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## Title 3—THE PRESIDENT

### Executive Order 10822

#### FURTHER PROVIDING FOR THE ADMINISTRATION OF FOREIGN-AID FUNCTIONS

By virtue of the authority vested in me by the Mutual Security Act of 1954 (68 Stat. 832), as amended, including particularly sections 521 and 525 thereof, and by section 2(d) of Reorganization Plan No. 8 of 1953 (67 Stat. 643), and as President of the United States, it is ordered as follows:

SECTION 1. Executive Order No. 10575 of November 6, 1954 (19 F.R. 7249), as amended or affected by Executive Order No. 10610 of May 9, 1955 (20 F.R. 3179), Executive Order No. 10625 of August 2, 1955 (20 F.R. 5571), Executive Order No. 10663 of March 24, 1956 (21 F.R. 1845), and Executive Order No. 10742 of November 29, 1957 (22 F.R. 9689), is hereby further amended as follows:

(a) Section 101(b) is amended by substituting "106(d)" for "107(b)", by substituting "section 402" for "sections 402 and 505", and by substituting "Chapter I" for "chapter 1 of Title I".

(b) Section 101(c) is amended by substituting for the text "and by Executive Order No. 10522 of March 26, 1954 (19 F.R. 1689)" the words "as amended", and by inserting before the final period the following: "; and the Director is hereby further authorized to carry out the functions of the Board of Foreign Service provided for by the Foreign Service Act of 1946, as amended (60 Stat. 999; 22 U.S.C. *et seq.*), with respect to personnel appointed or assigned pursuant to section 527(c) of the Act, and to prescribe such regulations and issue such orders and instructions, not inconsistent with law, as may be necessary or desirable for carrying out the foregoing functions; *Provided*, that nothing herein shall be construed as transferring to the Director any function of the Board of Foreign Service relating to any Foreign Service Officer".

(c) Section 102(a) (1) is amended by substituting "Chapter I" for "chapter 1 of Title I".

(d) Section 102(a) (4) is revoked.

(e) Section 102(a) (5) is redesignated section 102(a) (4), and is amended by inserting before the period the following: ", as amended".

(f) Section 102(b) is revoked.

(g) Section 102(c) is redesignated section 102(b), and is amended by substituting "Chapter I" for "chapter 1 of Title I".

(h) Section 103(a) (1) is amended by substituting a comma for "and", and by inserting after "into" the following: ", and terminating".

(i) Section 103(a) (2) is amended by substituting "143, 202(a)," for "202, 204", and by inserting "407," after "405(a)".

(j) Sections 103(a) (3) and (4) are redesignated sections 103(a) (4) and (5), respectively, and a new section 103(a) (3) is inserted after section 103(a) (2) reading as follows:

"(3) The functions conferred upon the President by section 403 of the Act, exclusive of the function of determining any provision of law to be disregarded to achieve the purposes of that section."

(k) Section 103(c) is amended by deleting "132(c)".

(l) Section 103(d) is amended by deleting ", 102(b)".

(m) Section 103(e) is amended by inserting after the parentheses the following: ", as amended".

(n) Section 104(b) is amended by inserting "the first sentence of" before "section".

(o) The heading of section 106 is amended to read "Allocation and advance of funds."

(p) That portion of section 106(a) preceding the numbered paragraphs thereof is amended by inserting "or advanced" after "allocated".

(q) Section 106(a) is amended by inserting ", as amended" after "1956", and by substituting "Chapter I of the Act" for the following: "chapter 1 of Title I of the Act, as amended, and, without regard to section 106(a) (2) of this order, funds for carrying out section 124 of the Act, as amended".

(r) Section 106(a) (2) is amended by inserting "made available exclusively"

(Continued on p. 4161)

## CONTENTS

### THE PRESIDENT

	Page
<b>Executive Order</b>	
Further providing for the administration of foreign-aid functions.....	4159

### EXECUTIVE AGENCIES

<b>Agricultural Marketing Service</b>	
Proposed rule making:	
Filberts grown in Oregon and Washington.....	4169
Rules and regulations:	
Limitations of handling:	
Lemons grown in California and Arizona.....	4164
Oranges, Valencia, grown in Arizona and designated part of California.....	4161
Plums grown in California; regulation by grades and sizes (3 documents).....	4162, 4163
<b>Agricultural Research Service</b>	
Proposed rule making:	
Khapra beetle; extension of quarantine to Texas.....	4184
<b>Agriculture Department</b>	
<i>See</i> Agricultural Marketing Service; Agricultural Research Service; Commodity Credit Corporation.	
<b>Alien Property Office</b>	
Notices:	
Hungarian General Credit-bank; vesting order.....	4188
Maret, Joseph; intention to return vested property.....	4188
<b>Army Department</b>	
Rules and regulations:	
Assistance to relatives and others in connection with deceased personnel; miscellaneous amendments.....	4166
<b>Atomic Energy Commission</b>	
Proposed rule making:	
Power and test reactors.....	4184
<b>Civil Service Commission</b>	
Rules and regulations:	
Exceptions from the competitive service:	
Defense Department.....	4165
Post Office Department.....	4165



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(As of January 1, 1959)

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- Title 7, Parts 53-209, Rev. Jan. 1, 1959 (\$5.50)
- Title 26 (1954), Parts 1-19, Rev. Jan. 1, 1959 (\$3.25)
- Titles 30-31, Rev. Jan. 1, 1959 (\$3.50)
- Title 32, Parts 1-399 (\$1.50)

Previously announced: Title 3, 1958 Supp. (\$0.35); Titles 4-5 (\$0.50); Title 7, Parts 1-50 (\$4.00); Parts 51-52 (\$6.25); Parts 900-959 (\$1.50); Part 960 to end (\$2.25); Title 8 (\$0.35); Title 9 (\$4.75); Titles 10-13 (\$5.50); Title 14, Parts 1-39 (\$0.55); Parts 40-399 (\$0.55); Part 400 to end (\$1.50); Title 16 (\$1.75); Title 18 (\$0.25); Title 19 (\$0.75); Title 21 (\$1.00); Titles 22-23 (\$0.35); Title 24 (\$4.25); Title 25 (\$0.35); Title 26, Parts 1-79 (\$0.20); Parts 80-169 (\$0.20); Parts 170-182 (\$0.20); Part 300 to end (\$0.20); Title 26 (1954) Parts 20-221 (\$3.00); Titles 28-29 (\$1.50); Title 32, Parts 400-699 (\$1.75); Parts 700-799 (\$0.70); Part 1100 to end (\$0.35); Title 32A (\$0.40); Title 33 (\$1.50); Titles 35-37 (\$1.25); Title 38 (\$0.55); Title 39 (\$0.70); Titles 40-42 (\$0.35); Title 43 (\$1.00); Titles 44-45 (\$0.60); Title 46, Parts 1-145 (\$1.00); Parts 146-149, 1958 Supp. 2 (\$1.50); Part 150 to end (\$0.50); Title 47, Parts 1-29 (\$0.70); Part 30 to end (\$0.30); Title 49, Parts 1-70 (\$0.25); Parts 71-90 (\$0.70); Parts 91-164 (\$0.40); Part 165 to end (\$1.00); Title 50 (\$0.75)

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

**CONTENTS—Continued**

<b>Coast Guard</b>	Page
Proposed rule making:	
Suspension or revocation proceedings.....	4169
<b>Commerce Department</b>	
See also Federal Maritime Board; Maritime Administration.	
Notices:	
Steelman, Julien R.; statement of changes in financial interests.....	4186
<b>Commodity Credit Corporation</b>	
Notices:	
Price support loan programs for 1959 crop; announcement of interest rate.....	4185
<b>Defense Department</b>	
See Army Department.	
<b>Federal Maritime Board</b>	
Notices:	
American President Lines, Ltd., et al.; agreements filed for approval.....	4185
<b>Federal Power Commission</b>	
Notices:	
Hearings, etc.:	
Lynchburg Gas Co.....	4186
Pacific Gas and Electric Co.....	4187
<b>Food and Drug Administration</b>	
Rules and regulations:	
Penicillin and penicillin-containing drugs, certification thereof.....	4165
Piperonyl butoxide and pyrethrins in or on birdseed mixtures; tolerances for residues.....	4165
<b>Health, Education, and Welfare Department</b>	
See Food and Drug Administration.	
<b>Interior Department</b>	
See Land Management Bureau; National Park Service.	
<b>Internal Revenue Service</b>	
Notices:	
Assistant Regional Commissioners; delegation of function regarding refund of alcohol and tobacco taxes.....	4185
Rules and regulations:	
Tobacco products and cigarette papers and tubes; removal thereof, without payment of tax, for use of the U.S.; simplification of requirements and improvement of procedures.....	4166
<b>Interstate Commerce Commission</b>	
Notices:	
Fourth section applications for relief.....	4187
Motor carrier transfer proceedings.....	4187
Statement of changes in financial interests:	
Lyrla, Keith H.....	4188
Root, Eugene S.....	4187
<b>Justice Department</b>	
See Alien Property Office.	
<b>Land Management Bureau</b>	
Rules and regulations:	
Idaho; public land order.....	4168

**CONTENTS—Continued**

<b>Maritime Administration</b>	Page
Rules and regulations:	
Valuation of vessels for determining capital employed and net earnings under operating-differential subsidy agreements; basis of valuation....	4168
<b>National Park Service</b>	
Proposed rule making:	
Isle Royale National Park; motor vessel transportation rates.....	4169
<b>State Department</b>	
Notices:	
Domestic field offices.....	4186
Rules and regulations:	
Licensing controls; miscellaneous amendments.....	4166
<b>Treasury Department</b>	
See Coast Guard; Internal Revenue Service.	
<b>CODIFICATION GUIDE</b>	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.	
<b>3 CFR</b>	Page
Executive orders:	
10477 (amended by EO 10822).....	4159
10575 (amended by EO 10822).....	4159
10610 (revoked in part by EO 10822).....	4159
10625 (see EO 10822).....	4159
10663 (see EO 10822).....	4159
10742 (see EO 10822).....	4159
10822.....	4159
<b>5 CFR</b>	
6 (2 documents).....	4165
<b>7 CFR</b>	
922.....	4161
936 (3 documents).....	4162, 4163
953.....	4164
Proposed rules:	
301.....	4184
997.....	4169
<b>10 CFR</b>	
Proposed rules:	
1-140.....	4184
<b>21 CFR</b>	
120.....	4165
146a.....	4165
<b>22 CFR</b>	
123.....	4166
<b>26 (1954) CFR</b>	
295.....	4166
<b>32 CFR</b>	
511.....	4166
<b>36 CFR</b>	
Proposed rules:	
13.....	4169
20.....	4169
<b>43 CFR</b>	
Public land orders:	
1858.....	4168

**CODIFICATION GUIDE—Con.**

<b>46 CFR</b>	Page
284-----	4168
<i>Proposed rules:</i>	
1-----	4169
4-----	4169
136-----	4169
137-----	4169
187-----	4169

after "except those", and by substituting "Chapter I and Title II of Chapter II" for "chapter 1 of Title I".

(s) A new section 106(a)(3) is added after section 106(a)(2), reading as follows:

"(3) Funds for carrying out Title II of Chapter II of the Act shall be advanced to the Development Loan Fund."

(t) Section 106(b) is amended by inserting "or transferred" after "allocated" in the first sentence, by inserting ", the Development Loan Fund," after "Secretary of Defense" in the first sentence, and by substituting "107(b)" and "411(d)" for "107(a)(2)" and "411(c)", respectively, in the second sentence.

(u) Section 106 is amended by adding at the end thereof a new subsection (d) reading as follows:

"(d) The sum provided for in section 402 of the Act and the first sum provided for in section 537(c) of the Act shall be divided between the Department of State and the Department of Defense as those departments shall mutually agree."

(v) Section 107 is amended by revoking section 107(a)(6) and section 107(b), by redesignating sections 107(a)(1), (2), (3), (4), and (5) as sections 107(a), (b), (c), (d), and (e), respectively, and by deleting "(a)" after the section heading.

(w) The section redesignated above as section 107(b) is amended by deleting "132(a)", "401", and "404", and by inserting "451(a)," after "410".

(x) The section redesignated above as section 107(c) is amended by substituting "413(c), 523(c)," for "415," and by inserting "and by the second sentence of section 416 of the Act," before "and, subject to".

(y) The section redesignated above as section 107(d) is amended to read as follows:

"(d) So much of the functions conferred upon the President by section 144 of the Act as consists of waiving specific provisions of section 142 of the Act."

(z) The following is added at the end of section 107 as amended above:

"(f) So much of the functions conferred upon the President by section 415 of the Act as consists of furnishing assistance directly to the North Atlantic Treaty Organization for a strategic stockpile of foodstuffs and other supplies, or for other purposes."

(z-1) Part I is amended by substituting for section 108 new sections 108 and 109 reading as follows:

"SEC. 108. *Development Loan Fund.*  
(a) There are hereby delegated to the

Managing Director of the Development Loan Fund, acting subject to the supervision and direction of the board of directors of the Development Loan Fund:

"(1) So much of the functions conferred upon the President by section 504(a) of the Act as consists of assisting American small business to participate equitably in the furnishing of commodities and services financed with funds authorized under Title II of Chapter II of the Act.

"(2) So much of the functions conferred upon the President by section 527(a) of the Act as consists of determining such personnel as need be employed by the Development Loan Fund to carry out the provisions and purposes of the Act.

"(b) There is hereby delegated to the Director of the Bureau of the Budget the function conferred upon the President by section 205(e) of the Act with respect to determining the records, personnel, and property of the International Cooperation Administration to be transferred to the Development Loan Fund in the event of disagreement between the Managing Director of the Development Loan Fund and the Director of the International Cooperation Administration.

"SEC. 109. *Cost-sharing arrangements.* Subject to the provisions of section 103 (a)(1) of this order, the functions conferred upon the President by section 527(e) of the Act are hereby delegated to the several heads of Federal agencies in respect of any functions under the Act performed by officers and employees of those agencies, respectively."

(z-2) Part III is amended by renumbering sections 302 and 303 thereof as sections 303 and 304, respectively, and by adding after section 301 a new section 302 reading as follows:

"SEC. 302. *Employment of personnel overseas.* Persons henceforth appointed, employed, or assigned under section 527(c) of the Act for the purpose of performing functions under the Act outside the continental limits of the United States shall not, unless otherwise agreed by the United States Government agency in which such benefits may be exercised, be entitled to the benefits provided by section 528 of the Foreign Service Act of 1946, as amended, in cases in which their service under the appointment, employment, or assignment exceeds thirty months."

SEC. 2. Part II of Executive Order No. 10610 of May 9, 1955, is hereby revoked. Any other provision of Executive Order No. 10610 which is inconsistent with any amendment of Executive Order No. 10575 made by this order shall be subject to such amendment.

SEC. 3. The first sentence of section 2(a) of Executive Order No. 10477 of August 1, 1953, is hereby amended by adding before the period at the end thereof the following: ", and including also the authority available to the Secretary of State under section 571 of the Foreign Service Act of 1956, as amended".

DWIGHT D. EISENHOWER

THE WHITE HOUSE,  
May 20, 1959.

[F.R. Doc. 59-4391; Filed, May 21, 1959; 2:59 p.m.]

**RULES AND REGULATIONS**

**Title 7—AGRICULTURE**

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

[Valencia Orange Reg. 166]

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

**Limitation of Handling**

§ 922.466 Valencia Orange Regulation 166.

(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 recom-

mendation 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 hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 21, 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., May 24, 1959, and ending at 12:01 a.m., P.s.t., May 31, 1959, are hereby fixed as follows:

- (i) District 1: 462,000 cartons;
- (ii) District 2: 554,400 cartons;
- (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.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 22, 1959.

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

[F.R. Doc. 59-4414; Filed, May 22, 1959;  
11:34 a.m.]

[Plum Order 2]

### PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

#### Regulation by Grades and Sizes

##### § 936.614 Plum Order 2.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, 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 (5 U.S.C. 1001 et seq.) in that, as hereinafter set forth, 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 not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. 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; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on May 14, 1959.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., May 27, 1959, and ending at 12:01 a.m., P.s.t., November 1, 1959, no shipper shall ship any package or container of Santa Rosa plums unless such plums grade at least U.S. No. 1; and,

(i) If the plums are packed in a standard basket, they are of a size not smaller than a size that will pack a 4 x 5 standard pack;

(ii) If the plums are packed in any container other than a standard basket, sixty-six and two-thirds (66 $\frac{2}{3}$ ) percent, by count, of the plums measure not less than one and thirteen-sixteenth ( $1\frac{13}{16}$ ) inches in diameter: *Provided*, That, individual containers in any lot may contain not more than fifty (50) percent, by count, of plums which measure less than one and thirteen-sixteenth ( $1\frac{13}{16}$ ) inches in diameter, if the average percent of such smaller sized plums in all containers in such lot does not exceed thirty-three and one-third (33 $\frac{1}{3}$ ) percent: *And provided further*, That, if the plums are packed in a special plum box

and are of a size not smaller than a size that will pack a 7-row standard pack, they shall be deemed to meet the minimum size requirements of this subparagraph; and

(iii) The diameters of the smallest and largest plums in the package or container do not vary more than one-fourth inch: *Provided*, That, a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "U.S. No. 1," "fairly uniform in size," "serious damage," and "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537 of this title; 23 F.R. 3509); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "special plum box" shall mean the special plum box set forth in section 828.15 of the Agricultural Code of California; "6-row standard pack" shall mean that the top layer of the pack contains 39 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7-row standard pack" shall mean that the top layer of the pack contains 52 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 56 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "8 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 72 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 936.143 of the rules and regulations, as amended (7 CFR 936.100 et seq.), sets forth the requirements with respect to the inspection and certification of shipments of fruit covered by this regulation. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 20, 1959.

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

[F.R. Doc. 59-4368; Filed, May 22, 1959;  
8:48 a.m.]

[Plum Order 3]

**PART 936—FRESH BARTLETT PEARS,  
PLUMS, AND ELBERTA PEACHES  
GROWN IN CALIFORNIA**

**Regulation by Grades and Sizes**

**§ 936.615 Plum Order 3.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, 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 (5 U.S.C. 1001 et seq.) in that, as hereinafter set forth, 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 not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. 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; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Such committee meeting was held on May 14, 1959.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., May 27, 1959, and ending at 12:01 a.m., P.s.t., November 1, 1959, no shipper shall ship any package or container of Burmosa plums unless such plums grade at least U.S. No. 1; and,

(i) If the plums are packed in a standard basket, they are of a size not smaller than a size that will pack a 4 x 5 standard pack;

(ii) If the plums are packed in any container other than a standard basket, sixty-six and two-thirds (66 $\frac{2}{3}$ ) percent, by count, of the plums measure not less than one and thirteen-sixteenths (1 $\frac{13}{16}$ ) inches in diameter: *Provided*, That, individual containers in any lot may contain not more than fifty (50) percent, by count, of plums which measure less than one and thirteen-sixteenths (1 $\frac{13}{16}$ ) inches in diameter, if the average percent of such smaller sized plums in all containers in such lot does not exceed thirty-three and one-third (33 $\frac{1}{3}$ ) percent: *And provided further*, That, if the plums are packed in a special plum box and are of a size not smaller than a size that will pack a 7-row standard pack, they shall be deemed to meet the minimum size requirements of this subparagraph; and

(iii) The diameters of the smallest and largest plums in the package or container do not vary more than one-fourth inch: *Provided*, That, a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "U.S. No. 1," "fairly uniform in size," "serious damage," and "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537; 23 F.R. 3509); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "special plum box" shall mean the special plum box set forth in section 828.15 of the Agricultural Code of California; "6-row standard pack" shall mean that the top layer of the pack contains 39 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7-row standard pack" shall mean that the top layer of the pack contains 52 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 56 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "8 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 72 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other

terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 936.143 of the rules and regulations, as amended (7 CFR 936.100 et seq.), sets forth the requirements with respect to the inspection and certification of shipments of fruit covered by this regulation. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 20, 1959.

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

[F.R. Doc. 59-4369; Filed, May 22, 1959;  
8:48 a.m.]

