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Washington, Thursday, June 5, 1947

TITLE 3—THE PRESIDENT

PROCLAMATION 2733

SIX RIVERS NATIONAL FOREST—CALIFORNIA
BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS it appears that it would be in the interest of administrative management to consolidate certain portions of the Siskiyou, Klamath, and Trinity National Forests, within the State of California, into a national-forest unit designated as the Six Rivers National Forest:

NOW THEREFORE, I, HARRY S. TRUMAN, President of the United States, under and by virtue of the authority vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1103 (16 U. S. C. 471) and section 1 of the act of June 4, 1897, 30 Stat. 11, 36 (16 U. S. C. 473) do proclaim that all lands within the exterior boundaries of those parts of the Siskiyou, Klamath, and Trinity National Forests lying west of the following-described line are hereby eliminated from those forests and are consolidated to form and shall hereafter constitute the Six Rivers National Forest:

Beginning at the point on the California-Oregon State boundary line in sec. 31, T. 19 N., R. 4 E., H. M., at intersection with the divide between the Illinois River and Smith River, thence southeasterly along said divide to "Youngs Peak" in sec. 4, T. 17 N., R. 5 E., H. M., thence southerly along the divide between the drainages of the Smith River and Klamath River to Chimney Rock in sec. 22, T. 14 N., R. 4 E., H. M., thence southeasterly along the divide between drainages of Dillon Creek, Rock Creek, Reynolds Creek, and Teneyok Creek, and those of Blue Creek, Bluff Creek, Camp Creek, and Wilson Creek to the intersection of the Klamath and Salmon Rivers in sec. 4, T. 11 N., R. 6 E., H. M., thence southeasterly along the divide between the drainages of the Salmon River and Klamath River to "Salmon Mountain" in sec. 8, T. 9 N., R. 7 E., H. M.; thence southerly along the divide between the drainage of New River and that of the Klamath and Trinity Rivers to the intersection of the Trinity River and New River in sec. 2, T. 5 N., R. 6 E., H. M., thence southwesterly along divide between Gray Creek and Hennessy Creek to summit of "Hennessy Ridge" in sec. 5, T. 5 N., R. 6 E., H. M., thence southerly along divide between

the main Trinity River and South Fork Trinity River to "Underwood Mountain" in sec. 11, T. 4 N., R. 6 E., H. M., thence southwesterly along the divide between Underwood Creek and Panther Creek to the South Fork Trinity River in sec. 20, T. 4 N., R. 6 E., H. M., thence southwesterly along the divide between the drainage of Grouse Creek and that of Grapevine, Saddle, Canyon, Monaca, and Big Creeks to the summit of "South Fork Mountain" and divide between South Fork Trinity River and Mad River in sec. 11, T. 3 N., R. 5 E., H. M., thence southeasterly along said divide to its intersection with the south boundary of the Trinity National Forest at "Horsehead Mountain" in sec. 5, T. 26 N., R. 11 W., M. D. M.

It is not intended by this proclamation to give a national-forest status to any publicly-owned lands which have not hitherto had such a status, or to change the status of any publicly-owned lands which have hitherto had national-forest status.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 3rd day of June in the year of our Lord nineteen hundred and forty-
[SEAL] seven, and of the Independence of the United States of America the one hundred and seventy-first.

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,
Secretary of State.

[F. R. Doc. 47-5402; Filed, June 4, 1947;
12:29 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

FEDERAL POWER COMMISSION

Under authority of § 6.1 (a) of Executive Order 9830 (12 F. R. 1259) and at the request of the Federal Power Commission, the Commission has determined that appointments to the positions listed below should be made in the same man-

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ner as are appointments to positions under Schedules A and B. The following subdivisions are therefore added to § 6.4:

- § 6.4 Lists of positions excepted from the competitive service—(a) Schedule A. * * *
- (22) Federal Power Commission.
- (iv) Three special assistants to the Commission.
- (v) One assistant to the Chairman. * * *
- (b) Schedule B. * * *
- (10) Federal Power Commission. * * *
- (v) One chief of each of the following nine divisions: Accounts, Electrical, Finance and Statistics, Gas Certificates, Licensed Projects, Original Cost, Projects Cost, Rates, and River Basin.
- (vi) A Chief Accountant.

Under authority of § 6.1 (d) of Executive Order No. 9830, and with the concurrence of the Federal Power Commission, the position of Chief Examiner is withdrawn from Schedule B, § 6.4 (b) (10) (ii).

(Secs. 6.1 (a) and 6.1 (d) E. O. 9830, 12 F. R. 1259)

[SEAL] UNITED STATES CIVIL SERVICE COMMISSION,
 H. B. MITCHELL,
 President.

[F. R. Doc. 47-5323; Filed, June 4, 1947; 8:46 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE
 DEPARTMENT OF LABOR

In the subheading "List of positions excepted," the Commission has considered the request of the Secretary of Labor and has determined that the positions listed below should be excepted from the competitive service and appointments thereto made in the same manner as appointments are made to positions under Schedule A. The positions are, therefore, added to the list of positions excepted from the competitive service, effective upon publication in the FEDERAL REGISTER.

§ 6.4 Lists of positions excepted from the competitive service—(a) Schedule A. * * *

- (13) Department of Labor * * *
- (ix) Three administrative officers (special assistants to the Assistant Secretary)
- (x) Two administrative officers.
- (xi) Two labor economists (liaison officers)

(Sec. 6.1 (a) E. O. 9830, Feb. 24, 1947, 12 F. R. 1259)

[SEAL] UNITED STATES CIVIL SERVICE COMMISSION,
 H. B. MITCHELL,
 President.

[F. R. Doc. 47-5322; Filed, June 4, 1947; 8:46 a. m.]

PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

LIQUIDATION

Effective June 15, 1947, § 20.12 is amended to read as follows:

§ 20.12 Special regulations on liquidation. Whenever it has been determined that all functions and all positions in an entire department, an entire governmental entity, or an entire competitive area are to be abolished within a specified time period, actions may be taken in regard to individual employees at different dates at administrative discretion: *Provided, however,* That no employee with veteran preference shall be relieved from active duty before any competing employee in a lower retention subgroup is relieved from active duty, where their positions are immediately interchangeable: *Provided further,* That notices to group A-1 and A-2 employees with competitive status shall be made to conform to the notice requirements of § 20.10.

NOTE: A mere limitation of authority to a specified date in the law which establishes, authorizes, or extends an agency is not a sufficient basis for the application of the provisions of this section.

In such cases, the employees of the particular department, entity, or competitive area shall be given individual notices in writing containing a statement of the law, Executive order, or authority which requires the liquidation of the department, governmental entity, or competitive area, and the time period in which the liquidation is to be accomplished, and informing them of their rights to appeal to the Commission if they feel that there has not been compliance with the provisions of the regulations in this part. The notices shall also inform employees of their rights to retention on the rolls for at least thirty days, or if a group A-1 or A-2 employee with competitive status, for the period provided for in § 20.10, of the procedures necessary to exercise any reemployment rights they may have to positions in other departments, governmental entities, or competitive areas, and of the procedures necessary to secure other employment.

A report of all liquidation programs shall be made to the Commission which shall include (a) a copy of the law, Executive order, or other authority for the liquidation of the department, governmental entity, or competitive area; (b) a certificate that no employee with veteran preference is being relieved from active duty before any competing employee in a lower retention subgroup is relieved from active duty where their positions are immediately interchangeable; and (c) a list of all retention group A employees with classified (competitive) civil service status who have not been transferred or assigned to other positions. This report shall be submitted within ten days after the first individual notices of separation are given to the employees affected.

Where it is necessary to liquidate a major activity which is not an entire competitive area, or which is a part of

two or more competitive areas, the Commission will consider a request to establish such activity as a competitive area for the purpose of such liquidation.

(Sec. 12, 58 Stat. 390; 5 U. S. C., Sup., 861)

[SEAL] UNITED STATES CIVIL SERVICE COMMISSION,
H. B. MITCHELL,
President.

[F. R. Doc. 47-5324; Filed, June 4, 1947; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Production and Marketing Administration (Commodity Credit)

[1947 C. C. C. Seed Bulletin I (Purchase)]

PART 274—SEED PURCHASE AND LOAN PROGRAM

1947 SEED PURCHASE PROGRAM

This bulletin states the requirements with respect to the 1947 Winter Cover Crop Seed Purchase Program formulated by Commodity Credit Corporation and the Production and Marketing Administration under which purchases will be made of seed produced in 1947 (hereinafter referred to as the "commodity") delivered to designated delivery points in accordance with this bulletin.

Sec.	
274.40	Administration of program.
274.41	Area and season of purchases.
274.42	Payment.
274.43	Eligible producer.
274.44	Eligible seed.
274.45	Approved forms.
274.46	Determination of quantity.
274.47	Determination of quality.
274.48	Liens.
274.49	Handling of seeds.
274.50	Charges to be paid by producers.
274.51	Set-offs.
274.52	Pricing basis.
274.53	Offices of Grain Branch.
274.54	Schedule of specifications and prices.
274.55	Approved bags.

AUTHORITY: §§ 274.40 to 274.55, inclusive, issued under authority contained in Article Third, pars. (b) and (j) of the Corporate Charter of the Commodity Credit Corporation; sec. 7 (a), 49 Stat. 4 as amended, sec. 4 (b), 65 Stat. 498, 66 Stat. 768; 15 U. S. C., Sup., 713 (a), 713a-8 (b).

§ 274.40 *Administration of program.* The program will be administered at the county level by the county agricultural conservation committees under the general supervision of the respective State PMA committees.

Forms may be obtained from county committees, or from the office of the Grain Branch, Production and Marketing Administration, serving the area. State and county committees will determine or cause to be determined the quantity and grade of the commodity and the amount of the purchase price. All purchase documents will be completed and approved by the county committee, which will retain copies of all documents: *Provided, however* That the county committee may designate in writing certain employees of the county agricultural conservation association to

execute such forms on behalf of the committee.

The county committee will furnish sellers with the address of the Grain Branch Office in the area to which purchase documents are to be forwarded for disbursement.

§ 274.41 *Area and season of purchases—(a) Area.* Purchases will be made from eligible producers in the areas where facilities are available for cleaning and packaging the seed.

(b) *Purchase period.* Purchases of seed will be made from the 1947 harvest-time through April 30, 1948.

§ 274.42 *Payment.* Payments will be made direct to producers and others designated by producers (on CCC Purchase Form A) by the Office of the Grain Branch serving the area in which purchases are made.

§ 274.43 *Eligible producer.* An eligible producer is any person, partnership, association, or corporation harvesting the seed in 1947 as landowner, landlord, tenant, or custom harvester.

§ 274.44 *Eligible seed.* Eligible seed shall be hairy vetch and crimson clover (hereinafter called "seed") harvested in 1947 by eligible producers (hereinafter called "producer") as defined in § 274.43, which meet the following requirements:

(a) *Specifications.* The seed must, by official test, be equal to or better in every respect than the minimum specifications for the particular kind of seed as shown in § 274.54.

(b) *Packaging.* The seed shall be packaged in new bags of approved quality (as described in § 274.55) of 100 pounds net, or either 100 pounds net or 150 pounds net in the case of crimson clover grown east of the Rocky Mountains.

(c) *Fumigation.* The seed shall be fumigated, if necessary, to eradicate or prevent insect infestation.

§ 274.45 *Approved forms.* The Memorandum of Purchase (CCC Purchase Form A) shall constitute the purchase document, and the provisions thereof together with the provisions of this Bulletin shall govern the conditions under which the purchase is made.

§ 274.46 *Determination of quantity.* The net weight of the seed shall constitute the quantity of seed purchased.

§ 274.47 *Determination of quality.* All determinations of germination and purity shall be on the basis of an official test of a representative sample. An "official test" shall be an analysis made by a seed testing laboratory approved by a State committee. A representative sample of bagged seed shall consist of equal portions taken from evenly distributed parts of the lot of seed to be sampled. In quantities of five bags or less, each bag shall be sampled; in quantities of more than five bags, at least every fifth bag but not less than five bags shall be sampled. A probe or trier shall be used in drawing these samples. Bulk seed shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

Samples of seed submitted for analysis shall be of the following minimum weights:

- (a) Five ounces of crimson clover.
- (b) Two pounds of hairy vetch.

§ 274.48 *Liens.* The commodity must be free and clear of all liens and encumbrances, or if liens or encumbrances exist on the commodity, proper waivers must be obtained.

§ 274.49 *Handling of seeds.* Seed dealers, cooperative associations, or others having adequate facilities for handling the seed who agree in Memorandum of Understanding with the county committee to provide certain services in connection with seed purchased under the program will assemble the seed and prepare it for delivery. Instructions for shipment of the purchased seeds will be issued by the office of the Grain Branch and transmitted to the dealers through the State PMA and county offices.

§ 274.50 *Charges to be paid by producers.* In the case of seed purchased by Commodity Credit Corporation, the producer shall pay all cleaning expenses and other expenses (including bagging and cost of bags) except analysis expense, whether covered in this section or not, which are necessary to prepare the seed to meet all eligibility requirements. Producers shall pay all charges (including charges for the issuance of reports) in connection with the sampling and analysis of seed which, by official test, is not of an eligible quality.

§ 274.51 *Set-offs.* A producer who is listed on the county debt register as indebted to any agency or corporation of the United States Department of Agriculture shall designate the agency or corporation to which he is indebted as the payee of the proceeds of the sale to the extent of such indebtedness, but not to exceed that portion of the proceeds remaining after deduction of the service fees and amounts due prior lienholders. The Commodity Credit Corporation shall be given first consideration for outstanding indebtedness after claims of prior lienholders.

§ 274.52 *Pricing basis.* The prices to be paid for the seed shall be computed in accordance with the applicable schedule for the area.

§ 274.53 *Offices of Grain Branch.* The offices of the Grain Branch referred to in this section and the areas served by them under §§ 274.40 to 274.55 are shown below:

Address and Area

623 South Wabash Avenue, Chicago 3, Ill., Connecticut, Delaware, Illinois (except East St. Louis), Indiana, Iowa, Kentucky, Maryland, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia.

Municipal Auditorium, Room 2152, 212 West 14th Street, Kansas City 8, Mo., Alabama, Arkansas, Colorado, Georgia, Florida, Kansas, Louisiana, Mississippi, Missouri (also East St. Louis), Nebraska, New Mexico, Oklahoma, South Carolina, Texas, and Wyoming.

Eastern Outfitting Building, Portland 5, Oreg., Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

326 McKnight Building, Minneapolis 1, Minn.; Minnesota, Montana, North Dakota, South Dakota, and Wisconsin.

§ 274.54 Schedule of specifications and prices.

	Hairy vetch ¹	Crimson clover
(a) Basic price per pound ²	\$0.12	\$0.115
(b) Basic price requirements:		
Germination ³	90	85
Purity.....	95	93
Total winter legume.....	98	(9)
Noxious weeds permitted.....	(9)	None
Common weed not to exceed.....		1%
Other crop seed permitted.....	(9)	2%
(c) Discount per cwt. applicable for each percent below the basic price requirements for:		
Germination ³	\$0.16	\$0.16
Purity.....	\$0.09	\$0.29
(d) Minimum eligibility requirements:		
Germination ³	70	75
Purity.....	70	50
Total winter legume.....	98	(9)
Noxious weeds permitted.....	(9)	None
Common weed not to exceed.....		1%
Other crop seed permitted.....	(9)	2%

¹ Price of hairy vetch shall not be discounted due to the presence of woollypod.
² The price of hairy vetch and crimson clover when grown east of the Rocky Mountains will be one cent per pound higher than the prices shown herein.
³ Live seed including hard seed.
⁴ No requirements specified for this item. However, the total winter legume requirements where specified and the purity requirements for crimson clover must be met in order for seed to be eligible for purchase.
⁵ Crimson clover containing not more than 5 wild onion bulblets per pound will be eligible for purchase in Kentucky only at a discount of \$1.00 per cwt.

§ 274.55 Approved bags. The following chart indicates the types of new bags approved for use in packaging seed of the 1947 crop.

Type	Net capacity (pounds)
(1) 3-harness twill: (i) 36-inch 8-oz. or heavier.....	100
(2) Try-sax:	
(i) 36-inch 7.5-oz. or heavier.....	100
(ii) 40-inch 8.25-oz. or heavier.....	100
(3) Osnaburg:	
(i) 36-inch 7-oz. or heavier.....	100
(ii) 40-inch 2.05-yard or heavier.....	100
(4) Burlap: (i) 10-oz. or heavier.....	100
(b) For crimson clover ²	
(1) Try-sax (double seam)	
(i) 36-inch 7.5-oz. or heavier.....	100
(ii) 40-inch 8.25-oz. or heavier.....	100
(2) Osnaburg (seamless or double seam)	
(i) 30-inch 7-oz. or heavier.....	100
(3) