issued September 26, 1955, to Robert Ross McVay, Greenfield, Iowa, authorizing the transportation of: *Livestock*, from Greenfield, Iowa and points within 20 miles thereof, to Omaha, Nebr., and *Livestock, animal and poultry feed, building material, agricultural machinery and implements and parts thereof*, from Omaha, Nebr., to Greenfield, Iowa, and points within 20 miles of Greenfield. William A. Landau, 1307 East Walnut

Street, Des Moines 16, Iowa, for applicants.

No. MC-FC 61856. By order of March 18, 1959, the Transfer Board approved the transfer to Clarence A. Pool, C. Gordon Pool and Donald F. Pool, doing business as Pool's Van & Storage, 536 North 99 Hi-Way, Turlock, Calif., of Certificate No. MC 42561, issued April 28, 1941, to Clarence Albin Pool, doing business as Pool's Transfer, 536 North 99 Hi-Way, Turlock, Calif., authorizing the transportation of: Beans, from Turlock, Calif., and points within 25 miles of Turlock, to Stockton, Oakland, and San Francisco, Calif.; fresh and dried fruits, from Turlock, Calif., and points within 50 miles of Turlock, to Stockton, Oakland, and San Francisco, Calif.; grain, from points within 75 miles of Turlock, Calif., to Stockton, Oakland, and San Francisco, Calif.; newspaper, fertilizer, and feed, from Stockton, Oakland, and San Francisco, Calif., to Turlock, Calif.; new furniture, flour, and machinery, from Stockton, Calif., to Turlock, Calif.; household goods, between Turlock, Calif., on the one hand, and, on the other, points within 25 miles of Turlock; and general commodities, excluding household goods, commodities in bulk, and other specified commodities, between points within seven miles of Turlock, Calif., including Turlock.

No. MC-FC 61905. By order of March 17, 1959, the Transfer Board approved the transfer to Ethel Hamburg, Philadelphia, Pa., of Permit No. MC 5661, issued June 27, 1941, to Edward G. Hamburg, Philadelphia, Pa., authorizing the transportation of: Glue, fertilizer, and materials and supplies used in the manufacture of glue and fertilizer, between Edgley, Bristol, and Philadelphia, Pa., Camden, N.J., and Wilmington, Del. Meyer E. Cooper, 1224 Philadelphia National Bank Building, Philadelphia, Pa., for applicants.

No. MC-FC 61970. By order of March 13, 1959, the Transfer Board approved the transfer to Nagle Excavating and Equipment Co., a Corporation, Newark, New Jersey, of the operating rights in Certificate No. MC 41907, issued September 6, 1941, to International Excavating Co., Inc., Newark, N.J., authorizing the transportation of heavy machinery, over irregular routes, between New York, N.Y., and points in New Jersey and New York within one hundred miles of the City Hall, New York, N.Y. Davis J. Freitkopf, 790 Broad Street, Newark 2, New Jersey, for applicants.

No. MC-FC 62046. By order of March 16, 1959, the Transfer Board approved the transfer to Reddy Trucking Co., Inc., a corporation, Narrowsburg, N.Y., of certificate in No. MC 47195, issued October 14, 1958, to Joseph T. Palumbo, doing business as Halstead Express, Newburgh, N.Y., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Newburgh, N.Y., and certain specified points in New York, serving the intermediate points of Montgomery and Walden, N.Y. Charles H. Trayford, 155 East 40th Street, New York, N.Y., and Michael J. Paguaga, MD 25 & McCall Place, Newburgh, N.Y., for applicants.

No. MC-FC 62053. By order of March 13, 1959, the Transfer Board approved the transfer to Leonard Erickson of Milltown, Wisconsin, of Certificate in No. MC 62679, issued August 9, 1955, to Sigvald Petersen, Luck, Wisconsin, authorizing the transportation of: Livestock from points in 14 designated towns in Polk County, Wis., to South St. Paul and Newport, Minn.; Feed, fertilizer, farm machinery, seed, twine, household goods, groceries, including flour, and oil, in containers from South St. Paul, St. Paul, Newport and Minneapolis, Minn., to the above-specified origin points; livestock and agricultural commodities from points in 7 designated towns in Polk County, Wis., to South St. Paul, St. Paul, Minneapolis, and Newport, Minn.; general commodities excluding household goods, commodities in bulk, and other specified commodities from South St. Paul, St. Paul, Minneapolis, Minn., to points in the Wisconsin Towns specified immediately above, except the city of St. Croix Falls and the incorporated villages of Luck, Balsam Lake and Centuria, Wis.; meat scraps from South St. Paul, Minn., to Luck, Wis. A. R. Fowler, 2288 University Avenue, St. Paul 14, Minnesota, for applicants.

No. MC-FC 62064. By order of March 16, 1959, the Transfer Board approved the transfer to Kenneth Toft, Canton, South Dakota, of Certificate in No. MC 96296, issued March 18, 1958, to Lowell J. Fossum, Canton, S. Dak., authorizing the transportation of: Grains, from Canton, S. Dak., to points in South Dakota, and Iowa, within 15 miles of Canton; Livestock, from points, except municipalities, in South Dakota and Iowa within 15 miles of Canton, S. Dak.; and farm implements, from Sioux City, and Sioux Falls, S. Dak., to points, except municipalities, in South Dakota, and Iowa within 15 miles of Canton, S. Dak. Laird Rasmussen, Dana, Golden, Moore & Rasmussen, 812 National Bank of South Dakota Building, Sioux Falls, S. Dak., for applicants.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-2629; Filed, Mar. 27, 1959;  
8:47 a.m.]

## CIVIL AERONAUTICS BOARD

### BRITISH OVERSEAS AIRWAYS CORP.

[Docket No. 9975]

#### Notice of Postponement of Hearing

The hearing in the above-entitled proceeding, as reopened, heretofore assigned for March 30, 1959, is postponed to be held April 1, 1959, at 10:00 a.m., e.s.t., in Room 5042, Commerce Building, 14th and Constitution Avenues NW., Washington, D.C., before Examiner Ferdinand D. Moran.

Dated at Washington, D.C., March 25, 1959.

[SEAL]

FRANCIS W. BROWN,  
Chief Examiner.

[F.R. Doc. 59-2692; Filed, Mar. 27, 1959;  
9:20 a.m.]

## DEPARTMENT OF LABOR

### Wage and Hour Division

### LEARNER EMPLOYMENT CERTIFICATES

#### Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 485 (23 F.R. 200) and Administrative Order No. 507 (23 F.R. 2720), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

B.C.J. Corp., 5 John Street, Carbondale, Pa.; effective 3-13-59 to 3-12-60 (children's dresses).

Blue Bell, Inc., Prentiss County, Baldwin, Miss.; effective 4-1-59 to 3-31-60 (blouses).  
Blue Ridge Manufacturers, Inc., Petersburg, Va.; effective 3-16-59 to 3-15-60 (girls' and women's jeans).

Burlington Manufacturing Co., Miami, Okla.; effective 3-6-59 to 3-5-60 (western dungarees, Ivy League pants, and work pants).

Choctaw Manufacturing Co., Inc., Sillas, Ala.; effective 3-3-59 to 3-2-60 (men's trousers).

Cluett, Peabody & Co., Inc., Virginia, Minn.; effective 4-1-59 to 3-31-60 (men's dress shirts).

Elder Manufacturing Co., Carl Junction, Mo.; effective 3-12-59 to 3-11-60 (boys' shirts and pajamas).

Elder Manufacturing Co., Webb City, Mo.; effective 3-12-59 to 3-11-60 (boys' shirts).

Empire Manufacturing Co., Winder, Ga.; effective 4-1-59 to 3-31-60 (pants).

Kahn Manufacturing Co., 150 North Royal Street, Mobile, Ala.; effective 4-1-59 to 3-31-60 (men's and boys' trousers).

Ottenheimer Bros. Manufacturing Co., Inc., Shirt Division, 1000 Spring Street, Little Rock, Ark.; effective 3-14-59 to 3-13-60 (women's, misses', and children's cotton blouses and jackets).

Ottenheimer Bros. Manufacturing Co., Inc., Victory Street at Second Street, Little Rock, Ark.; effective 3-14-59 to 3-13-60 (women's and misses' cotton dresses, uniforms and smocks).

Playcraft Corp., Sallito, Miss.; effective 3-11-59 to 3-10-60 (sportswear and sun-suits).

Publix Manufacturing Corp., Gallitzin, Pa.; effective 3-16-59 to 3-15-60 (men's and boys' sport shirts).

Reidbord Bros. Co., Gulland-Clark Building, Elkins, W. Va.; effective 3-11-59 to 3-10-60 (men's work trousers and shirts).

Reliance Manufacturing Co., Factory No. 47, Farmington, Mo.; effective 3-15-59 to 3-14-60 (ladies' sportswear).

Southeastern Shirt Corp., 110 North Indiana Avenue, La Follette, Tenn.; effective 3-16-59 to 3-15-60 (men's dress and sport shirts).

Temple Manufacturing Co., Temple, Okla.; effective 3-4-59 to 3-3-60 (men's and boys' single pants).

True Loom Manufacturing Co., Inc., Lafayette, Tenn.; effective 3-6-59 to 3-5-60 (men's sport shirts).

Tuf-Nut Garment Manufacturing Co., 423 East Third Street, Little Rock, Ark.; effective 3-3-59 to 3-2-60.

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Aalfs-Baker Manufacturing Co., Le Mars, Iowa; effective 3-12-59 to 2-12-60; 10 learners; (replacement certificate) (men's and boys' dungarees).

Belton Shirt Co., Inc., Belton, S.C.; effective 3-13-59 to 3-12-60; 10 learners (men's sport shirts).

Dee-Mure Brassiere Co., Inc., Hamlin (Lincoln County), W. Va.; effective 3-11-59 to 3-10-60; 10 learners (brassieres).

Duquesne Manufacturing Co., 852 Constitution Boulevard, New Kensington, Pa.; effective 4-1-59 to 3-31-60; 10 learners (brassieres).

Fawn Grove Manufacturing Co., Inc., Rising Sun, Md.; effective 3-9-59 to 2-22-60; 10 learners (dungarees, overalls, coveralls, shirts).

Karen Sportswear, Shickshinny, Pa.; effective 3-16-59 to 3-15-60; 5 learners (women's dresses).

L & S Manufacturing, 47 South Main Street, Wilkes-Barre, Pa.; effective 3-5-59 to 3-4-60; 5 learners (dresses).

Lemont Pants Co., Inc., 310 Illinois Street, Lemont, Ill.; effective 3-10-59 to 3-9-60; 2 learners (men's and boys' trousers).

Rowan Industries, Inc., Rockwell, N.C.; effective 3-17-59 to 3-16-60; 10 learners (ladies' pajamas and dusters).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Ball-Bra Manufacturing Co., Inc., 2445 Bedford Street, Johnstown, Pa.; effective 3-3-59 to 9-2-59; 60 learners (brassieres).

Candace Fashions, Frankston, Tex.; effective 3-15-59 to 9-14-60; 56 learners (children's and infants' sleepwear).

Greenwood Shirt Co., Inc., Montague Street, Greenwood, S.C.; effective 3-6-59 to 9-5-59; 25 learners (men's sport shirts).

Kent Sportswear, Inc., Felbert Street, Curwensville, Pa.; effective 3-10-59 to 9-9-59; 10 learners (men's jackets).

Henry I. Siegel, Inc., Gleason, Tenn.; effective 3-12-59 to 9-11-59; 98 learners (men's and boys' pants).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.80 to 522.85, as amended).

La Primadora Cigar Corp., East Avenue at Turner Street, Clearwater, Fla.; effective 3-11-59 to 3-10-60; 10 percent of the total number of factory production workers for normal labor turnover purposes.

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

Brookville Glove Manufacturing Co., Inc., Brookville, Pa.; effective 3-5-59 to 3-4-60; 10 learners for normal labor turnover purposes (cotton work gloves).

Galena Glove & Mitten Co., 430 Garfield Avenue, Dubuque, Iowa; effective 3-6-59 to 3-5-60; 10 learners for normal labor turnover purposes (work gloves).

Marso and Rodenborn Manufacturing Co., Fort Dodge, Iowa; effective 3-14-59 to 3-13-60; five learners for normal labor turnover purposes (canton flannel work gloves and mittens).

Riegel Textile Corp., Brundidge, Ala.; effective 3-4-59 to 3-3-60; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Auburn Dyeing and Finishing Co., Auburn, Ky.; effective 3-13-59 to 9-12-59; five learners for plant expansion purposes (dyeing and finishing women's nylon hosiery).

Elizabeth City Hosiery Mills, Elizabeth City, N.C.; effective 3-12-59 to 3-11-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned and seamless).

Se-Ling Mills, Division of Prestige, Inc., 505 North Third Street, Quincy, Ill.; effective 3-28-59 to 3-27-60; five learners for normal labor turnover purposes (seamless).

Van Raalte Co., Inc., Blue Ridge, Ga.; effective 3-16-59 to 9-15-59; 15 learners for plant expansion purposes (seamless).

Whitmire Hosiery Mills, Inc., Whitmire, S.C.; effective 3-16-59 to 3-15-60; four learners for normal labor turnover purposes (seamless).

Independent Telephone Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.70 to 522.74, as amended).

Fort Kent Telephone Co., Fort Kent, Maine; effective 3-20-59 to 3-19-60.

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Reidler Knitting Mills, Inc., 757 West Broad Street, Hazleton, Pa.; effective 4-1-59 to 3-31-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (cotton knit underwear).

Russell Manufacturing Corp., Lebanon, Va.; effective 3-16-59 to 9-15-59; 25 learners for plant expansion purposes (ladies' slips).

Seamprufe, Inc., Paris, Ark.; effective 3-13-59 to 9-12-59; 25 learners for plant expansion purposes (slips and lingerie).

Southern Laces, Inc., Wilmington, N.C.; effective 3-16-59 to 9-15-59; 30 learners for plant expansion purposes (raschel laces and nets; dyeing and finishing).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Moose River Shoe Co., Inc., 417 North Main Street, Old Town, Maine; effective 3-13-59 to 3-12-60; 10 percent of the total number of factory production workers for normal labor turnover purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Wm. B. Kessler, Inc., Pleasant and Tilton Streets, Hammon, N.J.; effective 3-16-59 to 9-15-59; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, each for a learning period of 480 hours at rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's suits, slacks, and sportcoats).

Timely Clothes, Inc., 624 Exchange Street, Geneva, N.Y.; effective 3-17-59 to 9-16-59; five learners for normal labor turnover purposes in the occupations of sewing machine operator, final presser, hand sewer, finishing operations involving hand sewing, each for a learning period of 480 hours at rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's suits, slacks, and outercoats).

Timely Clothes, Inc., 65 Sullivan Street, Rochester, N.Y.; effective 3-17-59 to 9-16-59; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupations of sewing machine operator, final presser, hand sewer, finishing operations involving hand sewing, each for a learning period of 480 hours at rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's suits, slacks, and outercoats).

Timely Clothes, Inc., 1415 North Clinton Avenue Rochester, N.Y.; effective 3-17-59 to 9-16-59; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupations of sewing machine operator, final presser, hand sewer, and finishing operations involving hand sewing, at rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's suits, outercoats, and slacks).

Overseas Sports Co., Inc., Mayaguez, P.R.; effective 2-16-59 to 8-15-59; 50 learners for plant expansion purposes, in the occupations of: (1) hand sewing of baseballs and softballs, each for a learning period of 320 hours at rates of 45 cents an hour for the first 160 hours and 51 cents an hour for the remaining 160 hours; and (2) winders for a learning period of 160 hours, at the rate of 45 cents an hour (baseballs and softballs).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 20th day of March 1959.

MILTON BROOKE,  
Authorized Representative  
of the Administrator.

[F.R. Doc. 59-2630; Filed, Mar. 27, 1959; 8:47 a.m.]

## CUMULATIVE CODIFICATION GUIDE—MARCH

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