[Plum Order 4]

**PART 936—FRESH BARTLETT PEARS,  
PLUMS, AND ELBERTA PEACHES  
GROWN IN CALIFORNIA**

**Regulation by Grades and Sizes**

**§ 936.616 Plum Order 4.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, 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 (5 U.S.C. 1001 et seq.) in that as hereinafter set forth, 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 not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await

the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. 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; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on May 14, 1959.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., May 27, 1959, and ending at 12:01 a.m., P.s.t., November 1, 1959, no shipper shall ship any package or container of Formosa plums unless such plums grade at least U.S. No. 1; and,

(i) If the plums are packed in a standard basket, they are of a size not smaller than a size that will pack a 4 x 5 standard pack;

(ii) If the plums are packed in any container other than a standard basket, sixty-six and two-thirds (66 $\frac{2}{3}$ ) percent, by count, of the plums measure not less than one and thirteen-sixteenths (1 $\frac{13}{16}$ ) inches in diameter: *Provided*, That, individual containers in any lot may contain not more than fifty (50) percent, by count, of plums which measure less than one and thirteen-sixteenths (1 $\frac{13}{16}$ ) inches in diameter, if the average percentage of such smaller sized plums in all containers in such lot does not exceed thirty-three and one-third (33 $\frac{1}{3}$ ) percent: *And provided further*, That, if the plums are packed in a special plum box and are of a size not smaller than a size that will pack a 7-row standard pack, they shall be deemed to meet the minimum size requirements of this subparagraph; and

(iii) The diameters of the smallest and largest plums in the package or container do not vary more than one-fourth inch: *Provided*, That, a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "U.S. No. 1," "fairly uniform in size," "serious damage," and "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537 of this title; 23 F.R. 3509); "Standard basket" shall mean the standard basket

set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "special plum box" shall mean the special plum box set forth in section 828.15 of the Agricultural Code of California; "6-row standard pack" shall mean that the top layer of the pack contains 39 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7-row standard pack" shall mean that the top layer of the pack contains 52 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "7 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 56 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "8 $\frac{1}{2}$ -row standard pack" shall mean that the top layer of the pack contains 72 plums which are fairly uniform in size and the plums in the top layer are not superior in size to those in the remainder of the pack; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 936.143 of the rules and regulations, as amended (7 CFR 936.100 et seq.), sets forth the requirements with respect to the inspection and certification of shipments of fruit covered by this regulation. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 20, 1959.

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

[F.R. Doc. 59-4370; Filed, May 22, 1959;  
8:49 a.m.]

[Lemon Reg. 793]

## PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

#### § 953.900 Lemon Regulation 793.

(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 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 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 May 20, 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., May 24, 1959, and ending at 12:01 a.m., P.s.t., May 31, 1959, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District-2: 418,500 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.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 21, 1959.

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

[F.R. Doc. 59-4395; Filed, May 22, 1959;  
9:14 a.m.]

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

##### Department of Defense

Effective upon publication in the FEDERAL REGISTER, subparagraph (25) is added to paragraph (a) of § 6.304 as set out below.

##### § 6.304 Department of Defense.

(a) *Office of the Secretary.* \* \* \*

(25) One Special Assistant to the Assistant Secretary of Defense (Controller).

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 59-4358; Filed, May 22, 1959; 8:47 a.m.]

#### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

##### Post Office Department

Effective upon publication in the FEDERAL REGISTER, subparagraph (10) is added to § 6.309(a) as set out below.

##### § 6.309 Post Office Department.

(a) *Office of the Postmaster General.* \* \* \*

(10) Until October 31, 1959, one Executive Assistant to the Postmaster General.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F.R. Doc. 59-4394; Filed, May 22, 1959; 9:14 a.m.]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 120—TOLERANCES AND EXCEPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Tolerances for Residues of Piperonyl Butoxide and Pyrethrins in or on Birdseed Mixtures

No objections having been filed to the proposal published in the FEDERAL REGISTER of March 21, 1959 (24 F.R. 2500) in re the establishment of tolerances for

residues of piperonyl butoxide and pyrethrins in or on birdseed mixtures, and no request having been received for referral of the proposal to an advisory committee except one based on misunderstanding and later withdrawn: *It is ordered*, That the regulations for tolerances for residues of pesticide chemicals in or on raw agricultural commodities (23 F.R. 6403) be amended in the following respects:

1. In § 120.127 *Tolerances for residues of piperonyl butoxide*, paragraph (a) is amended to read as follows:

(a) 20 parts per million in or on barley, birdseed mixtures, buckwheat, corn (including popcorn), rice, rye, wheat.

2. In § 120.128 *Tolerances for residues of pyrethrins*, paragraph (a) is amended to read as follows:

(a) 3 parts per million in or on barley, birdseed mixtures, buckwheat, corn (including popcorn), rice, rye, wheat.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (b), (e), 68 Stat. 511, 514; 21 U.S.C. 346a (b)(e)), and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.29(a); 23 F.R. 6403).

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity, the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

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

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 19, 1959.

[SEAL] GEO. P. LARRICK,  
*Commissioner of Food and Drugs.*

[F.R. Doc. 59-4363; Filed, May 22, 1959; 8:47 a.m.]

#### SUBCHAPTER C—DRUGS

#### PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

##### Procaine Penicillin-Streptomycin- (or Dihydrostreptomycin) -Neomycin-Erythromycin in Oil

Under the authority vested in the Secretary of Health, Education, and Wel-

fare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500), the regulations for certification of penicillin and penicillin-containing drugs (23 F.R. 382) are amended as follows:

Section 146a.83 *Procaine penicillin-streptomycin-neomycin-erythromycin in oil* \* \* \* is amended in the following respects:

1. Paragraph (a) is changed to read as follows:

(a) (1) It contains not less than 5.0 milligrams of erythromycin per milliliter, except if it is intended solely for use in the eyes and ears of veterinary animals and it is conspicuously so labeled it may contain not less than 3.5 milligrams per milliliter. The erythromycin used conforms to the standards prescribed by § 146b.121(a) of this chapter.

(2) If it is intended solely for use in the eyes and ears of veterinary animals and is conspicuously so labeled, it may contain chlorhexidine dihydrochloride (bis-(p-chlorophenyl diguanido)-hexane dihydrochloride).

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

(b) In addition to complying with the requirements of § 146a.89(b), each package shall bear on the outside wrapper or container and the immediate container the number of milligrams of erythromycin in each milliliter of the batch. Each package shall also bear on its label and labeling, if it contains the active ingredient specified in paragraph (a)(2) of this section, after the name "Procaine penicillin-streptomycin-neomycin-erythromycin in oil" or "Procaine penicillin - dihydrostreptomycin - neomycin-erythromycin in oil," wherever it appears, the words "with \_\_\_\_\_" (the blank being filled in with the words "chlorhexidine dihydrochloride," in juxtaposition with such name).

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

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

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

Dated: May 19, 1959.

[SEAL] GEO. P. LARRICK,  
*Commissioner of Food and Drugs.*

[F.R. Doc. 59-4362; Filed, May 22, 1959; 8:47 a.m.]

## Title 22—FOREIGN RELATIONS

### Chapter I—Department of State

#### SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Dept. Reg. 108.403]

#### PART 123—LICENSING CONTROLS

##### Deletions

The regulations issued by the Secretary of State on August 26, 1955, and amended December 27, December 31, 1957, April 1, 1958, and November 14, 1958 are amended as follows, effective June 1, 1959.

Sections 123.14 and 123.15 are deleted.

Signed: May 15, 1959.

For the Acting Secretary of State.

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

[F.R. Doc. 59-4372; Filed, May 22, 1959;  
8:49 a.m.]

## Title 26—INTERNAL REVENUE, 1954

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

#### SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6379]

#### PART 295—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PA- PERS AND TUBES, WITHOUT PAY- MENT OF TAX, FOR USE OF THE UNITED STATES

##### Simplification of Requirements and Improvement of Procedures

On December 13, 1958, a notice of proposed rulemaking with respect to regulations designated as Part 295 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (23 F.R. 9674). The purpose of the proposal was to simplify the requirements and improve the procedures with respect to the removal of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States, and to make certain clarifying and conforming changes. No data, views, or arguments pertaining thereto have been received during the period of 30 days from the date of publication of said notice of proposed rulemaking. However, it has been determined that this proposal will cause § 295.2, relating to forms, to be superfluous. Therefore, the regulations as so published, supplemented by the revocation of § 295.2, are hereby adopted as set forth below.

##### § 295.2 [Revocation]

PARAGRAPH 1. Section 295.2 is revoked.

PAR. 2. A new § 295.21a to read as follows is inserted immediately after § 295.21:

##### § 295.21a Internal revenue officer.

"Internal revenue officer" shall mean an officer or employee of the Treasury Department duly authorized to perform

any function relating to the administration or enforcement of this part.

##### § 295.30 [Revocation]

PAR. 3. Section 295.30 is revoked.

PAR. 4. Section 295.40 and the headnote are amended to read as follows:

##### § 295.40 Authority of internal revenue officers to enter premises.

Any internal revenue officer may enter in the daytime any premises where tobacco products or cigarette papers or tubes removed under this part are kept, so far as it may be necessary for the purpose of examining such articles. When such premises are open at night, any internal revenue officer may enter them, while so open, in the performance of his official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any internal revenue officer or permit him to examine the articles removed under this part shall be liable to the penalties prescribed by law for the offense.

(68A Stat. 872, 903; 26 U.S.C. 7342, 7606)

##### § 295.41 [Amendment]

PAR. 5. Section 295.41 is amended by inserting in the first sentence, immediately after the word "any", the word "internal".

##### § 295.51 [Revocation]

PAR. 6. Section 295.51 is revoked.

##### § 295.52 [Revocation]

PAR. 7. Section 295.52 is revoked.

PAR. 8. Section 295.56 and the headnote are amended to read as follows:

##### § 295.56 Record of removals.

Every manufacturer who removes tobacco products and cigarette papers and tubes under this part shall keep a supporting record of such removals and shall make appropriate entries therein at the time of removal. Such supporting record shall show, with respect to each removal, the date of removal, the name and address of the Federal agency or institution to which shipped or delivered, the quantity and, with respect to large cigars, the class designation. Where the manufacturer keeps, at the factory, copies of invoices or other commercial records containing the information required as to each such removal, in such orderly manner that such information may be readily ascertained therefrom by internal revenue officers, such copies will be considered the supporting record required by this part. Such record shall be retained for two years following the close of the year in which the tobacco products and cigarette papers and tubes were removed, and shall be made available for inspection by any internal revenue officer upon his request.

(72 Stat. 1423; 26 U.S.C. 5741)

##### § 295.58 [Revocation]

PAR. 9. Section 295.58 is revoked.

PAR. 10. Section 295.59 is amended to read as follows:

##### § 295.59 Tax liability.

Responsibility for the tax on tobacco products and cigarette papers and tubes removed under this part shall rest upon

the manufacturer making the removal until such articles are received by the Federal agency or institution. Where the manufacturer has knowledge that all or part of a shipment removed under this part has not been received by the Federal agency or institution, he shall immediately notify the assistant regional commissioner, furnish all pertinent details with respect to the loss or shortage, and either pay the tax due thereon or file claim for remission of the tax liability as provided in Parts 270, 275, and 285 of this subchapter.

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,  
Commissioner of Internal Revenue.

Approved: May 19, 1959.

FRED C. SCRIBNER, Jr.,  
Acting Secretary of the Treasury.

[F.R. Doc. 59-4360; Filed, May 22, 1959;  
8:47 a.m.]

## Title 32—NATIONAL DEFENSE

### Chapter V—Department of the Army

#### SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

#### PART 511—ASSISTANCE TO RELATIVES AND OTHERS IN CONNECTION WITH DECEASED PERSONNEL

##### Miscellaneous Amendments

Revise §§ 511.6-511.11 and add new § 511.12, to read as follows:

##### § 511.6 Definitions.

As used in this part, the following definitions apply:

(a) *Next of kin.* The legal next of kin of a member of the Army is the person of any age most closely related to the member according to the line of succession which follows:

(1) Widow or widower (if not divorced, legally separated, or remarried).

(2) Sons in order of seniority.

(3) Daughters in order of seniority.

(4) Father (unless legal custody of the decedent was granted to another by reason of a court decree or statutory provision).

(5) Mother (unless legal custody of the decedent was granted to another by reason of court decree or statutory provision).

(6) That blood or adoptive relative of the decedent who was granted legal custody of the decedent by reason of court decree or statutory provision.

(7) Brothers in the order of seniority.

(8) Sisters in the order of seniority.

(9) Grandfathers in the order of seniority.

(10) Grandmothers in the order of seniority.

(11) Other next of kin in the order of relationship to deceased, computed in accordance with civil law/rules. Seniority will control where persons are of

equal degree of relationship, except that males will have priority over females.

(12) Person in loco parentis to the decedent.

(b) *Adult next of kin.* The adult next of kin is the adult highest in the line of succession appearing in paragraph (a) of this section, but if the deceased member left a widow or widower who is a minor, the widow or widower will nevertheless be considered the adult next of kin. Disposition of remains is made upon instructions of adult next of kin only, but with respect to matters not involving disposition of remains, reference to next of kin will mean the legal next of kin determined according to the line of succession shown in paragraph (a) of this section.

(c) *Dependents.* The lawful wife and unmarried children under 21 years of age of an Army member are considered his dependents. Other relatives, as listed below, are considered as dependents provided that they are in fact dependent on the Army member for over one-half of their support.

(1) Father or mother.

(2) Unmarried children over 21 years of age who are incapable of self-support because of being mentally incompetent or physically incapacitated.

(d) *Missing.* As applied in this part to members of the Army, the term "missing" includes "missing in action."

(e) *Commanding general of the area.* The term "commanding general of the area" when used in this part includes ZI army commanders, the Commanding General, Military District of Washington, and major oversea commanders.

(f) *Commanding general of the ZI Army area.* The term "Commanding general of the ZI Army area" when used in this part includes the Commanding General, Military District of Washington.

#### § 511.7 Responsibility.

(a) Zone of Interior army commanders and commanders of major oversea commands are responsible for administering and monitoring the assistance program within their areas. They will assign assistance cases to Army units at the class I or II Army installation or activity (hereinafter referred to as "installation" for the purpose of this part) or antiaircraft artillery command, located nearest the residence of the next of kin or dependents, and insure that assistance is extended under this part as soon as possible following the death or missing status of the service member. The program should operate so that assistance officers contact the families within 48 hours following their receipt of notification of the loss of the service member.

(b) Each installation commander is responsible for:

(1) Appointing a survivor assistance officer or officers.

(2) Assuring that the assistance required by this part is rendered to the next of kin or dependents of deceased or missing personnel in each case assigned to his installation by the commanding general of the area.

(c) The senior Army representative in areas outside the continental United States in which there are no Army installations will assume responsibility for extending assistance.

#### § 511.8 Survivor assistance officers.

A survivor assistance officer or officers (preferably to field grade) will be appointed at each Army installation and will be provided from current personnel authorizations. Individuals appointed as survivor assistance officers must be competent, dependable, and sympathetic with the objective of the program. Survivor assistance officers will make immediate contact with the family to offer advice and assistance in making funeral arrangements, arranging military honors, and obtaining emergency financial assistance for the survivors if needed. Extreme caution will be exercised by survivor assistance officers in advising the next of kin and dependents as to expected benefits. Approximate dollar amounts may be specified in certain instances but care must be taken to avoid misrepresenting facts. It will be emphasized that determination as to entitlement and actual payment rests with the office or agency charged with the responsibility of administering the benefit. The installation legal assistance officer is available at all times to assist both the survivor assistance officers and the next of kin and dependents of the deceased. Individuals concerned may be referred directly to the legal assistance officer of the installation for legal guidance and specific information. If there is no immediate need for this assistance, the family should be advised that the services of the legal assistance officer are available when needed.

#### § 511.9 Persons entitled to assistance.

(a) Next of kin or dependents of the following persons are entitled to receive assistance covered by this part:

(1) Deceased members of the Army on active duty, active duty for training, or inactive duty (reserve duty) training.

(2) Deceased retired members of the Army (§ 511.11).

(3) Missing members of the Army on active duty, active duty for training or inactive duty (reserve duty) training (§ 511.12).

(b) In cases where two or more persons living at different places require or deserve assistance, it may be necessary that more than one installation commander make provision for rendering assistance. In most cases, the person making disposition of remains would be the only one to receive help. However, there may be cases where the children of deceased are in custody of persons other than the one giving instructions for disposition of remains, in which case they should be assisted as much as possible. In some instances parents living at different addresses (sometimes in different Army area) may each require assistance.

#### § 511.10 Assistance furnished.

The survivor assistance officer will contact the next of kin and dependents to:

(a) Determine the immediate needs of the dependents. If requested, arrange-

ments will be made with the Army Emergency Relief, Army Relief Society, or American Red Cross for consideration of a request for emergency financial assistance.

(b) Offer help in arranging for available military honors, if desired.

(c) Assure the next of kin and dependents of the Army's interest in their welfare.

(d) Arrange for a personal visit, on the earliest date convenient, to the next of kin or dependents, to discuss monetary and other benefits which may be allowable as a result of the death of the Army member.

(e) Counsel the next of kin and dependents during the second and subsequent visits regarding benefits and aid them in filing necessary claims or applications.

#### § 511.11 Retired personnel.

(a) Immediate contact with survivors will not always be possible in case of deaths of retired personnel because of the delay in receipt of information as to death. However, when an installation commander receives information from a member of the family or through command channels that a retired person has died, survivor assistance will be offered the family.

(b) When the survivors reside in close proximity to an Army installation an assistance officer will contact the family by personal visit. The commanding general of the area may, if the location of survivors is such that a personal visit by an officer is not feasible or practical for other cogent reasons, contact the survivor by letter. The letter will extend condolences and advise the family of the availability of the survivor assistance officer.

(c) Precautionary measures will be taken to insure that the next of kin and dependents of retired personnel are advised only to the extent that applications for benefits should be filed, and under no circumstances should dollar amounts be quoted. This precautionary measure is necessary, particularly as far as any monthly benefit payable by the Veterans Administration is concerned, as eligibility to benefits is determined solely by that agency. Also, Social Security benefits are dependent upon the "Average Monthly Wage" of the retired person, in addition to other requirements such as length of employment. These and other facts drastically affect the payment of benefits.

#### § 511.12 Missing personnel.

Assistance to the next of kin and dependents of "missing" personnel will differ considerably from that furnished the survivors of deceased personnel. Generally, such assistance will be limited to a genuine concern for their welfare, emergency financial assistance, legal assistance, initiation of new or adjustment of existing allotments, travel of dependents and movement of household goods (if the missing status continues for a period of 30 days) and counseling concerning the continuance of service privileges (medical care, commissary, post exchange and attendance at military motion picture theaters).

[AR 608-12, May 4, 1959] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

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

[F.R. Doc. 59-4343; Filed, May 22, 1959;  
8:45 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

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

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1858]

#### IDAHO

### Opening Lands Under Federal Power Act

1. In DA-505—Idaho issued March 21, 1958, and DA-513—Idaho, issued June 30, 1958, the Federal Power Commission determined that the value of the following-described lands would not be injured or destroyed for purposes of power development by location, entry, or selection under the public-land laws, subject to the provisions of section 24 of the Federal Power Act of 1920, as amended:

BOISE MERIDIAN

[Idaho 09250]

POWER SITE RESERVE NO. 345

T. 21 N., R. 1 E.,  
Sec. 2, lot 3.

Containing 36.85 acres.

[Idaho 09565]

POWER SITE CLASSIFICATION NO. 390

T. 6 S., R. 13 E.  
Sec. 27, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

Containing 40 acres.

2. Lot 3, Section 2, T. 21 N., R. 1 E., is located 16 miles south of Riggins, Idaho. The remaining lands lie on the Snake River rim. Portions of the lands are rough and rocky, with shallow soils.

3. The State of Idaho has waived the preference right of application granted to it by subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

4. The lands described in paragraph 1 hereof shall be subject until 10:00 a.m. on August 18, 1959, to application under any statute or regulation applicable thereto, for the reservation to the State of Idaho or any political subdivision thereof, of any lands required as a right-of-way for public highways or as a source of materials for the construction and maintenance of such highways, as provided by section 24 of the Federal Power Act (41 Stat. 1075; 16 U.S.C. 818), as amended.

5. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands

have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

6. Subject to any valid existing rights and the requirements of applicable law, and the right of the State described in paragraph 4 hereof, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

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

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

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284 as amended), presented prior to 10:00 a.m. on August 18, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on November 17, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a.m. on November 17, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

7. The lands have been open to application and offers under the mineral-leasing laws, and to location under the United States mining laws pursuant to the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621-625).

8. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their

claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

9. Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

ROGER ERNST,  
Assistant Secretary of the Interior.

MAY 18, 1959.

[F.R. Doc. 59-4347; Filed, May 22, 1959;  
8:45 a.m.]

## Title 46—SHIPPING

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

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

[General Order 24, 2d Rev., Amdt. 2]

### PART 284—VALUATION OF VESSELS FOR DETERMINING CAPITAL EMPLOYED AND NET EARNINGS UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

#### Basis of Valuation

Section 284.2 is hereby amended by adding a new subparagraph (3) to paragraph (f) as set forth below:

#### § 284.2 Basis of valuation.

(f) *Adjustments for depreciation.* \* \* \*

(3) Vessel depreciation on the purchase cost of the vessel shall accrue from date title is taken and shall be written off proportionately over the remaining economic life of the vessel in accordance with this section and allocated in the same manner as is the equity in the vessel for "capital necessarily employed" purposes, except that, with respect to a vessel which when purchased was of a type which required substantial modification, thereby modifying the original purpose of the vessel (as for example conversion of a cargo vessel to a combination or passenger vessel), the properly capitalizable acquisition and modification costs shall be depreciated from the date the vessel is delivered to the owner in its modified state from the shipyard and shall be written off over the remaining economic life of the vessel in accordance with this section.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: May 15, 1959.

By order of the Maritime Administrator.

[SEAL] JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 59-4365; Filed, May 22, 1959;  
8:48 a.m.]

**PROPOSED RULE MAKING**

**DEPARTMENT OF THE TREASURY**

**Coast Guard**

[ 46 CFR Parts 1, 4, 136, 137, 187 ]

[CGFR 59-20]

**SUSPENSION OR REVOCATION PROCEEDINGS**

**Written Comments on Proposed Regulations**

Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER on April 9, 1959 (24 F.R. 2749-2751), and Merchant Marine Council Public Hearing Agenda CG-249 dated April 27, 1959, the Merchant Marine Council held a Public Hearing on April 27, 1959, for the purpose of receiving comments, views and data. The proposals considered were identified as Items I to XII, inclusive. The proposals with respect to suspension or revocation proceedings involving licenses, certificates or documents issued to individuals were set forth in detail as Item XI in the Agenda, CG-249, and a summary was set forth in the previously mentioned FEDERAL REGISTER of April 9, 1959.

This document is the second of a series covering the regulations and actions considered at the April 27, 1959, Public Hearing and annual session of the Merchant Marine Council. The first document, CGFR 59-17 contains the action taken with respect to Item VIII regarding power-operated industrial trucks.

Many requests were received before and at the Public Hearing for extension of time for the submission of comments with respect to Item XI. Therefore, an extension of six months for the submission of written comments is granted with respect to Item XI entitled "Suspension or Revocation Proceedings," as set forth in the Merchant Marine Council Public Hearing Agenda CG-249 dated April 27, 1959.

On the basis of the comments received and those written comments which will be received prior to October 27, 1959, the proposed regulations will be revised. The revised proposed regulations then will be included in another notice of proposed rule making and published in the FEDERAL REGISTER so as to afford additional time for the submission of further written comments before final action on the adoption of revised regulations. In addition to publication in the FEDERAL REGISTER, copies of the revised proposed regulations will be sent to all who have expressed an interest in this subject or have requested them.

Even though a long extension of time has been allowed for submitting written comments and the proposed regulations as revised will be distributed for further comment in the Fall of this year, it is urged that additional written views be submitted and that this be done as soon as possible in order to permit the Coast Guard adequate time to thoroughly study and evaluate them.

All views and comments should be sent to the Commandant (CMC), United

States Coast Guard, Washington 25, D.C. In order to expedite consideration of comments and to facilitate checking and recording it is preferred that each comment regarding a section or paragraph of the proposed regulations be submitted on Coast Guard Form CG-3287, copies of which were attached to the Agenda and may be reproduced, or copies may be obtained upon request from the Commandant (CMC). However, all comments should show the section or paragraph number, the proposed change, the reason or basis, and the name, business firm or organization (if any), and the address of the submitter.

Dated: May 14, 1959.

[SEAL] A. C. RICHMOND,  
Vice Admiral, U.S. Coast Guard  
Commandant.

[F.R. Doc. 59-4359; Filed, May 22, 1959; 8:47 a.m.]

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

[ 36 CFR Parts 13, 20 ]

**ISLE ROYALE NATIONAL PARK**

**Motor Vessel Transportation Rates**

*Basis and purpose.* Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to amend 36 CFR Part 13 by adding § 13.21 as set forth below. The purpose of this amendment is to revise the present motor vessel transportation rates in Isle Royale National Park, Michigan, which were established by the Superintendent on May 23, 1959 (23 F.R. 4316) in Part 20, § 20.38(d), and to revoke Part 20, § 20.38(d), when Part 13, § 13.21 becomes effective.

This proposed amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, wherever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate written comments, suggestions, or objections with respect to the proposed amendment to the National Park Service, Washington 25, D.C., within ten days of the date of publication of this notice in the FEDERAL REGISTER.

ROGER ERNST,  
Assistant Secretary of the Interior.

MAY 18, 1959.

1. A new section is added to Part 13, to read as follows:

**§ 13.21 Motor Vessel Transportation Rates, Isle Royale National Park.**

(a) Transportation services between Houghton, Michigan and Isle Royale National Park, Michigan, rendered

aboard Government-owned vessels, shall be charged for at the following rates:

Personal transportation—one way only .....	\$7.50
Personal transportation—round trip...	15.00
Transportation of boats up to 14 feet in length—one way only.....	5.00
Transportation of boats up to 14 feet in length—round trip.....	10.00
Transportation of boats over 14 feet but limited to 20 feet—one way only .....	10.00
Transportation of boats over 14 feet but limited to 20 feet—round trip...	20.00
Canoes—round trip.....	3.00
Outboard motors ¼ h.p. to 10 h.p.—round trip.....	3.00
Outboard motors 12 h.p. to 25 h.p.—round trip.....	5.00
Outboard motors over 25 h.p.—round trip .....	7.50

(b) The rates mentioned in paragraph (a) of this section are subject to applicable federal transportation taxes.

(c) Personal transportation for children between the ages of five and twelve, inclusive, will be one-half of the rates mentioned in paragraph (a) of this section for comparable service. No charge will be made for children under the age of five.

(d) The rates for personal transportation mentioned in paragraph (a) of this section include the transportation of usual hand baggage and camping gear.

2. Part 20 § 20.38(d) is revoked.

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

[F.R. Doc. 59-4348; Filed, May 22, 1959; 8:45 a.m.]

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

[ 7 CFR Part 997 ]

[Docket No. AO 205-A2]

**HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON**

**Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect To Proposed Amendment of Amended Marketing Agreement and Order**

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), as amended, notice is hereby given of the filing with the Hearing Clerk, United States Department of Agriculture, of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to the proposed amendment of Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997), hereinafter referred to collectively as the "order," regulating the handling of filberts grown in Oregon and Washington. The order is effective pursuant to provisions of the Agricultural Mar-

keting Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), hereinafter referred to as the "act," and any amendment which may be adopted as a result of this proceeding will also be effective pursuant to said act. Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than fifteen days after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** The public hearing, on the record of which the proposed amendment of the order is formulated, was held in Portland, Oregon, on February 19, 20, and 21, 1959, pursuant to notice thereof which was published in the FEDERAL REGISTER on February 4, 1959 (24 F.R. 787). The notice contained proposals submitted to the Secretary of Agriculture, hereinafter referred to as the "Secretary," by the Filbert Control Board, established pursuant to the order, as the agency to administer the terms and provisions thereof.

**Material issues.** The material issues presented on the record of the hearing involve amendatory proposals relating to: (1) Definitions of terms such as, "unshelled filberts," "merchantable filberts," "packer," "distributor," "to pack," "to handle," "handler," "pack," "free filberts," "substandard filberts," "restricted filberts," "independent handler," "Federal-State Inspection Service," "trade carryover," "Board," "inshell handler carryover," and "trade demand"; (2) the addition of two grower members to the Filbert Control Board, lengthening the term of office of members from one to two years, changing the beginning date of such term to August 1 from the first Tuesday after the first Monday in April, and staggering the terms of office so that half of the membership would be appointed each year; (3) establishing three districts in the area of production from which independent grower members of the Board would be selected; (4) clarification and modification of procedures relating to nomination and functioning of the Filbert Control Board; (5) clarification of the marketing policy procedures and establishment of free and restricted percentages by the Secretary in lieu of the salable, surplus and withholding percentages provided in the order; (6) providing for a minimum standard of quality for shelled filberts and establishing a "substandard filbert" category based on such minimum standards; (7) clarification and modification of the requirements for withholding filberts, disposing of filberts withheld, deferring satisfaction of such withholding, and withholding adjustments; (8) clarification of interhandler transfer provisions and provision for exempting certain shipments from some of the requirements of the proposed order; (9) clarification and modification of the provisions dealing with financial operations of the Board including establishment of an operating reserve fund; (10) revision of certain reporting and record-keeping requirements; and (11) minor conforming changes in the miscellaneous provisions of and recodification of the order.

**Findings and conclusions.** The findings and conclusions on the material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows (numbers in parentheses are those used in the order as proposed to be amended (herein referred to as the "proposed order") which differ from those in the order):

**Unshelled filberts** § 997.5 of the order should be deleted. It is general filbert industry practice to use the term "inshell filberts" rather than the term "unshelled filberts" with reference to filberts that are not shelled. Therefore, it is desirable that the term "unshelled filberts" be deleted from the order. Since the term "inshell filberts" is commonly used throughout the industry, it should not be susceptible to misinterpretation when used in connection with the proposed order. Hence it is not necessary that this term be specifically defined in the proposed order.

**Merchantable filberts** § 997.6 (997.12) should not be deleted from the order, but should be amended to include all inshell filberts that meet the applicable grade and size requirements in effect under the proposed order at a given time and are likely to be made available for handling as inshell filberts. The term "merchantable filberts" as defined in the order has in practice been assigned more than one specific meaning. For marketing policy purposes, it has been used to signify the supply of inshell filberts which would likely be made available for the inshell market. It has also been used for reporting purposes under the order to include graded filberts held by handlers and their respective estimate of the portion of filberts in their ungraded lots which they believed would meet the merchantable filbert grade and size requirements. "Merchantable filberts" has also been interpreted to mean only those filberts which have been inspected and certified as meeting the then effective grade and size requirements under the order.

To eliminate these varied uses, "merchantable filberts" should be defined in the proposed order as meaning inshell filberts which are likely to be made available for handling as inshell filberts. Such available supply of inshell filberts should include certified filberts and such other inshell filberts as may be made eligible for certification. When referring in the proposed order only to the certified filberts portion of the merchantable filberts, the term "certified merchantable" should be used to make it clear that uncertified inshell filberts are not included.

**Packer** § 997.10, **Distributor** § 997.11, **Sheller** § 997.13, and **To pack** § 997.15 should be deleted. Certain modifications in **To handle** § 997.16 hereinafter recommended eliminate of the need for these terms in the proposed order.

**To handle** § 997.16 (997.7) should be amended specifically to include shelled filberts in addition to inshell filberts, and to provide that sales or deliveries within the area of production of any such filberts by growers to any handlers, rather than to packers, shellers, and distributors, within the production area shall not be handling.

In view of the authorization for grade and size regulation of shelled filberts as hereinafter recommended, it is necessary that shelled filberts be included in the definition of "to handle"; thus, it is made clear that all handling of shelled filberts must conform to all applicable requirements of the proposed order. It is also desirable that shelled filberts be included under the definition of "to handle" now rather than at such time as applicable grade and size regulations are put into effect. By so doing, necessary reports may be required which will serve as a basis for establishing grade and size regulations for shelled filberts.

In § 997.16 of the order the expression "sales or deliveries by growers to a packer for packing, or a sheller for shelling or to a distributor" should be replaced with "sales or deliveries by growers to handlers" to clarify the intent of the deleted language that anyone, whether or not a packer, sheller, or distributor, be included if he is a handler. Such has been the construction under the order. In this respect, the intended scope of the present definition remains unchanged.

The definition of "to handle" should not apply to any authorized disposition of restricted filberts or substandard filberts, both as hereinafter defined. Although such exclusion of restricted filberts is not expressly contained in the definition of "to handle" in the order, it has been necessary to thus interpret the definition so as to conform it to the intent of related provisions of the order. Therefore, such provision for the expressed exclusion does not constitute a change in order practices. Since under the proposed order "substandard filberts" are similarly restricted from handling in normal trade channels and authorized disposition is permitted, the definition should also contain the exclusion for "substandard filberts".

**Handler** § 997.9 (997.8) should be amended to include any person who handles filberts. This is consistent with the proposed modification of "to handle" and will include anyone, as has been discussed above, performing the handling function. It will also remove the limitation contained in the order definition which excludes from the handler classification persons handling less than 250 pounds of filberts during any fiscal year. In the past the limitation has placed a burden of proof on the Filbert Control Board in instances where questions arose as to the quantity of filberts handled by a person. Treatment of small lot sales under provisions for exemption, as will hereinafter be recommended, rather than the 250 pound limitation, should accomplish the purposes of the limitation and, at the same time, tend to facilitate compliance with the proposed order.

A new § 997.10 **Independent handler** should be included in the proposed order to identify those handlers who are not "cooperative handlers" as defined in § 997.12 (997.9). In § 997.30 and § 997.31 of the proposed order dealing with Filbert Control Board membership and nominations, as hereinafter recommended, the term "independent handler" is used. It is a term that is generally

used within the filbert industry to describe handlers who are not "cooperative handlers". It is, therefore, appropriate that it be defined as proposed. The definition and use of this term is not intended to constitute a change in the category of handlers referred to in the order as "handlers, other than cooperative handlers".

A new § 997.13 *Substandard filberts* should be included in the proposed order to describe filberts that cannot be certified as meeting the applicable minimum standards (pursuant to § 997.45 of the proposed order) for inshell or shelled filberts. Adoption in the proposed order of a minimum standard of quality for shelled filberts, together with the continuation therein of the minimum standard for inshell filberts prescribed under the order, would result in filberts that could not be certified as meeting either the inshell or shelled requirements. Therefore, it is desirable to have a definition applicable to such filberts. "Substandard filberts" should include filberts removed by handlers from graded packs during their processing operations and other filberts determined to be unfit for use in graded packs.

A new § 997.14 *Restricted filberts* should be included in the proposed order to identify that portion of the available inshell filbert supply withheld from handling in satisfaction of a restricted obligation as hereinafter discussed. Such a definition is desirable to identify a category of filberts referred to in the proposed order and, in operations thereunder.

Section 997.17 *Federal-State inspection service* of the order should be deleted. At the time of promulgation of the order, this definition was needed to specifically identify the inspection agency which was to be used under the program. This organization is now familiar to all filbert handlers, and there is no other organization with which it can be confused. Therefore, the definition no longer serves any useful purpose and should not be included in the proposed order. This deletion is not intended to involve any change in the inspection agency.

Section 997.20 *Trade carryover* of the order should be deleted. Experience has shown that it is not possible to obtain a very accurate estimate of "trade carryover," as advice from brokers has been the only source of such information. Although trade carryover should continue to be considered in the sense of being large or small and to the extent that it modifies the trade demand for filberts, it is not necessary to retain this precise definition in the proposed order.

*Handler carryover* § 997.19 (997.15) should be amended to conform with certain proposals contained herein. In authorizing regulation of the handling of shelled filberts and adopting certain changes in definitions, it is necessary to modify this definition to limit it to inshell handler carryover. The definition should therefore be reworded to incorporate such changes as are necessary to retain its order meaning.

*Trade demand* § 997.21 (997.16) should be amended to retain its applicability to

inshell trade demand in the order, to clarify the reference to wholesale, chain store, and supermarket trade and to re-define the area included in the trade demand.

In order to retain in the proposed order the reference in the order to the inshell filbert trade demand and to conform with other proposals recommended herein, it is advisable that the word "inshell" be included in the title, as well as in the body, of the definition. The words "wholesale," "chain store," and "supermarket" used in the order should not be included in the proposed order. The general term "trade" should be used to avoid any implication that the term "trade," as qualified in the order, is to be limited to such three categories when used in the proposed order. This is desirable in conformity with the present practice of including in "trade demand" all filberts acquired from handlers.

The area of trade demand in the proposed order should be limited to the continental United States (including Alaska). This would eliminate from the present area of trade demand in the order Hawaii, Puerto Rico, and the Canal Zone and also the option of including Canada or Cuba as part of the trade demand area which has never been exercised by the Board. According to the record evidence, these areas would serve the industry better as outlets for restricted filberts than as outlets for free filberts (as hereinafter described). Hawaii, Puerto Rico, and the Canal Zone take very few inshell filberts, and there is a possibility that making these areas eligible for restricted filbert disposition will result in some increase in sales in such areas. Canada and Cuba have become established outlets for restricted filberts.

*Control Board* § 997.22 (997.18) should be amended to use only the term "Board" as meaning the Filbert Control Board rather than continuing the use of the terms "Control Board" or "Board" interchangeably for this purpose as is provided in the order definition. It was testified by the proponents that the use of the two terms is not necessary and that use of the single term "Board" would be more desirable.

*Establishment and membership* § 997.30 (997.30) should be amended to provide a Board of nine members rather than seven members. Section 997.31 *Selection and term of office* should be amended to increase the term of office of Board members from one year to two years, to change the beginning of the term of office from the first Tuesday after the first Monday in April to the first of August and to provide for two additional grower members, as hereinafter discussed. For purposes of clarification, the present language of these sections should be as set forth in §§ 997.30, 997.32, and 997.33 of the proposed order.

In recent years independent filbert growers (i.e., growers whose filberts are handled through independent handlers) particularly in outlying districts, have been concerned that they are not adequately represented on the Filbert Control Board. On the basis of such concern expressed by individual growers and

by The Nut Growers Society of Oregon and Washington, the Filbert Control Board has studied this and problems of Board membership and made certain recommendations for their solution. These recommendations include adding two new grower members to the Board, increasing the terms of office from one to two years, staggering the term of office of Board members, and providing for districts from which to choose independent grower members. The addition of two new grower members to the Board as provided for in § 997.30 of the proposed order will make possible wider representation and should therefore be adopted. Adoption of a two-year term of office and staggering the terms of office of all Board members should be helpful in maintaining continuity of experienced members on the Board. This should be particularly helpful in the case of independent grower members who in some instances in the past have been elected for only a single term during which time they did not have an opportunity to become thoroughly familiar with Board operations and operation of the regulatory program.

A new § 997.31 *Independent grower districts* should be included in the proposed order establishing three districts within the area of production for purposes of independent grower representation and providing for revision of such districts under certain circumstances. District 1 should include the State of Washington, and Multnomah and Washington Counties in Oregon. District 2 should include Clackamas, Marion, and Yamhill Counties in Oregon. District 3 should include Benton, Lane, Linn, Polk, and all other counties in Oregon not included in Districts 1 and 2. It was testified by the proponents that these districts constitute an equitable and workable division of the area of production based on the best present estimates of number of farms, acreage, and production trends for filberts. Well-defined district boundaries are achieved through the use of county boundaries as a basis for district boundaries, thereby providing a workable administrative basis for the division of the area into districts. In recognition of the fact that shifts in acreage or other factors may make it desirable to establish different districts, provision should be included in the proposed order for redistricting. Inasmuch as the proposed order provides for a reduction in the number of independent grower members from three to two in event that the tonnage handled by independent handlers is less than 50 percent of the total tonnage handled by all handlers, it may also be necessary to change the districts for this reason. Since all future factors in redistricting cannot be fully anticipated, the proponents did not indicate how districts should be modified in the event that the number of independent grower members was reduced to two or how such transition should be made if it conflicted with existing terms of office of such members. In order to allow full flexibility, the proposed order should provide for automatic expiration of the terms of office of all affected grower members at the time of

the membership reduction or redistricting as provided for in § 997.33 thereof.

*Nominations for members and alternates* § 997.32 (997.32) should be amended to change the date by which grower and handler member nominations must be submitted to the Secretary from March 20 to June 1, and for the ninth member from April 15 to July 1, and to include the provisions contained in § 997.31(b) of the order dealing with independent grower qualifications.

Eligibility to vote for independent grower members and to serve as an independent grower member, as these relate to the districts, were discussed at length at the hearing. In view of the conflicting evidence of record as to what voting or eligibility-to-serve limitations should be established in connection with whether a grower lived in the same district in which his orchard was located, whether he had orchards located in more than one district or not, or whether an employee of a grower should be eligible to serve on the Board, no specific limitations should be set forth in the proposed order. Requirements as to eligibility for voting or serving as Board member in a particular district should be established by the Board to meet situations such as the foregoing.

Independent grower candidates from whom nominees are elected should continue to be obtained by the petition method set forth in § 997.32(b) of the order and also upon advice of county agents as now provided in § 997.432 of the Administrative Rules and Regulations under the order. However, since it may be necessary to change both of these methods or provide for additional methods in order to obtain a representative list of candidates for each grower member position, the proposed order should provide authority for the Secretary, on the basis of a Board recommendation, to establish other procedures as are provided in the order.

To conform with a later proposal herein to begin the term of office of Board members on August 1, the final date for submitting nominees to the Secretary should be changed from March 20 to June 1. This will provide a reasonable length of time prior to beginning the term of office in which the Secretary can select the nominees, and they can qualify. Similarly, the date for submitting the nominee for the ninth member position in the order should be changed from April 15 to July 1.

A new § 997.33 *Selection and term of office* should be included in the proposed order. This section should contain the provisions in § 997.31(a) of the order providing for selection of members and alternates by the Secretary either from among the nominees submitted or other qualified persons. A qualified person should be one who meets all the qualifications for the position for which he is selected, including, in the case of an independent grower member, any required district qualifications. This section should also establish the term of office for Board members of two years as heretofore discussed. The terms of office should begin on August 1 rather than the

first Monday after the first Tuesday in April in order to make them coincide with the fiscal year. In order to provide for the staggered terms of office for Board members as heretofore discussed, the term of office of one of each of the grower member positions specified in § 997.30 (d) and (e) and of the two handler member positions provided for in § 997.30 (a) and (b) of the proposed order should each expire in even-numbered years and all other terms of office should expire in odd-numbered years.

The intent of the proposed increase in the membership on the Board and establishment of independent grower districts is to improve representation on the Board. In furtherance of this intent it is desirable that, in the event of a major shift in representation such as occurs when the groups qualifying under proposed § 997.30 (c) and (f) during a fiscal year shift from cooperative to independent, or vice versa, in the succeeding fiscal year, all groups be placed in a position to exercise the fullest practicable degree of choice as to persons to represent them during the succeeding fiscal year. To achieve such freedom of choice, the term of office of all members and alternate members on the Board should expire to permit the nomination and selection of the successor membership to serve on the Board.

*Qualification* § 997.33 (997.34) should be amended by deleting the proviso at the end of the last sentence which is no longer necessary, since it referred only to the 1953-54 season.

*Alternates* § 997.34 and *Temporary substitutes* § 997.35, both of the order, should be amended by combining them into a new § 997.36 and deleting the reference in § 997.35 of the order to temporary substitutes. The use under the order of temporary substitutes who may be persons other than alternate members to serve at a meeting of the Board in place of an absent member whose alternate is also absent has never been exercised, and is not necessary. However, authority should be included in the proposed order for the Board to designate an alternate from the same group as the absent member to serve temporarily in place of such member.

*Vacancy* § 997.36 (997.35) should be amended by deleting the requirement that vacancies be filled within 30 days. The purpose of this change is to make it possible for the Board to carry out normal nominating procedures in case of a vacancy which may under certain circumstances require more than 30 days and to provide that a vacancy may be left vacant when it occurs near the end of a term or when for other reasons it is not deemed necessary to fill the vacancy until the next regular nominations are held. The procedures for filling a vacancy should continue to be the same as those provided in the order for initially nominating, selecting, and qualifying a member or alternate for such position.

*Expenses* § 997.37 and *Procedure* § 997.40 should be amended by including the substance of paragraph (a) of § 997.40 under § 997.39 *Duties*, in the proposed order, by transferring paragraph (d) of § 997.40 to § 997.90 in the

proposed order and by combining § 997.37 and the remainder of § 997.40 into a new § 997.37 *Procedure* in the proposed order.

In conformity with the previously discussed proposal to increase Board membership from seven to nine, the quorum requirement for an assembled meeting should be increased from five to seven members. This would retain approximately the same relationship of a quorum to the entire Board as is required at present. Similarly the requirement of a majority vote to pass Board actions should be increased to five, which would be a majority of the entire nine-member Board herein proposed. This would require more than a simple majority if only a quorum were present. However, it is desirable that any action of the Board require a majority approval of the entire Board in order that Board actions be carefully considered and broadly based. The prohibition in the order against casting votes at an assembled meeting by any method other than in person should be retained.

Provisions to vote by methods other than an assembled meeting should be continued and clarified to include mail, telephone, telegraph or other means of communication and to further provide that when votes are so taken, they shall be confirmed in writing. All actions so voted upon should continue to require the unanimous approval of the entire Board. This requirement, which has been adhered to in practice, is not entirely clear in the order, which states that one dissenting vote shall prevent adoption of a proposition voted upon other than at an assembled meeting. This provision is intended to accommodate the use of a mail vote for administrative matters that would not warrant the inconvenience and expense of an assembled meeting and other situations which might require a very rapid decision, thereby precluding the possibility of voting at an assembled meeting. Whenever such a vote is held, the Board manager should, on the basis of the individual circumstances, advise all Board members of a reasonable time in which the vote should be returned after which he would accept the vote of an alternate in the event that the member did not respond. In the event that neither a member nor his alternate is available to vote, an appropriate alternate's vote could be counted on the basis of the same criteria that are set forth in § 997.37 in the proposed order in connection with assembled meetings of the Board.

Payment of actual expenses of Board members attending meetings should be continued as at present. In addition, provision should be made for paying expenses of alternates to attend certain meetings even though they may not actually be serving in the place of a member. Use of this authority by the Board would encourage greater participation and better understanding of the Board's operations and the industry problems and should be helpful in disseminating program information to growers through both members and alternates in their localities who were thoroughly familiar with program operations. It would also provide a better

qualified alternate to serve in a member's place on occasions when the member is unable to serve. Authorization for alternates to attend a meeting on an expenses-paid basis should be issued by an executive committee of the Board or by the manager on authority of the entire Board.

*Duties* § 997.39 (997.39) should be amended by adding the substance of paragraph (a) of § 997.40 of the order to clarify the provisions of the order by including such duties under the general heading of "duties" rather than a part of the section on Board operating procedures. Similarly paragraph (b) of § 997.62 of the order should be included in the section on duties. The present requirement is for a complete report of the entire proceedings of the meeting at which marketing policy recommendations are made. In practice, such report has been made in the form of a verbatim report of that part of the meeting dealing directly with marketing policy and summarized minutes of the remainder of the meeting. Such procedure is satisfactory and should be continued and specifically recognized by providing in § 997.39 *Duties* of the proposed order that the Board shall furnish to the Secretary a verbatim report of the portion of the meeting dealing with marketing policy.

*Pack specifications and minimum standards* § 997.50 (997.45) should be amended to prescribe Oregon Grades and Standards for Filberts, rather than United States Standards, for inshell filberts, to delete the standards provided for small-sized filberts for export, and to provide authority for establishing a minimum standard for shelled filberts.

The reference to United States Standards referred to in the order was superseded on February 14, 1956 (21 F.R. 1005), when the provisions were changed to require the use of Oregon Standards. This amendatory action, therefore, will not constitute any change in the present requirements.

Under the provision of the order permitting export of small-sized filberts, only one shipment has taken place. This provision has not been used for several years, and it is not likely that it would be used in the future. However, in the event that it became desirable to provide for such shipments in the future, § 997.57 *Exemptions*, in the proposed order, would provide a basis for such disposition.

It was testified by the proponents that the Oregon Broken grade for shelled filberts with some modification could be used as the shelled filbert minimum standard of quality. No testimony was offered in support of authority to establish grade and size regulations of any kind above the minimum standard. In discussing the Oregon Broken grade as a minimum standard for shelled filberts, the proponents testified that such grade as now constituted in the Oregon Standards for Filbert Kernels or Shelled Filberts (1944) was not entirely satisfactory and should be modified and made more restrictive prior to being put into effect as a minimum standard. It was testified that the grade as now written was so liberal that it would not be effective in

eliminating low-grade shelled filberts from the market if it were used as a required minimum standard in its present form and that the expense of inspecting all shelled filberts against such grade would be disproportionate to the very small benefits that would be realized. Despite the lack of a satisfactory standard at this time, the industry recognizes the growing importance of the shelled-filbert market and favors authority to put a minimum quality requirement into operation at such time as the details of the requirement can be agreed upon and established. Therefore, authority should be included in the order for the Secretary on the basis of the Board recommendation to put minimum quality requirements into effect when appropriate.

Establishment of an appropriate minimum standard of quality for shelled filberts would tend to promote orderly marketing of shelled filberts since it would require that only acceptable quality filberts would be permitted to be handled, and consumers and users could depend on the quality of each shipment. Since there can be no assurance that a shipment of shelled filberts within the area of production would not eventually enter interstate trade, any such minimum standard should apply to all shelled filberts handled.

As in the proposed order, minimum standards for both inshell and shelled filberts should remain in effect during periods when season average filbert prices are over parity, as well as under parity, in order to maintain orderly marketing conditions as will be in the public interest and consumer acceptability of the product. Also, in years when prices are not determined to be above parity, authority should be continued in the proposed order for establishment and operation of additional grade and size regulations for inshell filberts, such as a more restrictive minimum standard or pack specifications as to grades and sizes that may be handled.

The provisions of § 997.51 *Certification of merchantable filberts and small-sized filberts for export* and § 997.52 *Copies of certificates* should be combined and amended to read as set forth in § 997.46 *Inspection and certification* in the proposed order to eliminate specific reference to the information to be shown on inspection certificates, to eliminate the reference to small-sized filberts for export, and to allow the use of other identification in addition to seals, stamps, or tags. In addition to these modifications, provisions should also be added to prohibit the removal or alteration of any identification of inspected filberts except as directed by the Board and to require reinspection prior to handling of any lot which the Board determines may have deteriorated due to time in storage or conditions of storage.

The identifying information required to be shown on inspection certificates is a normal requirement of the Federal-State Inspection Service. The required export information is not always available at the time of inspection, and information on container markings is not available on certificates referred to in the hearing record as "production cer-

tificates" (based on samples from other than the containers in which the filberts are handled). Since experience has shown that the specified information is not necessarily obtainable or appropriate in all cases, it should not specifically be stated in the section. It is intended that the Federal-State Inspection Service be free to provide any information necessary on inspection certificates to comply with State grading requirements and that the Board be free to request such information on certificates as is necessary to effectively perform its functions.

The requirement in the order that certified filberts be identified by seals, stamps, or tags is unnecessarily restrictive. Provision should be made for other types of identification such as handlers' code marks imprinted on containers or applied by automatic machinery. This may be particularly necessary at such time as regulations are imposed on shelled filberts.

It has been found necessary to require that inspection identification be changed only under the direction of the Board in order to maintain compliance with program requirements. Since experience has indicated that it is necessary for the Board to know when inspection identification has been altered or removed, such a requirement should be included in § 997.46 in the proposed order. Such a provision makes it possible for the Board to identify and account for filberts shipped and filberts withheld and also serves as an aid in checking compliance in the channels of trade.

Since the purpose of inspection requirements under the program is to assure that only filberts meeting the quality requirements are placed in the channels of trade, the Board should have authority to require reinspection of any lots of filberts which, in its opinion, have deteriorated in quality due to length of time in storage or conditions of storage (e.g. as a result of such things as fire, flood, or storage under unsuitable conditions). Thus, such filberts could not be handled until they had been reinspected and found to meet applicable quality requirements.

A new § 997.53 *Substandard filberts* should be included in the proposed order to authorize establishment of such reporting and disposition procedures as are necessary to insure that filberts which do not meet the inshell or shelled minimum grade and size requirements do not enter normal market outlets for certified filberts. As discussed in connection with § 997.13 in the proposed order, imposition of quality requirements for shelled filberts will result in a category of filberts which will not be permitted to be used in either inshell or shelled filbert outlets. When such regulations for shelled filberts are imposed, the Board should, with the approval of the Secretary, require such methods of disposition and such reporting as are necessary to insure compliance with program objectives.

The substance of § 997.53 *Filberts for packing or shelling*, which deals with interhandler transfers, should be retained in the proposed order, but should be included as part of § 997.56 *Interhandler*

transfers in the proposed order, as hereinafter discussed.

The provisions of § 997.60 *Salable and surplus percentages for merchantable filberts*, § 997.61 *Increase of salable percentage* and paragraph (a) of § 997.70 *Application of merchantable, salable, surplus, and withholding percentages and bonding rates after end of fiscal year* should be clarified and included in § 997.41 *Free and restricted percentages* in the proposed order. They should also be amended to require the establishment of percentages to be designated respectively as "free percentage" and "restricted percentage" rather than salable and surplus percentages as is required in the order.

The term "restricted percentage" should be used rather than the term "surplus percentage" as the word "surplus" carries a connotation that filberts in this category are surplus to all outlets. Actually, such filberts are restricted from use in the inshell market but are available for sale in other markets. It was testified that the salable percentage in the order, which is the difference between the surplus percentage and 100 percent, is not specifically needed as a tool of program operation and that no such term was necessary, although it would continue to be used in a general way. Since the term "salable percentage" has proven useful, a comparable term "free percentage" should be included in its place. The proposed term appropriately refers to the quantity of filberts that may be marketed without restriction and avoids the undesirable connotation that it refers to the only filberts that may be sold.

The specific requirement in the order that the Secretary must give consideration to certain factors in arriving at the salable and surplus percentages should be continued in the proposed order and clarified to more accurately describe such consideration. It is intended that the Secretary will consider the same information as is considered by the Board in making its recommendation as hereinafter discussed and also any other factors that may be appropriate at the time he makes his decision. The specific considerations contained in the order are incomplete.

The considerations used by the Secretary in reducing a restricted percentage within a fiscal year should be the same as the considerations on which the original restricted percentage for the year was based.

The February 15 final date by which the Secretary must make any reduction in the restricted percentage should be amended to place the limitation on the industry. The February 15 date should be retained as the last day on which the Board can make recommendations to the Secretary as to reduction in the restricted percentage. It is intended that the Secretary would act on any such recommendation as soon as practicable, and hence no time limitation should be placed on his action. The proposal made at the hearing to delete the provision in the order that two or more handlers who, during the preceding fis-

cal year, handled at least 10 percent of all filberts handled, may request a reduction in the restricted percentage, should not be adopted. The Secretary should have indication of a substantial interest in a change in percentages prior to instituting action thereon. This provision is included in § 997.40(b) in the proposed order.

*Estimated carryover, trade demand, and production* § 997.62 should be amended as set forth in § 997.40 in the proposed order without reference to August 20 as a final date by which recommendations must be made by the Board, to clarify the specific estimates to be included with the Board's recommendations, to refer to "free and restricted percentages" rather than "salable and surplus percentages," and to delete the requirement on reporting the proceedings of marketing policy meetings to the Secretary. The latter two items have heretofore been discussed in connection with amendment of § 997.60 and § 997.39, respectively.

In some years when the filbert crop has been late, inadequate information made it difficult for the Board to make well grounded recommendations as to marketing policy as early as August 20, which is the last date for holding a marketing policy meeting under the order. Although marketing policy meetings should be held as early as possible consistent with the availability of the necessary information on which such policy decisions must be based, there should not be a requirement that this meeting be held prior to any fixed date. The latest date for holding such a meeting should probably be September 20, following release of the September crop report, but in most years the meeting should be held at an earlier date when adequate information is available.

Adequate appraisal of filbert supply and demand has made it necessary for the Board to consider certain estimates in addition to those specifically set forth in the order in arriving at its marketing policy decisions. On the basis of experience, it is now possible to specifically set forth in the proposed order the estimates and recommendations that are necessary to arrive at a marketing policy. These should be: The Board's estimate of the quantity of inshell filberts to be produced during a year which are likely to be made available for inshell use; the Board's estimate of inshell handler carryover at the beginning of the year; the Board's recommendation as to the inshell handler carryover that should be provided for at the end of the year; and the Board's estimate of the trade demand for inshell filberts for the year, taking into consideration trade carryover at the beginning and end of the year, imports, prices, prospective shelled filbert market conditions, and any other factors that may affect inshell trade demand during such year. On the basis of the foregoing factors, the Board should recommend free and restricted percentages to the Secretary for each year. Adoption of these factors in the proposed order will reflect current practices and conform to other amendment proposals herein recommended.

A requirement should also be included that the Board review grade and size regulations in effect and make any recommendations that may be indicated by current market conditions. This requirement would insure consideration of whether currently effective minimum standards or pack specifications were appropriate for use in the season under consideration.

As previously discussed in connection with the recommended amendment of § 997.61, provision should be continued in the proposed order for the Board, or two or more handlers who during the preceding fiscal year handled at least 10 percent of all filberts handled, to recommend changes in the marketing policy at any time prior to February 15 of the fiscal year.

*Withholding percentage* § 997.63 should be deleted and § 997.64 *Withholding of merchantable surplus filberts* should be clarified and amended to read as set forth in § 997.50 *Restricted obligation* of the proposed order in order to specify in more detail the withholding requirements that experience has shown to be necessary.

Establishment of a withholding percentage by the Secretary has proven somewhat confusing to growers and handlers in the past. The practice of rounding the withholding percentage has resulted in a difference in a handler's withholding obligation when computed on the basis of the surplus percentage or the withholding percentage. Under the proposed order such differences would be avoided by basing all computations directly on the free and restricted percentages.

Section 997.64 should be revised for clarification and conformity with other proposals herein recommended. Reference should also be made to optional withholding of an equivalent quantity of ungraded in-shell filberts as provided for in § 997.51 of the proposed order, hereinafter discussed.

Specific provision should be included in the proposed order requiring that restricted filberts be held subject to examination by and accounting control of the Board until disposed of in the authorized manner. In practice the Board has found it necessary to maintain such controls of surplus filberts withheld and should have such authority expressly prescribed in the proposed order as a means of ensuring compliance with program requirements.

In operations under the order where the act of certification has been used as an indication of handling, it has been the basis for levying surplus obligations, and certification has been the only basis for assessments. Where the certification basis has been used and handlers have carried over certified merchantable filberts from one fiscal year to another, such filberts have been considered as handled for purposes of program obligations in the year in which they were certified. However, it has been Board policy to allow such handlers the option of "decertifying" such filberts at the end of the year if they had not, in fact, handled them and if they did not wish to

assume the program obligations of the year then ending. Thus it has been the practice to grant handlers an option as to whether certified merchantable filberts carried over from one year to the next should bear the program obligations of the year in which they were certified or the following year in which they were handled. This option should be continued. In order to avoid certain ambiguities associated with "decertification" and whether under various circumstances a complete reinspection of such filberts would be necessary, the option should not relate to the certification procedure. Therefore, specific provision should be included in the proposed order that a handler could declare his intention to handle certified merchantable filberts in a subsequent year and, upon such declaration, be relieved of applicable program obligations of the year in which the filberts were certified.

The substance of § 997.72 *Adjustments upon increase of merchantable salable percentage* should be included in § 997.50 of the proposed order together with specific authorization for the Board to establish such procedures as may be necessary to insure identification of the remaining filberts withheld.

A new § 997.51 *Restricted credit for ungraded filberts* should be included in the proposed order to provide a procedure whereby ungraded filberts could be set aside in lieu of certified merchantable filberts to satisfy a restricted obligation. Experience has shown that a substantial portion of the filberts withheld in the past have ultimately been shelled. This has been particularly true in large crop years when considerably more filberts were required to be withheld than could reasonably be disposed of in other than export outlets. It has been demonstrated that certain processing costs are incurred in grading filberts to meet the requirements for inshell certification and that these processing costs result in an unnecessary loss if such filberts are ultimately shelled. Therefore, lots of ungraded filberts of reasonably good quality which could be processed and graded to meet merchantable filbert requirements, should be eligible for use in satisfaction of a withholding obligation to the extent of the portion of such lots that could be certified.

To arrive at the certified merchantable equivalent weight (creditable weight) of such ungraded lots of filberts the weight of the lot should be reduced for crediting purposes by the total of the percentage of internal defects, the percentage of external defects in excess of 10 percent and the percentage of small sizes in excess of five percent. The purpose of these adjustments is to ensure that the quantity thus withheld would be at least equal to the quantity that would be required to be withheld if certified merchantable filberts were used. In order to facilitate proper weight determination and inspection, such filberts should also be required to meet the moisture requirements for certified merchantable filberts. Since such provisions are not intended to provide for crediting filberts which would not normally be of good enough quality to grade out for certified merchantable

use, no lot of filberts having a creditable weight of less than 50 percent of its total weight should be eligible for any credit since such lots would not normally be made merchantable in any event.

It will be necessary for such filberts withheld to be inspected to determine the creditable weight of filberts in a lot. Such inspection should be done at the handler's expense by the Federal-State Inspection Service, the agency performing the inspection service for merchantable filberts. While such ungraded filberts cannot be certified as meeting program requirements for handling as inshell filberts, it would be necessary that a certificate be issued to indicate the creditable weight of each lot that is to be applied against a restricted obligation.

It is anticipated that bulk handling techniques will be used for most such ungraded filberts withheld and it was implied by testimony at the hearing that it may be economical in practice to combine lots of such filberts after inspection into large holding bins awaiting shelling. It was also testified that a handler may wish to withdraw portions of such filberts withheld for grading and packing to meet inshell filbert market requirements. Such operations should be permitted only under such procedures as may be recommended by the Board and established by the Secretary to insure equitable handling of such situations, and that the handler's restricted obligation is satisfied and effective control of the ungraded filberts withheld.

The provisions of § 997.65 *Postponement of withholding of merchantable surplus upon filing bond*, § 997.66 *Disposition of sums collected through default on bonds*, § 997.67 *Collection upon bonds* and paragraph (b) of § 997.70 *Application of merchantable salable, surplus, and withholding percentages, and bonding rates, after end of fiscal year* should be amended by combining the substance thereof into § 997.54 *Deferment of restricted obligation* in the proposed order and further amended to extend the final date for deferment from December 31 to January 31, to increase the bonding rate from 95 to 100 percent of the opening price and to make such conforming changes as are necessary as a result of other proposals herein recommended.

The final date for deferring satisfaction of a restricted obligation by the bonding method should be extended from December 31 to January 31. This is desirable in order to facilitate any physical withholding that may be necessary by not requiring that it be done during the holiday seasons when inshell filbert sales are being completed and inventories are being taken by handlers in compliance with the January 1 reporting requirements of the program. Such extension of the date will also be helpful to the Board management in that January 1 inventory and sales information will then be available on which to ascertain the restricted obligation of each handler.

At the time of promulgation of the order the bonding rate determination was based on the price leader handling in excess of 50 percent of all filberts handled, and it was practical to permit the bonding rate to be 95 percent of his

opening price. Under present handler relationships, the bonding rate should be derived from prices of handlers in addition to the former price leader, and it is more appropriate in order to have sufficient funds to purchase filberts, that the bonding rate be based on 100 percent of the opening prices.

*Inter-handler transfers for merchantable surplus*, § 997.68, should be amended to specifically permit the transfer of filberts from one handler to another. Numerous inter-handler transfers of various types have occurred in the past and the Board has found it necessary to exercise a certain amount of surveillance and control of such transactions in order to properly discharge its responsibilities for program operations. To provide the needed control, § 997.68 should be amended as set forth in § 997.56 *Inter-handler transfers* of the proposed order.

Specific recognition should be given to inter-handler transfers of uncertified filberts for packing or shelling. Since it is not possible on ungraded filberts to determine the program obligations, the receiving handler should assume the responsibility for such compliance.

Under some circumstances, it is desirable for a handler to transfer restricted filberts to another handler for shelling, export or other authorized disposition. Provisions should be included for such transfers.

Certified merchantable filberts delivered by one handler to another would be considered handling (i.e. putting filberts into the channels of the trade) and thereby subject the transferring handler to program obligations. However, if both handlers agree in writing that the receiving handler shall assume such obligations, and documentary evidence of such agreement is furnished the Board, the obligations should be so transferred. This requirement should be applied to inshell filberts and also to shelled filberts at such time as the latter become subject to quality requirements.

In order to maintain effective surveillance and accounting for inter-handler transfers, the Board, with approval of the Secretary, should establish procedures, including necessary reports for such transfers, and all such transfers should be limited to the area of production.

*Assistance of Control Board in accounting for merchantable surplus* § 997.69 should be deleted. This section merely states that the Board may assist handlers in accounting for their surplus obligation in acquiring filberts with which to meet a deficiency or disposing of surplus filberts on condition that such a request is made in writing. As a practical matter, the Board does these things to the extent practicable upon request of the handler whether or not such a request is in writing. This section is not necessary and should be deleted.

*Exchange of merchantable surplus filberts* § 997.71 should be revised as set forth in § 997.55 in the proposed order to conform with other amendatory actions herein recommended. No change in its meaning or application is intended.

*Prohibition against handling of merchantable surplus* § 997.73 should be deleted, as the requirements set forth

therein are provided for in §§ 997.50 and 997.52 of the proposed order.

The provisions of § 997.74 *Disposition of merchantable surplus by export* and § 997.75 *Disposal of merchantable surplus for shelling* should be amended as set forth in § 997.52 *Disposition of restricted filberts* of the proposed order.

The provisions of § 997.74 of the order should be continued essentially in their present form except for conforming changes and deletion of the requirement in case of exports to Canada or Mexico that such filberts shall be sold only on the basis of the delivered price duty paid. Experience has shown that it is necessary to sell such filberts in Canada at the United States price levels in order to avoid the Canadian anti-dumping duty. The purpose of selling on the basis of delivered price duty paid was to require high enough pricing to prevent the filberts from being attracted to the United States market. This is not likely to occur if sales are at the domestic price. Deletion of this requirement is not intended to lessen the control exercised by the Board to insure that such filberts do not reenter the domestic market.

In view of the proposed inclusion of shellers within the definitions of "handler" and "to handle", most of the activities of shellers now covered under § 997.75 of the order will come under applicable provisions of the proposed Order. However, it is possible that certain shelling arrangements will be made in which it will not be possible to maintain accountability under the terms of the proposed Order. Hence, the Board should continue to require authorized sheller agreements such as provided in § 997.75 of the Order and such other control as may be necessary to insure proper disposition of restricted filberts.

The filbert industry is interested in developing new uses and new outlets for restricted filberts, and it is possible that disposition in such outlets may be necessary in the future. To accommodate such eventualities, provision should be made in § 997.52 in the proposed order for disposition in outlets in addition to shelling and export. Such other outlets should be designated by the Board on the basis of a finding that such outlets are not competitive with the normal domestic market outlets for inshell filberts. All such dispositions should be under the direction or supervision of the Board in order to insure compliance with program provisions.

A new § 997.57 *Exemptions* should be included in the proposed order to accommodate the handling of such quantities or types of shipment as the Board determines will not interfere with the volume and quality control objectives of the program. Under the order, a person who handles less than 250 pounds of filberts in any one year is not considered a handler during such year and is therefore not subject to the requirements of the program. It is herein proposed that all such activities be considered handling but that provision be made to authorize partial or complete exemption of small-quantity sales or shipments such as mail order. Many filbert growers sell small

quantities of filberts to retail stores and directly to consumers in a number of ways. In most cases such handlings do not interfere with program operations, and it has been found that they require bookkeeping and compliance attention far out of proportion to any benefits that might be gained by subjecting them to regulation.

Situations may arise in the future making it appropriate that substantial quantities of filberts be placed in non-competitive outlets such as for research or promotional use. In some such cases, the objectives of the program may not require that all of its provisions apply. Therefore, provision should be included to exempt such handling from any and all requirements under the proposed order.

The authority in the proposed order for such exemptions should be effected through such administrative rules as may be issued or approved by the Secretary on the basis of Board recommendations or other information that the exemptions will not interfere with the objectives of the program.

Should a need for exporting small-size inshell filberts arise in the future, it is intended that such shipments may be authorized under the exemption provisions of § 997.57 in the proposed order. Therefore, § 997.76 *Disposition of small-size filberts by export* should not be included in the proposed order.

*Reports of handler carryover of merchantable filberts* § 997.80 should be amended to delete the requirement that reports be made under oath, to include filberts presently covered by the reporting requirements of § 997.81(c) and to conform to other proposals herein recommended.

The requirement that such reports be made under oath is a burden to handlers without compensating benefit to the program and should therefore be deleted. However, since the requirement for accurate and complete reports continues under the proposed order, handlers should be required to certify to the Board and the Secretary that such reports are, to the best of their knowledge, accurate and complete. A similar certification is required by § 997.81 of the order.

The requirements of § 997.81(c) should be included along with reports of other filberts held by handlers as of August 1 and January 1 of each fiscal year. In practice it has not been necessary to require these reports any more often, and it is desirable that they be included on the aforementioned dates in order to give a complete picture of all filberts then held by handlers. Authority would be continued under § 997.67 in the proposed order to obtain this report at other times if needed.

*Reports of disposition of merchantable surplus*, § 997.81 except paragraph (c), thereof should be amended to conform with other proposals herein recommended. All of such requirements would be continued substantially as at present.

*Other reports* § 997.82 (997.68) should be amended to conform with other proposals herein recommended and retained in essentially its present form. Such modifications as are herein recommended

are not intended to constitute any change in the meaning or application of this section.

The record evidence on handling practices and associated reporting requirements indicates a need for a specific section authorizing the Board to require periodic reports from handlers of certified merchantable filberts shipped into the channels of trade during specified periods. It was testified that under present Board operating procedures, indications of filberts handled for purposes of determining withholding and assessment obligations are obtained in several different ways. Since proper application of volume regulations to filberts handled is an important part of the Board's operations, it is necessary that information on handling be available to the Board on a regularly recurring basis throughout the season. Testimony as to how this information is now obtained raises a question as to the adequacy of present methods. Therefore, to help insure that the Board is properly advised of all filberts handled on a regularly recurring basis so that program obligations can be properly met, periodic reports of filberts handled should be required as authorized in § 997.66 of the proposed order. The reporting requirements should be established through administrative rules rather than fixed in the proposed order because operating experience may make it desirable to change any periods that are initially established.

*Verification of reports* § 997.83 (997.69) should be amended in order to clarify its requirements and make it conform with other proposals herein recommended. No change in the meaning or application of these provisions is intended.

*Confidential information* § 997.84 (997.70) should be amended by deleting the last sentence thereof which authorizes disclosure of confidential information to the Board under certain circumstances. It was testified that the Board would be extremely reluctant to use this authority and that as a practical matter the Secretary would be in a much better position to resolve any problems of the Board involving confidential information. Therefore, this provision should not be included in the proposed order.

A new § 997.71 *Records* should be included in the proposed order continuing the record-keeping requirements in § 997.83 of the order and to specify that records be retained for a period of two years after the end of the fiscal year in which the recorded transactions took place. Such provision should authorize the Board to specify what records a handler must keep in order that meaningful audits of the handler's operations could be conducted. Retention for a period of two years should be sufficient for such purposes.

*Expenses* § 997.90 (997.60) should be amended to refer to an operating reserve and to delete the reference to August 20. Both of these changes are necessary to conform with other proposals herein recommended.

Establishment of an operating reserve, will make it necessary for the Board to consider it each year when recommend-

ing a budget of expenses to the Secretary. Therefore, reference to the size of the operating reserve should be included in § 997.60 in the proposed order along with the requirement that the Board recommend a budget of expenses for each fiscal year to the Secretary. The present reference to August 20 as the last day in which recommendations may be submitted to the Secretary is intended to correspond with the final date for making marketing policy recommendations. Deletion of such date in this section is necessary to conform with the comparable change heretofore recommended in connection with marketing policy recommendations. It is intended that the subject of budgets and expenses will continue as in the past to be dealt with at the same Board meeting at which marketing policy is considered.

*Assessments § 997.91 (997.61)* should be amended to delete the fixed assessment rate of two-tenths of a cent per pound; to levy assessments on filberts handled and withheld rather than filberts certified; to eliminate reference to assessments on small-sized filberts for export; and to levy assessments on the inshell equivalent of all certified shelled filberts handled when subject to grade regulation.

Experience has shown that use of the fixed assessment rate has not been compatible with the practical problems of program operation in that it has resulted in excessive sums being collected during large-crop years and insufficient sums being collected during short-crop years. Establishment of an operating reserve as hereinafter recommended may make it possible in future years to operate through a season at a lower assessment rate than that presently required. It is also possible that a higher assessment rate will be necessary as in the past. Therefore, authority should be provided for the Secretary to fix an assessment rate based on expenses and reserve requirements for the year and the quantity of filberts likely to be available for assessment.

In practice it has not been possible to levy assessments strictly on the basis of certifications due to the lack of correlation between time of certification and of handling caused by variations in the methods of operation of different handlers. While the intent is to continue, for administrative purposes, to levy obligations upon certification, the Board should not be bound to this as the only method and should be permitted to use other evidence of handling peculiar to the operation of a given handler. Therefore, the requirement in § 997.91 of the order that assessments be based on certifications should be amended to permit the use of other evidence of handling.

Assessment income has been derived from small-sized filberts exported on only one occasion since that provision was included in the order. In view of the insignificant income derived from such provision, it should be deleted.

In view of the provisions in § 997.51 in the proposed order heretofore recommended which authorize crediting cer-

tain portions of ungraded lots withheld in satisfaction of a restricted obligation and in order that assessments will continue to be levied on what is categorized as surplus in the order, assessments should be levied on the creditable weight of all such ungraded filberts withheld.

In the event that shelled filberts are brought under quality control requirements, program administrative costs will be incurred in their control. Under such circumstances assessments should be levied on shelled filberts, certified other than shelled filberts derived from restricted filberts, thereby avoiding double assessment. An equitable basis for sharing program expenses should be attained by applying the inshell filbert assessment rate to the inshell equivalent of shelled filberts certified. Since such inshell equivalent will be dependent on such factors as the quality requirements adopted and perhaps other factors such as crop considerations or varietal considerations, such equivalent should not be established in the order. The inshell equivalent should be established at the time quality regulations are put into effect and thereafter modified if necessary due to the effects of other factors on the shelling ratios.

A new § 977.62 *Accounting* should be included in the proposed order to provide for an operating reserve and to incorporate in modified form the present provisions of paragraphs (b) and (c) of § 997.91.

Past experience with excessive income in certain years and insufficient income in other years has demonstrated a need for the Board to have available an operating reserve fund which can be augmented in years of excessive income and drawn upon in years of insufficient income to meet Board expenses. It is anticipated that the maximum amount of such reserve funds that would be needed in a year would not exceed half of the Board's normal expenses. Therefore, the operating reserve fund should be limited insofar as is practical to an amount equivalent to one-half of the average annual operating expenses of the Board for the most recent five fiscal years as this would generally reflect the normal level of Board expenses.

The operating reserve fund would normally be used for such purposes as to defray expenses incurred during any fiscal year prior to the time assessment income is sufficient to cover such expenses, or to cover deficits during any fiscal year when assessment income is less than expenses. In general, operating reserve funds would be used for any authorized expenses when current income is not available for such expenses.

In operation the Board should determine at the beginning of each fiscal year whether its expenses should be met in part by a depletion in the operating reserve fund or whether assessments should be levied in part for the purposes of increasing the size of the operating reserve. Such decision would provide a basis for establishment of an appropriate assessment rate. Revisions in the financial plans, including management of the operating reserve, should be made whenever necessary.

The substance of § 997.91, paragraph (b), should be included as paragraph (b) of § 997.62 in the proposed order and amended to clarify that assessments paid by a handler in excess of his pro rata share of actual expenses for each fiscal year be refunded to him. The present wording on refunding the excess of assessment income over expenses on the basis of the proportion that the amount of the assessment paid by respective handlers bears to the total amount of assessments paid by all handlers is satisfactory only when all handlers have paid the exact amount of the assessments levied upon them. In instances where a handler may have overpaid or underpaid his assessment, the present wording does not clearly carry out the intent of the present provisions which contemplate that all handlers would have paid the assessments levied.

Following the 1957-58 season—the only season in which delinquent accounts remained uncollected at the end of the fiscal year—it was necessary, in order to carry out such intent and to conform with the requirements of the act relating to each handler's pro rata share of expenses, for the board to compute refunds on the basis of the excess each handler had paid as assessments over his pro rata share of expenses for such year rather than on the basis of the literal meaning of the language set forth in § 997.91(b) of the order. Under such language, it would appear that if a handler should pay only part of his total assessments, or less than his pro rata share of board expenses, he would nevertheless be entitled to receive a refund. In such an event, those handlers who had paid the full amount of their assessments would then receive smaller refunds than they would have received if all handlers had been refunded the respective amounts they had paid in excess of their pro rata shares of the board's expenses. Under the proposal, therefore, the matter of refunds would be clarified and each handler would receive that part of the excess to which he is entitled. This would not require any change in the present method of prorating refunds to handlers.

Establishment of an operating reserve fund as herein recommended may result in a substantial accumulation of funds at the time the program is terminated. Such reserve funds consist of individual handler's equities as a result of payments made by them and not expended. This equity should be preserved by providing that, to the extent practicable, such accumulated funds be returned on a pro rata basis to the persons from whom collected in the event of termination of the program.

A new § 997.90 *Right of the Secretary* should be included in the proposed order as a more appropriate location for the provisions of present paragraph (d) of § 997.40 of the order. This is a provision relating generally to operations of the program similar to others now contained under the general heading of miscellaneous provisions. This relocation does not constitute a change in the meaning or application of the provisions.

Section 997.101 *Effect of termination or amendment* should be amended to provide that all rules and regulations issued or approved by the Secretary pursuant to this part and in effect immediately prior to this amendment of this subpart should continue in effect under this subpart unless and until they are modified or suspended in accordance with its provisions. The purpose of this provision is to provide for continuation of program operations not specifically affected by this amendment action after the proposed order becomes effective.

The proposals for amendment heretofore recommended will make it necessary to make certain minor conforming changes in sections not specifically discussed in connection with the proposals and will also make it desirable to renumber most sections and rearrange some sections to achieve continuity and orderly arrangement of the provisions as proposed to be amended. All such changes should be incorporated in the proposed Order.

*Ruling on proposed findings and conclusions.* At the conclusion of the hearing, the presiding officer set March 9, 1959, as the time by which proposed findings and conclusions, and written arguments and briefs from interested parties with respect to testimony presented in evidence at the hearing must be filed with the Hearing Clerk, United States Department of Agriculture. No such material was filed.

*General findings.* (1) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, regulate the handling of filberts (inshell and shelled) grown in Oregon and Washington, in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, are limited in their application to the smallest regional production area that is practicable consistently with carrying out the declared policy of the act;

(4) There are no differences in the production and marketing of filberts (inshell and shelled) in the area of production covered by the marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, which make necessary different terms or provisions applicable to different parts of such area; and

(5) All handling of filberts (inshell and shelled) grown in the designated area of production is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

*Recommended amendment of the amended marketing agreement and order.* The following amended marketing agreement<sup>1</sup> and order are recommended as the appropriate means by which the foregoing conclusions may be carried out:

### Subpart—Order Regulating Handling

#### DEFINITIONS

##### § 997.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

##### § 997.2 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 (7 U.S.C. 601 et seq.; 48 Stat. 31, as amended).

##### § 997.3 Person.

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

##### § 997.4 Filberts.

"Filberts" means filberts or hazelnuts produced in the States of Oregon and Washington from trees of the genus *Corylus*.

##### § 997.5 Area of production.

"Area of production" means the States of Oregon and Washington.

##### § 997.6 Grower.

"Grower" is synonymous with "producer" and means any person engaged, in a proprietary capacity, in the commercial production of filberts.

##### § 997.7 To handle.

"To handle" means to sell, consign, transport or ship (except as a common carrier of filberts owned by another person), or in any other way to put filberts, inshell or shelled, into the channels of trade either within the area of production or from such area to points outside thereof: *Provided*, That sales or deliveries by growers to handlers within the area of production or authorized disposition of restricted filberts and substandard filberts shall not be considered as handling.

##### § 997.8 Handler.

"Handler" means any person who handles filberts.

##### § 997.9 Cooperative handler.

"Cooperative handler" means any handler which is a cooperative marketing association of growers regardless of where or under what laws it may be organized.

##### § 997.10 Independent handler.

"Independent handler" means a handler who is not a cooperative handler.

<sup>1</sup> The provisions identified with an asterisk apply only to the proposed amended marketing agreement.

##### § 997.11 Pack.

"Pack" means a specific commercial classification according to size, internal quality, and external appearance and condition of filberts packed in accordance with any of the pack specifications prescribed pursuant to § 997.45.

##### § 997.12 Merchantable filberts.

"Merchantable filberts" means inshell filberts that meet the grade and size regulations in effect pursuant to § 997.45 and are likely to be available for handling as inshell filberts.

##### § 997.13 Substandard filberts.

"Substandard filberts" means filberts, inshell or shelled, that do not meet the minimum standards effective pursuant to § 997.45.

##### § 997.14 Restricted filberts.

"Restricted filberts" means inshell filberts withheld in satisfaction of a restricted obligation.

##### § 997.15 Inshell handler carryover.

"Inshell handler carryover" as of any given date means all inshell filberts (except restricted filberts) wherever located then held by handlers or for their accounts, whether or not sold, including certified merchantable filberts and the estimated merchantable content of those uncertified filberts then held by handlers which are intended for handling as inshell filberts.

##### § 997.16 Inshell trade demand.

"Inshell trade demand" means the quantity of inshell filberts acquired by the trade from all handlers during a fiscal year for distribution in the Continental United States.

##### § 997.17 Fiscal year.

"Fiscal year" means the 12 months from August 1 to the following July 31, both inclusive.

##### § 997.18 Board.

"Board" means the Filbert Control Board established pursuant to § 997.30.

##### § 997.19 Part and subpart.

"Part" means the order, as amended, regulating the handling of filberts grown in Oregon and Washington, and all rules, regulations, and supplementary orders issued thereunder. This order, as amended, regulating the handling of filberts grown in Oregon and Washington shall be a "subpart" of such part.

#### FILBERT CONTROL BOARD

##### § 997.30 Establishment and membership.

There is hereby established a Filbert Control Board consisting of nine members, each of whom shall have an alternate. The nine member positions shall be allocated as follows:

(a) One handler member to represent cooperative handlers;

(b) One handler member to represent independent handlers;

(c) One handler member to represent cooperative handlers or independent handlers, whichever group of such handlers handled more than 50 percent of

the filberts handled by all handlers during the fiscal year preceding the fiscal year in which nominations are made;

(d) Two grower members to represent cooperative growers (i.e., growers, whose filberts are handled through cooperative handlers);

(e) Two grower members to represent independent growers (i.e., growers whose filberts are handled through independent handlers);

(f) One grower member to represent growers whose filberts are handled through cooperative handlers or independent handlers whichever group of such handlers handled more than 50 percent of the filberts handled by all handlers during the fiscal year preceding the fiscal year in which nominations are made;

(g) One member who is neither a grower nor a handler.

#### § 997.31 Independent grower districts.

(a) Whenever the grower member provided in § 997.30(f) is to represent independent growers, one independent grower member and his alternate shall be nominated and selected from each of the following districts, except as may be otherwise provided pursuant to paragraph (b) of this section:

(1) District No. 1—The State of Washington, and Multnomah and Washington Counties in Oregon.

(2) District No. 2—Clackamas, Marion and Yamhill Counties in Oregon.

(3) District No. 3—Benton, Lane, Linn, Polk and all other Counties in Oregon except those included in District No. 1 and District No. 2.

(b) Whenever, pursuant to § 997.30(f) the grower member is not to represent independent growers, or the districts as established pursuant to paragraph (a) of this section fail to provide equitable representation to such independent growers, the Secretary, on the basis of a recommendation of the Board or other information, may establish different districts within the production area. In recommending any changes in districts, the Board shall consider shifts in filbert acreage within and among the districts, and other relevant factors.

#### § 997.32 Nomination.

(a) Nominees shall be chosen for the respective member and alternate member positions specified in § 997.30 (a) through (g) by such groups.

(b) Nominations for each handler group shall be submitted on the basis of ballots to be mailed by the Board to all handlers in such group.

(c) Nominations on behalf of growers who market their filberts through cooperative handlers shall be submitted on the basis of ballots cast by each cooperative handler for its grower patrons.

(d) Nominations on behalf of independent growers shall be submitted after balloting by such growers conducted as follows: Names of the grower candidates to accompany the ballot shall be submitted to the Board each fiscal year on petitions signed by not less than 10 independent growers who are of record with the Board; each grower may sign only as many petitions as there are per-

sons to be nominated and whenever such petitions fail to result in submission of two names for each position to be filled, the Board shall request all County Agricultural Agents in filbert producing counties which produced at least 10 percent of the total filbert production during the preceding fiscal year to recommend an eligible grower for each position to be included on the ballot. Ballots, accompanied by the names of all such candidates together with instructions, shall be mailed to all independent growers who are of record with the Board; each ballot shall contain appropriate blank spaces for the voter to indicate his choice for each member position and for each alternate member position which is to be filled. The eligible person receiving the highest number of votes for a particular position shall be the nominee for that position, except that, in case of a tie, the names of the tied candidates shall be submitted. If the Secretary determines that this procedure is unsatisfactory to independent growers because it is too difficult or costly to administer, it does not result in the names of a sufficient number of eligible candidates being submitted with the ballots, or it should be changed for other reasons, he may change this procedure through the formulation and issuance of superseding regulations.

(e) All votes cast by cooperative handlers, independent handlers or for cooperative growers, shall be weighted according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulation are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each such handler or cooperative grower group during the preceding fiscal year, and if less than one ton is recorded for any such handler or cooperative grower group, the vote shall be weighted as one vote. All votes cast by independent growers shall be given equal weight. Nominations received in the foregoing manner by the Board shall be reported to the Secretary by June 1 of each fiscal year, together with a certificate of all necessary data and other information deemed by the Board to be pertinent or requested by the Secretary. If such nominations of any group are not submitted as hereinbefore provided to the Secretary on or before that date, the Secretary may select the representatives of that group without nomination.

(f) Nominees for the member and alternate member positions specified in § 997.30(g) shall be chosen by the other eight members who are to serve on the Board during the ensuing fiscal year. If nominations for such member or alternate are not submitted by July 1 of any year, the Secretary may select such member or alternate without nomination.

(g) No independent grower who during the then current fiscal year handled any filberts other than of his own production may vote for or be a nominee to represent independent growers on the Board nor may he be any such nominee

if during such fiscal year he was employed by a filbert handler.

#### § 997.33 Selection and term of office.

(a) *Selection.* Members and their respective alternates shall be selected by the Secretary from nominees submitted by the Board or from among other qualified persons.

(b) *Term of office.* (1) The term of office of each member and alternate member shall be two years beginning August 1, except that (i) the terms of office of one of the grower members and his alternate member specified in § 997.30(d), one of the grower members and his alternate member specified in § 997.30(e), and the handler members and alternate members specified in § 997.30(a) and (b) shall expire on July 31 of the first even-numbered year following the year of selection, and the terms of office of all other members and alternate members shall expire on July 31 of the first odd-numbered year following the year of selection; (ii) if the representation on the Board in an ensuing fiscal year will, by reason of change in representation pursuant to § 997.30(c) and (f), be different from that in the current fiscal year, the terms of office of all grower and handler members and alternate members holding office in the current fiscal year shall expire at the end of the current fiscal year and successor members and alternate members shall be nominated and selected in conformance with §§ 997.30 and 997.33; (iii) if the districts for independent grower representation in an ensuing fiscal year will be different from that in the current fiscal year, the terms of office of all independent grower members and alternate members specified in § 997.30(e) and (f) shall expire on July 31 of the current fiscal year and persons nominated to succeed them shall be nominated and selected so as to conform with such changed representation.

(2) Members and alternate members shall serve for the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified.

#### § 997.34 Qualification.

Any person selected to serve as a member or an alternate of the Board shall qualify by filing with the Secretary a written acceptance of his appointment. Any member or alternate member who at the time of his selection was a member or employed by a member of the group which nominated him shall, upon ceasing to be such a member or employee, become disqualified to serve further and his position on the Board shall be deemed vacant. In the event any member or alternate member of the Board qualified and selected, in accordance with the provisions of §§ 997.30 and 997.32, to represent independent growers should, during his term of office, handle filberts produced by other growers, or become an employee of a handler, his position on the Board shall thereupon be deemed to be vacant.

#### § 997.35 Vacancy.

To fill any vacancy occasioned by the death, removal, resignation, or disquali-

fication of any member or alternate of the Board, a successor for his unexpired term shall be nominated and selected in the manner provided in §§ 997.32 and 997.33, so far as applicable, unless selection is deemed unnecessary by the Secretary.

#### § 997.36 Alternates.

(a) An alternate for a member of the Board shall act in the place of such member in his absence, and in the event of his death, removal, resignation or disqualification, until a successor for his unexpired term has been selected and has qualified.

(b) If a member of the Board and his alternate are unable to attend a Board meeting, the Board may designate any other alternate from the group in § 997.30 represented by such absent member to serve in the member's place. For purposes of this section the cooperative handler group and cooperative grower group shall be considered as one group.

#### § 997.37 Procedure.

(a) Seven members of the Board shall constitute a quorum at an assembled meeting of the Board, and any action of the Board shall require the concurring vote of at least five members. At any assembled meeting all votes shall be cast in person.

(b) The Board may vote by mail, telephone, telegraph, or other means of communication: *Provided*, That any votes (except mail votes) so cast shall be confirmed in writing. When any proposition is submitted for voting by any such method its adoption shall require nine concurring votes.

(c) The members of the Board and their alternates shall serve without compensation, but members and alternates acting as members shall be allowed their necessary expenses: *Provided*, That the Board may request the attendance of one or more alternates not acting as members at any meeting of the Board, and such alternates may be allowed their necessary expenses.

#### § 997.38 Powers.

The Board shall have the following powers:

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

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

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

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

#### § 997.39 Duties.

The Board shall have among others the following duties: (a) to select from among its members such officers and adopt rules or bylaws for the conduct of its meetings as it deems advisable;

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

(c) To keep minute books and records which will clearly reflect all of its acts and transactions, and such books and records shall be available for examination by the Secretary at any time;

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

(e) To appoint such employees as it deems necessary and determine the salaries, define the duties and fix the bonds of such employees;

(f) To cause the books of the Board to be audited by one or more competent public accountants at least once for each fiscal year and at such other times as the Board deems necessary or as the Secretary may request, and to file with the Secretary three copies of the reports of all audits made;

(g) To investigate the growing, shipping and marketing conditions with respect to filberts, and assemble data in connection therewith;

(h) To give the Secretary the same notice of the meetings of the Board as is given to its members; and

(i) To furnish to the Secretary a verbatim report of the proceedings of each meeting of the Board held for the purpose of making marketing policy recommendations.

#### MARKETING POLICY

#### § 997.40 Board's estimates and recommendations.

(a) Each fiscal year, prior to the time the new crop filberts are available for handling, the Board shall hold a meeting for the purpose of recommending to the Secretary a marketing policy for such year. Such recommendation shall include the following:

(1) *Inshell allocation.* (i) The Board's estimate of the quantity of merchantable filberts to be produced during such year;

(ii) The Board's estimate of the inshell handler carryover of filberts on August 1 of such year, segregated as to the quantity subject to regulation and not subject to regulation;

(iii) The Board's recommendation for inshell handler carryover of filberts on July 31 of such year which may be available for handling as inshell filberts thereafter;

(iv) The Board's estimate of the inshell trade demand for filberts for such year, taking into consideration trade carryover at the beginning and end of the year, imports, prices, prospective shelled filbert market conditions and other factors affecting inshell trade demand during such year; and

(v) The board's recommendation as to the free and restricted percentages to be established for such year.

(2) *Grade and size regulations.* The Board shall review the grade and size regulations in effect and may recommend modifications thereof.

(b) *Revisions.* At any time prior to February 15 of each fiscal year the Board, or two or more handlers who during the preceding fiscal year handled at least 10 percent of all filberts handled, may recommend to the Secretary revisions in the marketing policy for such year.

#### § 997.41 Free and restricted percentages.

Whenever the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of merchantable filberts which

may be handled during a fiscal year would tend to effectuate the declared policy of the act, he shall establish a free percentage to prescribe the portion of such filberts which may be handled as inshell filberts and a restricted percentage to prescribe the portion that must be withheld from such handling. In establishing such percentages the Secretary shall consider the ratio of (a) the sum of estimated inshell trade demand and the inshell handler carryover at the end of the year, less that portion of the inshell handler carryover at the beginning of the year not subject to regulation, to (b) the estimated supply of merchantable filberts subject to regulation and other relevant factors. In the same manner the free percentage may be increased and the restricted percentage may be decreased by the Secretary, and such revised percentages shall remain in effect until superseded. Until free and restricted percentages are established by the Secretary for a fiscal year, the percentages in effect at the end of the previous year shall be applicable.

#### GRADE AND SIZE REGULATION

#### § 997.45 Establishment of grade and size regulations.

(a) *Minimum standards.* No handler shall handle any inshell or shelled filberts unless such inshell filberts meet requirements of Oregon No. 1 grade and medium size (as defined in the Oregon Grades and Standards for Walnuts and Filberts), and such shelled filberts meet such requirements as are established by the Secretary on the basis of a recommendation of the Board, except as may be otherwise provided in § 997.57. These minimum standards may be modified by the Secretary on the basis of a recommendation of the Board or other information whenever he finds that such modification would tend to effectuate the declared policy of the act. Such minimum standards and the provisions of this part relating to the administration thereof shall continue in effect irrespective of whether the season average price of filberts is above the parity level specified in section 2(1) of the act.

(b) *Additional grade and size regulations.* When the season average price of filberts is not determined to be above parity, the Secretary may establish additional grade and size regulations for inshell filberts in the form of a more restrictive minimum standard than that specified in paragraph (a) of this section, or pack specifications as to grades and sizes that may be handled, if he finds, on the basis of a recommendation of the Board or other information, that such regulations would tend to effectuate the declared policy of the act.

#### § 997.46 Inspection and certification.

(a) Before or upon handling any filberts, or before any inshell filberts are credited (pursuant to § 997.50 or § 997.51) in satisfaction of a restricted obligation, each handler shall, at his own expense, cause such filberts to be inspected and certified by the Federal-State Inspection Service as meeting the then effective grade and size regulations or, if inshell filberts are withheld pur-

suant to § 997.51, the requirements specified therein. The handler obtaining such inspection of filberts shall cause a copy of the certificate issued by such inspection service applicable to such filberts to be furnished to the Board.

(b) All filberts so inspected and certified shall be identified by seals, stamps, tags or other identification prescribed by the Board. Such identification shall be affixed to the filbert containers by the handler under direction and supervision of the Board or the Federal-State Inspection Service, and shall not be removed or altered by any person except as directed by the Board.

(c) Whenever the Board determines that the length of time in storage and conditions of storage of any lot of certified merchantable filberts have been or are such as to normally cause deterioration, it may require that such lot of filberts be reinspected at the handler's expense prior to handling.

#### CONTROL OF DISTRIBUTION

##### § 997.50 Restricted obligation.

(a) No handler shall handle inshell filberts unless prior to or upon shipment thereof, he (1) has withheld from handling a quantity, by weight, of certified merchantable filberts determined by dividing the quantity handled or to be handled by the free percentage and multiplying the quotient by the restricted percentage or (2) has withheld from handling an equivalent quantity of creditable ungraded inshell filberts pursuant to § 997.51: *Provided*, That such withholding may be temporarily deferred pursuant to the bonding provisions in § 997.54. The quantity of filberts so required to be withheld shall be the restricted obligation. Certified merchantable filberts handled in accordance with the provisions of this subpart shall be deemed to be such handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

(b) Inshell filberts withheld by a handler in satisfaction of his restricted obligation shall not be handled and shall be held by him subject to examination by, and accounting control of, the Board until disposed of pursuant to this part.

(c) Any handler with certified merchantable filberts on which the restricted and assessment obligations are levied may, prior to the close of a fiscal year, declare in writing to the Board his intention to handle them in the subsequent fiscal year. Upon such declaration and his not handling the filberts during the then current fiscal year, he shall be relieved of such obligations of the current fiscal year and shall be subject to the obligations of the subsequent fiscal year.

(d) Whenever the restricted percentage for a fiscal year is reduced, each handler's restricted obligation shall be reduced to conform with the new restricted percentage. Any handler who, upon such reduction, is withholding restricted filberts in excess of his new restricted obligation may have the excess freed from withholding by complying with such procedures as the Board may require to insure identification of the remaining filberts withheld.

##### § 997.51 Restricted credit for ungraded filberts.

A handler may withhold ungraded filberts in lieu of certified merchantable filberts in satisfaction of his restricted obligation, and the weight on which credit may be received shall be the total weight less the cumulative total percentage, by weight, of (a) all internal defects, (b) all external defects in excess of 10 percent and (c) all small-sized filberts in excess of five percent (as defined in the Oregon Grades and Standards for Walnuts and Filberts); *Provided*, That any lot of ungraded filberts having a creditable weight of less than 50 percent of its total weight, or not meeting the moisture requirements for certified merchantable filberts shall not be eligible for credit. All such determination as to defects and small-sized filberts shall be made by the Federal-State Inspection Service at the handler's expense. Filberts so withheld shall be subject to the applicable requirements of § 997.50. The provisions of this section may be modified by the Secretary on the basis of a recommendation of the Board or other information.

##### § 997.52 Disposition of restricted filberts.

Filberts withheld from handling as inshell filberts pursuant to §§ 997.50 and 997.51 may be disposed of as follows:

(a) *Shelling*. Any handler may dispose of such filberts by shelling them under the direction or supervision of the Board or by delivering them to an authorized sheller. Any person who desires to become an authorized sheller in any fiscal year may submit a written application during such year to the Board. Such application shall be granted only upon condition that the applicant agrees:

(1) To use such restricted filberts as he may receive for no purpose other than shelling;

(2) To dispose of or deliver such restricted filberts, as inshell filberts, to no one other than another authorized sheller;

(3) To comply fully with all laws and regulations applicable to the shelling of filberts; and

(4) To make such reports, certified to the Board and to the Secretary as to their correctness, as the Board may require.

(b) *Export*. Sales of certified merchantable restricted filberts for shipment or export to destinations outside the Continental United States shall be made only by the Board. Any handler desiring to export any part or all of his certified merchantable restricted filberts shall deliver to the Board the certified merchantable restricted filberts to be exported, but the Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any filberts so delivered for export which the Board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the Board only on execution of an agreement to prevent reimportation into the Continental United States. A handler may be permitted to act as

agent of the Board, upon such terms and conditions as the Board may specify, in negotiating export sales, and when so acting shall be entitled to receive a selling commission of five percent of the export sales price, f.o.b. area of production. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose certified merchantable restricted filberts are so sold by the Board.

(c) *Other outlets*. In addition to the dispositions authorized in paragraphs (a) and (b) of this section, the Board may designate such other outlets into which such filberts may be disposed, which it determines are noncompetitive with normal market outlets for inshell filberts. Such dispositions shall be made under the direction or supervision of the Board.

##### § 997.53 Substandard filberts.

The Board shall, with the approval of the Secretary, establish such reporting and disposition procedures as it deems necessary to insure that filberts which do not meet the effective inshell or shelled filbert minimum standards do not enter normal market outlets for certified filberts.

##### § 997.54 Deferment of restricted obligation.

(a) *Bonding*. Compliance by any handler with the requirements of § 997.50 as to the time when restricted filberts shall be withheld shall be temporarily deferred to any date desired by the handler, but not later than January 31 of the fiscal year, upon the voluntary execution and delivery by such handler to the Board, before he handles any merchantable filberts of such fiscal year, of a written undertaking, secured by a bond or bonds with a surety or sureties acceptable to the Board, that on or prior to such date he will have fully satisfied his restricted obligation required by § 997.50.

(b) *Bonding requirement*. Such bond or bonds shall, at all times during their effective period, be in such amounts that the aggregate thereof shall be no less than the total bonding value of the handler's deferred restricted obligation. The bonding value shall be the deferred restricted obligation pounce bearing the lowest bonding rate or rates, which could have been selected from the packs handled or certified for handling, multiplied by the applicable bonding rate. The cost of such bond or bonds shall be borne by the handler filing same.

(c) *Bonding rate*. Said bonding rate for each pack shall be an amount per pound representing the season's domestic price for such pack net to handler f.o.b. shipping point which shall be computed at the opening price for such pack announced by the handler or handlers who during the preceding fiscal year handled more than 50 percent of the merchantable filberts handled by all handlers. Such handler or handlers shall be selected in order of volume handled in the preceding fiscal year, using the minimum number of handlers to represent a volume of more than 50 percent of the total volume handled. If such opening prices

involve different prices announced by two or more handlers for respective packs, the prices so announced shall be averaged on the basis of the quantity of such packs handled during the preceding fiscal year by each such handler.

(d) *Filbert purchases.* Any sums collected through default of a handler on his bond shall be used by the Board to purchase from handlers, as provided in this paragraph, a quantity of certified merchantable filberts on which the restricted obligation has been met, not to exceed the total quantity represented by the sums collected. The Board shall at all times purchase the lowest priced packs offered, and the purchases shall be made from the various handlers as nearly as practicable in proportion to the quantity of their respective offerings of the pack or packs to be purchased.

(e) *Unexpended sums.* Any unexpended sums, which have been collected by the Board through default of a handler on his bond, remaining in the possession of the Board at the end of a fiscal year shall be used to reimburse the Board for its expenses, including administrative and other costs incurred in the collection of such sums, and in the purchase of filberts as provided in paragraph (d) of this section. Any balance remaining after reimbursement of such expenses shall be distributed among all handlers in proportion to the quantity of certified merchantable filberts handled by them during the fiscal year in which the default occurred.

(f) *Transfer of filbert purchases.* Filberts purchased as provided in this section shall be turned over to those handlers who have defaulted on their bonds, for disposal by them as restricted filberts. The quantity delivered to each handler shall be that quantity represented by the sums collected through default, and the different grades, if any, shall be apportioned among the various handlers on the basis of the ratio of the quantity of filberts to be delivered to each handler to the total quantity purchased by the Board with bonding funds.

(g) *Collection upon bonds.* Collection upon any defaulted bond shall be deemed a satisfaction of the restricted obligation represented by the collection.

#### § 997.55 Exchange of certified merchantable filberts withheld.

Any handler who has withheld from handling certified merchantable filberts pursuant to the requirements of § 997.50 may exchange therefor an equal quantity, by weight, of other certified merchantable filberts. Any such exchange shall be made under the direction or supervision of the Board.

#### § 997.56 Interhandler transfers.

Within the area of production, interhandler transfers of filberts may be made as follows:

(a) Uncertified inshell filberts may be sold or delivered by one handler to another for packing or shelling, and the receiving handler shall be responsible for compliance with the regulations effective pursuant to this part with respect to such filberts.

(b) Restricted filberts withheld by a handler may be sold or delivered to another handler for shelling, export, or other authorized outlet subject to the disposition requirements set forth in § 997.52.

(c) Certified filberts other than restricted filberts may be sold or delivered by one handler to another and the transferring handler shall be responsible for compliance with the requirements effective pursuant to this part, unless specified and agreed upon in writing by both handlers that the receiving handler shall be responsible for such compliance and a copy of such agreement is furnished to the Board.

(d) The Board, with the approval of the Secretary, shall establish procedures, including necessary reports, for such transfers.

#### § 997.57 Exemptions.

The Board, with the approval of the Secretary, may exempt from any or all requirements pursuant to this part such quantities of filberts or types of shipment as do not interfere with the volume and quality control objectives of this part, and shall require such reports, certifications or other conditions as are necessary to ensure that such filberts are handled or used only as authorized.

#### EXPENSES AND ASSESSMENTS

#### § 997.60 Expenses.

The Board is authorized to incur such expenses including maintenance of an operating reserve fund as the Secretary may find are reasonable and likely to be incurred by it during each fiscal year, for the maintenance and functioning of the Board and for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the Board as to the expenses and size of the operating reserve for each such fiscal year, together with all data supporting such recommendations, shall be submitted to the Secretary at the beginning of the fiscal year in connection with which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as provided in § 997.61.

#### § 997.61 Assessments.

For each fiscal year, the Secretary shall fix an assessment rate per pound of filberts handled and withheld, including the creditable weight of ungraded restricted filberts withheld pursuant to § 997.51 and, when subject to regulation pursuant to § 997.45, the inshell equivalent of shelled filberts certified which are produced from other than restricted filberts, that will provide sufficient funds to meet the authorized expenses and reserve requirements of the Board. At any time during or after a fiscal year when he determines, on the basis of a Board recommendation or other information, that a different rate is necessary, the Secretary may modify the assessment rate and the new rate shall be applicable to all such filberts. Each handler shall pay to the Board on demand, assessments on all such assessable filberts at the rate fixed by the Secretary.

#### § 997.62 Accounting.

(a) *Operating reserve.* The Board, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve in an amount not to exceed 50 percent of the average fiscal year Board expenses for the most recent five preceding fiscal years. Funds in such reserve shall be available for use by the Board for expenses authorized pursuant to § 997.60.

(b) *Refunds.* At the end of a fiscal year, funds in excess of the fiscal year's expenses and reserve requirements shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of expenses of the Board. However, excess funds may be used by the Board for a period of 4 months subsequent to the fiscal year; but within 5 months from the beginning of the subsequent fiscal year the Board shall refund to each handler upon request, or credit to his account with the Board, his share of such excess.

(c) *Termination.* Upon termination of this subpart any money remaining unexpended in possession of the Board shall be distributed in such manner as the Secretary may direct; *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

#### RECORDS AND REPORTS

#### § 997.65 Carryover reports.

On or before January 15 and August 5 of each year each handler shall report to the Board his inventory of inshell and shelled filberts as of January 1 and August 1 respectively of such year. Such reports shall be certified to the Board and the Secretary as to their accuracy and completeness and shall show, among other items, the following: (a) Certified merchantable filberts on which the restricted obligation has been met; (b) merchantable filberts on which the restricted obligation has not been met; (c) the merchantable equivalent of any filberts intended for handling as inshell filberts; and (d) restricted filberts withheld.

#### § 997.66 Shipment reports.

Each handler shall report to the Board the respective quantities of inshell and shelled filberts handled by him during such periods and in such manner as are prescribed by the Board with the approval of the Secretary.

#### § 997.67 Reports of disposition of restricted filberts.

(a) Each handler, before he disposes of any quantity of restricted filberts held by him, shall file with the Board a report of his intention to dispose of such quantity of restricted filberts. This report shall be filed not less than five days prior to the date on which the restricted filberts are disposed of, unless the five-day period is expressly waived by the Board.

(b) Each handler, within 15 days after the disposition of any quantity of restricted filberts, shall file with the Board

a report of the actual disposition of such quantity of restricted filberts. Such reports shall be certified to the Board and to the Secretary as to their correctness and accuracy.

(c) All reports required by this section shall show the quantity, pack, and location of the filberts covered by such reports; the applicable handler's storage lot and inspection certificate numbers; and the disposition of the restricted filberts which is intended or which has been accomplished.

#### § 997.68 Other reports.

Each handler shall furnish to the Board such other reports as the Board, with the approval of the Secretary, may require to enable it to exercise its powers and to perform its duties.

#### § 997.69 Verification of reports.

For the purpose of checking and verifying reports submitted by handlers; the Board, through its duly authorized agents, shall have access to each handler's premises at any time during reasonable business hours, and shall be permitted to inspect any filberts held by such handler and all records of the handler with respect to filberts held or disposed of by such handler. Each handler shall furnish all labor necessary to facilitate such inspections as the Board may make of such handler's holdings of any filberts. Each handler shall store filberts in such manner as to facilitate inspection, and shall maintain adequate storage records which will permit accurate identification of all such filberts held.

#### § 997.70 Confidential information.

All reports and records furnished or submitted by handlers to the Board, which include data or information constituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received, shall be kept in the custody and under the control of one or more employees of the Board, and shall be disclosed to no person except the Secretary.

#### § 997.71 Records.

Each handler shall maintain such records of filberts received, held and disposed of by him as may be prescribed by the Board in order to perform its functions under this part. Such records shall be retained and be available for examination by authorized representatives of the Board or the Secretary for a period of two years after the end of the fiscal year in which the transactions occurred.

#### MISCELLANEOUS PROVISIONS

#### § 997.80 Right of the Secretary.

The members of the Board (including successors, alternates, or other persons selected by the Secretary), and any agent or employee appointed or employed by the Board, shall be subject to removal or suspension by the Secretary, in his discretion, at any time. Each and every order, regulation, decision, determination, or other act of the Board shall be subject to the continuing right of the Secretary to disapprove of the same at

any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

#### § 997.81 Personal liability.

No member or alternate member of the Board, or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, agent or employee, except for acts of dishonesty.

#### § 997.82 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.

#### § 997.83 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.

#### § 997.84 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.

#### § 997.85 Agents.

The Secretary may, by a 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.

#### § 997.86 Effective time, termination or suspension.

(a) *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in this section.

(b) *Suspension or termination.* (1) 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.

(2) The Secretary shall 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.

(3) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of the producers of filberts who dur-

ing the preceding fiscal year have been engaged in the production for market of filberts in the States of Oregon and Washington: *Provided*, That such majority have during such period produced for market more than 50 percent of the volume of such filberts produced for market within said States; but such termination shall be effected only if announced on or before July 1 of the then current fiscal year.

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

#### (c) *Proceedings after termination.*

(1) Upon the termination of the provisions of this subpart, the members of the Board then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Board, of all funds and property then in the possession or under the control of the Board, 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.

(2) 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 Board and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant to this subpart.

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

#### § 997.87 Effect of termination or amendment.

(a) 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 amendment to either thereof, shall not (1) 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 (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any right or remedies of the Secretary or of any other person, with respect to any such violation.

(b) All rules and regulations in this part which are in effect immediately prior to this amendment of this subpart and not inconsistent with such amendment shall continue in effect until otherwise prescribed pursuant to this subpart.

#### § 997.88 Amendments.

Amendments to this subpart may be proposed, from time to time, by any person or by the Board.

**§ 997.89 Counterparts.**

This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

**§ 997.90 Additional parties.**

After the effective date of the agreement, any handler may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.\*

**§ 997.91 Request for order.**

Each signatory handler hereto requests the Secretary to issue an order pursuant to the act regulating the handling of filberts grown in the States of Oregon and Washington in the same manner as provided in this agreement.\*

Dated: May 19, 1959.

Roy W. LENNARTSON,  
Deputy Administrator;  
Marketing Services.

[F.R. Doc. 59-4351; Filed, May 22, 1959;  
8:46 a.m.]

**Agricultural Research Service****[ 7 CFR Part 301 ]****EXTENSION OF KHAPRA BEETLE  
QUARANTINE TO TEXAS****Notice of Public Hearing and of  
Proposed Rule Making**

The Administrator of the Agricultural Research Service has information that the khapra beetle (*Trogoderma granarium* Everts), a dangerous insect not heretofore widely prevalent or distributed within or throughout the United States, but which previously has been found to exist in certain parts of the States of Arizona, California, and New Mexico, has recently been discovered in certain parts of the State of Texas.

Notice is hereby given that it is proposed under the authority of section 8 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), to quarantine the State of Texas and to prohibit or restrict the movement from Texas into or through any other State, Territory, or District of the United States of (a) all grains and grain products (including, but not limited to, barley, corn, oats, rye, and wheat) whether moved as such or in connection with other articles; (b) dried seeds and seed products of field and vegetable crops (including, but not limited to, alfalfa seed, cottonseed, cottonseed meal and cake, flax seed, sorghum seed, soybean meal, pinto beans, and black-eyed peas); (c) bags and bagging (including, but not limited to, those made of burlap or cot-

ton); (d) dried milk, dried blood, fish meal, and meat scraps; and (e) any other article which by reason of infestation or exposure constitutes a hazard of spreading the khapra beetle; as such articles are defined in regulations supplemental to 7 CFR 301.76.

A public hearing will be held before a representative of the Agricultural Research Service in the Second Floor Auditorium of the Dallas Power and Light Company, 1506 Commerce Street, Dallas, Texas, at 10 a.m., June 23, 1959, at which hearing any interested person may appear and be heard, either in person or by attorney, on the proposals. Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., on or before June 23, 1959, or with the presiding officer at the hearing.

Further, notice is hereby given under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that if it is determined, after hearing, that the State of Texas should be quarantined as proposed, the Administrator of the Agricultural Research Service is considering amending 7 CFR 301.76 by adding the State of Texas to the States designated therein as quarantined.

All persons who desire to submit written data, views, or arguments in connection with the proposed quarantine amendment should file the same with the Director of the Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., on or before June 23, 1959, or with the presiding officer at the hearing provided for above.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 162, 150ee. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161; 19 F.R. 74, as amended)

Done at Washington, D.C., this 19th day of May 1959.

M. R. CLARKSON,  
Acting Administrator,  
Agricultural Research Service.

[F.R. Doc. 59-4371; Filed, May 22, 1959;  
8:49 a.m.]

**ATOMIC ENERGY COMMISSION****[ 10 CFR Chapter 1 ]****POWER AND TEST REACTORS****Notice of Proposed Rule Making**

The Commission is considering the formulation of an amendment to its regulations to state site criteria for evaluation of proposed sites for nuclear power and test reactors and is publishing for comment safety factors which might be a basis for the development of site criteria.

In view of the complex nature of the environment, the wide variation in environmental conditions from one location to another and the variations in reactor characteristics and associated protection which can be engineered into a reactor

facility, definitive criteria for general application to the siting problems have not been set forth.

All interested persons are invited to submit comments and suggestions on the following site factors and on development of definitive criteria for evaluation of sites for power and test reactors which might be incorporated in the Commission's regulations. All interested persons who desire to submit written comments and suggestions should send them to the U.S. Atomic Energy Commission, Washington 25, D.C., Attention: Division of Licensing and Regulation, within 30 days after publication of this notice in the FEDERAL REGISTER.

*Factors considered in site evaluation for power and test reactors—*a. *General.* The construction of a proposed power or test reactor facility at a proposed site will be approved if analysis of the site in relation to the hazards associated with the facility gives reasonable assurance that the potential radioactive effluents therefrom, as a result of normal operation or the occurrence of any credible accident, will not create undue hazard to the health and safety of the public.

There are wide possible variations in reactor characteristics and protective aspects of such facilities which affect the characteristics that otherwise might be required of the site. However, the following factors are used by the Commission as guides in the evaluation of sites for power and test reactors. The fact that a particular site may be deemed acceptable for a proposed reactor facility when evaluated in the early phases of the project, does not determine that the reactor will eventually be given operating approval, or indicate what limitations on operation may be imposed. Operating approvals depend on detailed review of design, construction and operating procedures at the final construction stages.

b. *Exclusion distance around power and test reactors.* Each power and test reactor should be surrounded by an exclusion area under the complete control of the licensee. The size of this exclusion area will depend upon many factors including among other things reactor power level, design features and containment, and site characteristics. The power level of the reactor alone does not determine the size of the exclusion area. For any power or test reactor, a minimum radius on the order of one-quarter mile will usually be found necessary. For large power reactors a minimum exclusion radius on the order of one-half to three-quarter miles may be required. Test reactors may require a larger exclusion area than power reactors of the same power.

c. *Population density in surrounding areas.* Power and test reactors should be so located that the population density in surrounding areas, outside the exclusion zone, is small. It is usually desirable that the reactor should be several miles distant from the nearest town or city and for large reactors a distance of 10 to 20 miles from large cities. Where there is a prevailing wind direction it is usually desirable to avoid locating a power or test reactor within several miles upwind from centers of population.

Nearness of the reactor to air fields, arterial highways and factories is discouraged.

d. *Meteorological considerations.* The site meteorology is important in evaluating the degree of vulnerability of surrounding areas to the release of airborne radioactivity to the environment. Capabilities of the atmosphere for diffusion and dispersion of air-borne release are considered in assessing the vulnerability to risk of the area surrounding the site. Thus a high probability of good diffusion conditions and a wind direction pattern away from vulnerable areas during periods of slow diffusion would enhance the suitability of the site. If the site is in a region noted for hurricanes or tornadoes, the design of the facility must include safeguards which would prevent significant radioactivity releases should these events occur.

e. *Seismological considerations.* The earthquake history of the area in which the reactor is to be located is important. The magnitude and frequency of seismic disturbances to be expected determine the specifications which must be met in

design and construction of the facility and its protective components. A site should not be located on a fault.

f. *Hydrology and geology.* The hydrology and geology of a site should be favorable for the management of the liquid and solid effluents (including possible leaks from the process equipment). Deposits of relatively impermeable soils over ground water courses are desirable because they offer varying degrees of protection to the ground waters depending on the depth of the soils, their permeability, and their capacities for removing and retaining the noxious components of the effluents. The hydrology of the ground waters is important in assessing the effect that travel time may have on the contaminants which might accidentally reach them to the point of their nearest usage. Site drainage and surface water hydrology is important in determining the vulnerability of surface water courses to radioactive contamination. The characteristics and usage of the water courses indicate the degree of risk involved and determine safety precautions that must be observed at the

facility in effluent control and management. The hydrology of the surface water course and its physical, chemical and biological characteristics are important factors in evaluating the degree of risk involved.

g. *Interrelation of factors.* All of the factors described in paragraph b through f of this section are interrelated and dictate in varying degrees the engineered protective devices for the particular nuclear facility under consideration, and the dependence which can be placed on such devices. It is necessary to analyze each of the environmental factors to ascertain the character of protection it might afford for operation of the proposed facility or the kind of restrictions it might impose on the proposed design and operation.

Dated at Germantown, Md., this 19th day of May 1959.

A. R. LUEDECKE,  
General Manager.

[F.R. Doc. 59-4342; Filed, May 22, 1959; 8:45 a.m.]

## NOTICES

### DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order No. 72]

#### ASSISTANT REGIONAL COMMISSIONERS

#### Delegation of Function Regarding Refund of Alcohol and Tobacco Taxes

1. Pursuant to authority vested in me by Treasury Department Order 165-2, Amendment 1 (24 F.R. 1991), dated March 9, 1959, there is hereby delegated to each assistant regional commissioner (alcohol and tobacco tax) the function of allowing or rejecting claims for refund of excess deposits of alcohol and tobacco taxes, as defined in section 6423(e) (1) of the Internal Revenue Code of 1954, previously collected by collectors of customs, in any case in which the allowance or making of the refund is not now or hereafter excepted from the application of section 6423 of the Internal Revenue Code of 1954, as added by the Act of February 11, 1958 (Public Law 85-323).

2. The exercise of the authority delegated herein to each assistant regional commissioner (alcohol and tobacco tax) shall be under the direction and supervision of his regional commissioner and in accordance with existing policy and procedures.

3. The authority herein delegated may not be redelegated.

Issued: May 12, 1959.

Effective: March 9, 1959.

[SEAL]

CHARLES I. FOX,  
Acting Commissioner.

[F.R. Doc. 59-4361; Filed, May 22, 1959; 8:47 a.m.]

### DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service and  
Commodity Credit Corporation

#### 1959 CROP PRICE SUPPORT LOAN PROGRAMS

##### Announcement of Interest Rate

Commodity Credit Corporation announces that 1959 crop year price support loans for all commodities shall bear interest at the per annum rate of 3½ percent from the date of disbursement of the loan, except as otherwise provided in the bulletin covering the specific commodity loan program.

Issued this 19th day of May 1959.

WALTER C. BERGER,  
Executive Vice President,  
Commodity Credit Corporation.

[F.R. Doc. 59-4352; Filed, May 22, 1959; 8:46 a.m.]

### DEPARTMENT OF COMMERCE

Federal Maritime Board

AMERICAN PRESIDENT LINES, LTD.  
ET AL.

#### Notice of Agreements Filed With the Board for Approval

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

(1) Agreement No. 8268-1, between American President Lines, Ltd., and Bull Insular Line, Inc., modifies approved

Agreement No. 8268, which covers a through billing arrangement in the trade from Japan, China (including Hong Kong), Philippines, India, Federation of Malaya, Colony of Singapore, and Indonesia, to Puerto Rico, with transshipment at New York. The purpose of the modification is to include Baltimore and Philadelphia as ports of transshipment under the agreement.

(2) Agreement No. 8350-1, between the member lines of the Greece, Turkey, Syria Area Westbound Tobacco Conference, modifies the basic agreement of that conference (No. 8350), which presently covers the trade from Greek, Turkish and Syrian ports to ports of the United States in the Hampton Roads/Portland, Maine Range. The purpose of the modification is to extend the scope of the conference to include the trade to all ports of the United States within the Wilmington, North Carolina/Portland, Maine Range.

(3) Agreement No. 8387, between Transamerican Steamship Corporation (Transcaribbean Line), and Sartori & Berger (Michigan Ocean Line), covers the establishment and maintenance of a sailing arrangement in the trade from ports of the Great Lakes of the United States and Canada, the St. Lawrence River, Nova Scotia, New Brunswick and Newfoundland, on the one hand, to ports in the Caribbean and on the North Coast of South America, on the other hand (not including transportation within the purview of the coastwise laws of the United States).

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER,

written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing, should such hearing be desired.

Dated: May 20, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 59-4366; Filed, May 22, 1959;  
8:48 a.m.]

Office of the Secretary  
JULIEN R. STEELMAN

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: None,  
B. Additions: None.

This statement is made as of May 14, 1959.

JULIEN R. STEELMAN,  
MAY 14, 1959.

[F.R. Doc. 59-4364; Filed, May 22, 1959;  
8:48 a.m.]

## DEPARTMENT OF STATE

Office of the Secretary  
[Public Notice 162]

### DOMESTIC FIELD OFFICES

Pursuant to the requirements of section 3(a) (1) of the Administrative Procedure Act (5 U.S.C. 1002; 60 Stat. 238), there follows a list of the domestic field offices of the Department of State as of May 6, 1959:

UNITED STATES MISSION TO THE UNITED NATIONS

United States Mission to the United Nations,  
New York.

#### OFFICES OF POLITICAL ADVISER

To Commander in Chief of the Pacific,  
Honolulu.

To Supreme Allied Commander Atlantic Fleet,  
Norfolk.

INTERNATIONAL EDUCATIONAL EXCHANGE SERVICE RECEPTION CENTERS

Honolulu, Miami, New Orleans, New York,  
San Francisco, Seattle.

#### OFFICES OF PASSPORT AGENTS

Boston, Chicago, Los Angeles, Miami, New Orleans,  
New York, San Francisco.

#### FIELD OFFICES OF OFFICE OF SECURITY

Atlanta, Boston, Chicago, Cleveland, Dallas, Denver,  
Detroit, Greensboro, Los Angeles, Miami, New Orleans,  
Philadelphia, Pittsburgh, New York, St. Louis, Omaha, St. Paul,  
San Francisco, Seattle.

#### OFFICES OF DESPATCH AGENTS

Baltimore, New York, New Orleans, San Francisco.

#### DIPLOMATIC POUCH EXPEDITER

Diplomatic Pouch Expediter, New York.

Dated: May 11, 1959.

For the Secretary of State.

W. K. SCOTT,  
Assistant Secretary.

[F.R. Doc. 59-4373; Filed, May 22, 1959;  
8:49 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. G-18322]

### LYNCHBURG GAS CO.

#### Notice of Application and Date of Hearing

MAY 18, 1959.

Take notice that Lynchburg Gas Company (Petitioner), a Virginia corporation, having its principal place of business in Lynchburg, Virginia, filed on April 16, 1959 a petition for an order, pursuant to section 7(a) of the Natural Gas Act, directing Transcontinental Gas Pipe Line Corporation (Transco) to es-

tablish a physical connection of its transportation facilities with proposed facilities of the Lynchburg Pipe Line Company (Pipe Line Co.), also a Virginia corporation, with its principal place of business in Lynchburg, Virginia, and a wholly owned subsidiary of Petitioner. Further, Petitioner requests that Transco be directed to sell the volumes of gas hereinafter set forth, which gas will be transported by Pipe Line Co. to Petitioner's distribution system.

Based on its experience, Petitioner's estimated natural gas requirements and anticipated deficiencies as set forth in the petition, are outlined in the following table in which all volumes are expressed in Mcf.

	Requirements		Supply	Deficiency
	Annual	Firm peak day		
1959-----	1,580,000	8,100	7,000	1,100
1960-----	1,715,000	9,000	7,000	2,000
1961-----	1,915,000	9,900	7,000	2,900
1962-----	2,150,000	10,800	7,000	3,800
1963-----	2,373,000	11,500	7,000	4,500

Petitioner seeks to purchase gas from Transco in the following volumes:

	1st year	2d year	3d year	4th year	5th year
Peak day—Mcf-----	1,500	1,500	2,000	2,000	3,000
Annual requirements—Mcf-----	340,000	419,000	444,000	600,000	700,000

Petitioner presently purchases its entire gas supply from Atlantic Seaboard Corporation (Seaboard), a subsidiary of the Columbia Gas System, under Seaboard's FPC Gas Tariff, Rate Schedule CDS-1, with a contract demand of 7,000 Mcf per day. Delivery is made by means of 42 miles of six-inch line extending from a point on Seaboard's 20-inch transmission line to two delivery points on the outskirts of Lynchburg. Seaboard is reimbursed for the construction and operation of this line, known as the Lexington-Lynchburg lateral, by Petitioner under the "Facility Charge" provision of Seaboard's Tariff.

The petition recites that the most efficient and economical solution to its alleged need for additional gas supply is the proposed purchase from Transco as outlined above. It is alleged that its local service rendered will be more reliable and the cost to the public will be less if it is permitted to purchase gas from Transco rather than purchase increased quantities of gas from Seaboard.

Petitioner has a current contract demand with Seaboard of 7,000 Mcf per day. In accordance with the provisions of Seaboard's FPC Gas Tariff, Petitioner nominated on March 9, 1959 an increase in the contract demand to 8,000 Mcf per day commencing December 1, 1959 in order to meet the estimated requirements for the coming year.

Petitioner states, however, that Seaboard has refused to enter into an agreement to supply the increased quantities of gas without a costly expansion of the Lexington-Lynchburg lateral. Petitioner

further alleges that it approaches the coming winter with an absolute minimum firm requirement of 8,100 Mcf per day and an assured supply of only 7,000 Mcf per day.

Petitioner also states that its wholly-owned subsidiary, Pipe Line Co., has been authorized by the Virginia State Corporation Commission to construct and operate the necessary facilities to transport the gas from Transco's main line to Petitioner's existing distribution system. Such facilities will consist of 12 miles of 4-inch line extending from a point on Transco's system to the eastern extremity of Petitioner's system.

Transco on April 27, 1959 filed a response to the petition above described, stating it lacked independent knowledge of the market requirements of Petitioner and therefore was unable to express an opinion as to its needs for additional gas. Transco further stated, in effect, that both market and economic feasibility should be developed in a hearing.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 20, 1959, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C. in accordance

with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 12, 1959.

[SEAL] JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 59-4344; Filed, May 22, 1959;  
8:45 a.m.]

[Project No. 2130]

**PACIFIC GAS AND ELECTRIC CO.**  
**Notice of Application for Amendment**  
**of License**

MAY 19, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Company, of San Francisco, California, licensee for major Project No. 2130 situated on Stanislaus River and its Middle and South Forks in Calaveras and Tuolumne Counties, California, for amendment of its license for the project. If the application for the aforementioned amendment is granted, then the project will affect not only lands of the United States within Stanislaus National Forest as at present, but also other lands of the United States. Licensee requests permission to retire the existing Stanislaus powerhouse and appurtenant facilities and replace the installation with a completely new powerhouse and appurtenant facilities consisting of a low concrete dam located about one-half mile downstream from the new powerhouse creating an afterbay to regulate the releases from the new powerhouse; water is to be diverted directly from the existing forebay through the existing intake structure to the existing valve house and then by proposed steel penstock to the powerhouse; a new powerhouse with one 113,000-horsepower turbine connected to a 81,900-kilowatt generator (91,000 kva at 0.9 P.F.); a new step-up transformer; a new switching structure; and appurtenant electrical, mechanical and hydraulic facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is June 30, 1959. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 59-4345; Filed, May 22, 1959;  
8:45 a.m.]

**INTERSTATE COMMERCE**  
**COMMISSION**

[Notice 125]

**MOTOR CARRIER TRANSFER**  
**PROCEEDINGS**

MAY 20, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Com-

merce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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 61634. By order of May 12, 1959, the Commission, Division 4, acting as an Appellate Division, approved the transfer to The Furniture Transport Company, Inc., West Haven, Connecticut, of a certificate in No. MC 108825 Sub 6, issued December 12, 1957, to Norman L. Lawson, doing business as Lawson of Jamestown, Frewsburg, New York, authorizing the transportation, over regular and irregular routes, of new furniture, furniture frames, furniture, wooden dowels, and broom handles, from, to, and between, specified points in Massachusetts, Maine, Rhode Island, New York, New Hampshire, Connecticut, Vermont, Pennsylvania, Delaware, Maryland, New Jersey, and the District of Columbia. Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, New York and Richmond, Rosen & Kagan, 100 State Street, Boston, Mass.

No. MC-FC 61891. By order of May 13, 1959, the Commission, Division 4, acting as an Appellate Division, approved the transfer to Jack Ricciardi, Joseph Ricciardi and Harold Boyle, a partnership, doing business as Ricciardi Bros., Staten Island, N.Y., of a portion of the operating rights in a permit in No. MC 50413 Sub 3, issued April 21, 1955, to Kirby Transportation, Inc., Woodbridge, N.J., authorizing the transportation of building materials, except lumber and lumber products, iron and steel, except metal laths, cut stone, slate, and brick, over irregular routes, from Montrose and New York, N.Y., to all points in Connecticut and points in New York within 150 miles of New York, N.Y. David Millner, 1060 Broad Street, Newark 2, N.J. and Bert Collins, 140 Cedar Street, New York 6, N.Y.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-4349; Filed, May 22, 1959;  
8:46 a.m.]

**FOURTH SECTION APPLICATIONS**  
**FOR RELIEF**

MAY 20, 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. 35438: *Petroleum and products from Perryton and Waka, Tex.*

Filed by Southwestern Freight Bureau, Agent (No. B-7545), for interested rail carriers. Rates on petroleum and petroleum products, and related articles, carloads from Perryton and Waka, Tex., to points in southwestern, southern, official, western trunk-line, intermountain, and far western territories.

Grounds for relief: Market competition with other producing points in Texas to destinations in territories described.

Tariffs: Supplement 233 to Southwestern Freight Bureau tariff I.C.C. 4086 and other schedules listed in the application.

FSA No. 35439: *Gasoline—LaVerne, Okla., to southwestern points.* Filed by Southwestern Freight Bureau, Agent (No. B-7546), for interested rail carriers. Rates on gasoline, natural, tank-car load from LaVerne, Okla., to points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Grounds for relief: Market competition.

Tariffs: Supplement 233 to Southwestern Freight Bureau tariff I.C.C. 4086 and two other schedules.

FSA No. 35440: *Coal—Appalachian region to Toledo, Ohio group.* Filed by Roy S. Kern, Agent (No. 54), for interested rail carriers. Rates on bituminous coal, carloads, as described in the application from mines in the Ohio, inner and outer crescent and related districts in the Appalachian coal region to Toledo, Ohio, and other specified points in Ohio in the Toledo switching, corporate or industrial limits.

Grounds for relief: Motor-truck and water competition, and maintenance of rate relationships with Ohio intrastate rates from Ohio mines.

Tariffs: Supplement 41 to Baltimore and Ohio Railroad Company tariff I.C.C. 3122, and other schedules listed in exhibit A of application.

FSA No. 35441: *Toluene—Kobuta, Pa., to Chattanooga, Tenn.* Filed by O. E. Schultz, Agent (ER No. 2495), for interested rail carriers. Rates on toluene (toluol), tank-car loads from Kobuta, Pa., to Chattanooga, Tenn.

Grounds for relief: Competition of water carriers by barge.

Tariff: Supplement 126 to Trunk Line Territory Tariff Bureau tariff I.C.C. A-1079.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 59-4350; Filed, May 22, 1959;  
8:46 a.m.]

**EUGENE S. ROOT**

**Statement of Changes in Financial**  
**Interests**

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769) "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended", I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER the following informa-

tion showing any changes in my financial interests and business connections as heretofore reported and published (20 F.R. 10086; 21 F.R. 3475; 21 F.R. 9198; 22 F.R. 3777; 22 F.R. 9450; 23 F.R. 3798; 23 F.R. 9501) during the six months' period ended May 10, 1959.

Nothing to report.

Dated: May 10, 1959.

EUGENE S. ROOT.

[F.R. Doc. 59-4356; Filed, May 22, 1959;  
8:46 a.m.]

### KEITH H. LYRLA

#### Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769) "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended", I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (20 F.R. 10086; 21 F.R. 3475; 21 F.R. 9198; 22 F.R. 3777; 22 F.R. 9450; 23 F.R. 3798; 23 F.R. 9501) during the six months' period ended May 14, 1959.

No change.

Dated: May 14, 1959.

KEITH H. LYRLA.

[F.R. Doc. 59-4357; Filed, May 22, 1959;  
8:46 a.m.]

## DEPARTMENT OF JUSTICE

Office of Alien Property

JOSEPH MARET

#### 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 prop-

erty, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

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

Joseph Maret, Cholet, France; L.S. Claim No. 878; All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F.R. 10097, October 3, 1951) in and to The Atchison, Topeka and Santa Fe Railway Company 4/95, Bond No. 73024, and Union Pacific Railroad Company 4/47, Bond Nos. 61660 and 67179, all in the principal amount of \$1,000 each. All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18620 (16 F.R. 11547, November 14, 1951) in and to The Atchison, Topeka and Santa Fe Railway Company 4/95, Bond Nos. 35513 and 37540, in the principal amount of \$500 each. Vesting Order Nos. 18521 and 18620.

Executed at Washington, D.C., on May 15, 1959.

For the Attorney General.

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

[F.R. Doc. 59-4353; Filed, May 22, 1959;  
8:46 a.m.]

[Vesting Order SA-273]

#### HUNGARIAN GENERAL CREDITBANK

In re: Debt or other obligation owned by Hungarian General Creditbank, Budapest, Hungary; F-34-228, F-7-356.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F.R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows:

That certain debt or other obligation of The Chase Manhattan Bank, 18 Pine Street, New York 15, New York, arising out of a blocked account entitled, "Banque de Bruxelles, Brussels, Belgium, Blocked Hungary Account No. 1," maintained by said company, and any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was owned directly or indirectly by Hungarian General Creditbank, Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D.C., on May 18, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F.R. Doc. 59-4354; Filed, May 22, 1959;  
8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—MAY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during May. Proposed rules, as opposed to final actions, are identified as such.

3 CFR	Page	7 CFR—Continued	Page	14 CFR—Continued	Page
<i>Proclamations:</i>					
Feb 9, 1914	4039	962	3565	409	3498, 3972
3279	3527	968	3566	507	3574, 3754, 4025
3290	3527	969	4050	600	3870, 3871, 3972
3291	3811	1001	3573	601	3872, 3874, 3973
3292	4123	1021	4132, 4134	602	3875
<i>Executive orders:</i>					
4203	4053	1067	4134	608	3875, 3876
10168	4123	1069	3574	609	3974
10477	4159	<i>Proposed rules:</i>			
10480	3779	28	4147	610	3500, 4051
10495	4045	51	3731,	1200—1299	3574
10501	3777	3761—3763, 3887, 3993, 4148, 4149			
10574	3779	52	3887, 3993, 3996, 3998	1201	3574
10575	4159	68	4031	<i>Proposed rules:</i>	
10610	4159	301	4184	60	3959
10625	4159	319	3799	514	3699, 3700, 3882
10663	4159	362	4059	<b>15 CFR</b>	
10669	4045	813	3799	368	3987
10742	4159	902	3630, 3958	370	3752
10813	3465	904	3535	371	3987
10814	3474	913	3764	382	4025
10815	3474	925	3608	385	3987
10816	3777	927	3608, 3958	399	3752
10817	3779	934	3535	<b>16 CFR</b>	
10818	3779	942	3697	13	3531, 3579, 3580, 3625,
10819	3779	947	4000	3877, 4027—4029, 4051, 4102, 4103	
10820	4045	962	3889	46	4135
10821	4123	990	3611	<b>17 CFR</b>	
10822	4159	997	4169	<i>Proposed rules:</i>	
<i>Presidential documents other than proclamations and Executive orders:</i>					
Memorandum, May 7, 1959	3777	1000	4032	230	3514, 3766
<b>5 CFR</b>					
6	3559, 3692, 3719, 4125, 4165	1021	3536	231—239	3766
20	3780	1023	4150	<b>18 CFR</b>	
26	3780	<b>8 CFR</b>			
325	3475, 4047	103	3789	<i>Proposed rules:</i>	
<b>6 CFR</b>					
10	3559, 3811	212	3790	101	3905
301	3969	213	3790	<b>19 CFR</b>	
331	3475	214	3790	3	3756
421	3813, 3845, 4017, 4125, 4128	231	3790	5	3532
427	3475, 3482	245	3491	10	3956
438	3559	251	3790	16	3817
443	3562, 4048	252	3790	18	3532
482	3687	299	3791	<i>Proposed rules:</i>	
485	4022	<b>9 CFR</b>			
<b>7 CFR</b>					
29	3978	24	4024	11	3513
52	3782, 3984, 3986	78	3972	31	3535
106	3692	94	3817	<b>21 CFR</b>	
201	3951	<i>Proposed rules:</i>			
301	3529, 3955	27	3735	3	3756
319	4023, 4132	<b>10 CFR</b>			
362	4097	2	3791	9	3818, 3851
401	3845, 3847, 3848	60	3955	19	3865
722	3814	<i>Proposed rules:</i>			
728	3747, 3986, 4023, 4132	1—140	4184	27	3757, 3819
730	3747	20	3537	120	4165
861	3488	140	3508	146a	3757, 4165
876	3490	<b>12 CFR</b>			
911	3564	215	4139	146c	3757
922	3530, 3565, 3623, 3750, 3986, 4161	220	3866	<i>Proposed rules:</i>	
933	3750	221	3867	19	3735, 3826
936	4099, 4162, 4163	563	3753	51	4059
943	3719	<b>13 CFR</b>			
953	3530, 3751,	121			
3785, 3789, 3955, 3987, 4023, 4164	3491	<b>14 CFR</b>			
955	3491	1—199			
<b>8 CFR</b>					
103					
212					
213					
214					
231					
245					
251					
252					
299					
<b>9 CFR</b>					
24					
78					
94					
<i>Proposed rules:</i>					
27					
<b>10 CFR</b>					
2					
60					
<i>Proposed rules:</i>					
1—140					
20					
140					
<b>12 CFR</b>					
215					
220					
221					
563					
<b>13 CFR</b>					
121					
<b>14 CFR</b>					
1—199					
60					
200—399					
233					
241					
249					
400—635					
<b>14 CFR—Continued</b>					
409					
507					
600					
601					
602					
608					
609					
610					
1200—1299					
1201					
<i>Proposed rules:</i>					
60					
514					
<b>15 CFR</b>					
368					
370					
371					
382					
385					
399					
<b>16 CFR</b>					
13					
46					
<b>17 CFR</b>					
<i>Proposed rules:</i>					
230					
231—239					
<b>18 CFR</b>					
<i>Proposed rules:</i>					
101					
<b>19 CFR</b>					
3					
5					
10					
16					
18					
<i>Proposed rules:</i>					
11					
31					
<b>21 CFR</b>					
3					
9					
19					
27					
120					
146a					
146c					
<i>Proposed rules:</i>					
19					
51					
120					
121					
<b>22 CFR</b>					
63					
121					
123					
124					
125					
126					
<b>24 CFR</b>					
292a					
<b>25 CFR</b>					
121					
163					
221					

**25 CFR—Continued**

	Page
<i>Proposed rules:</i>	
171	3881, 3993
172	3881, 3993
173	3881, 3993
174	3881, 3993
184	3881

**26 (1939) CFR**

9	3819
458	3503

**26 (1954) CFR**

1	3693, 3819
295	4166
301	3503
<i>Proposed rules:</i>	
1	4007
196	3695
253	3881

**27 CFR**

<i>Proposed rules:</i>	
5	3958

**29 CFR**

522	4052
526	3581
601	3791
602	3792
603	3503
<i>Proposed rules:</i>	
545	4105

**30 CFR**

<i>Proposed rules:</i>	
14a	3795

**31 CFR**

309	3533
359	3533

**32 CFR**

1	3582
2	3586
4	3586
6	3586
7	3587
8	3589
9	3589
13	3589
16	3589
30	3591
204	3851
207	3851
511	4166
536	4053
562	3759
836	3504
845	3724
861	3726
862	3505
886	3729
1200—1299	3592

**33 CFR**

19	4053
85	3506
86	3506, 4104

**32 CFR—Continued**

	Page
91	3506
96	3507
202	3760, 3956
203	3629, 3760
204	3760
207	3629

**36 CFR**

251	3581
<i>Proposed rules:</i>	
13	4169
20	4169

**37 CFR**

<i>Proposed rules:</i>	
201	3545
202	3546

**38 CFR**

6	3592
8	3592
21	4053

**39 CFR**

12	4140
21	4140
24	4140
27	4140
45	3533, 3534
123	3990
152	3990
168	3990
201	3592
203	4026
204	3592

**41 CFR**

<i>Proposed rules:</i>	
202	3513

**42 CFR**

51	3956
----	------

**43 CFR**

71	4140
192	4140
200	4140
<i>Proposed rules:</i>	
9	4058
200	4031
254	4058
258	4058

*Public land orders:*

82	4054
667	4039
1571	4054
1673	3581
1725	4054
1726	4056
1812	3534
1838	3534
1839	3534
1840	3581
1841	3581
1842	3630
1843	3729

**43 CFR—Continued**

	Page
<i>Public land orders—Continued</i>	
1844	3760
1845	3879
1846	3879
1847	3992
1848	4053
1849	4054
1850	4054
1851	4054
1852	4055
1853	4055
1854	4055
1855	4056
1856	4056
1857	4056
1858	4168

**44 CFR**

<i>Proposed rules:</i>	
401	3800

**45 CFR**

106	3880
114	3694

**46 CFR**

147	3507
154	4057
246	3793
284	4168
370	3625

*Proposed rules:*

1	4169
4	4169
35	4057
78	4057
97	4057
136	4169
137	4169
146	4057
162	4057
187	4169
298	4032

**47 CFR**

5	3793
12	3794
31	3880

*Proposed rules:*

9	3611, 4150
12	3612

**49 CFR**

0	3957
54	3818
72	3595
73	3595
74	3599
78	3599
143	4014
184	3507

*Proposed rules:*

195	4060, 4142
-----	------------

**50 CFR**

33	3992
46	3626, 3751
202	3629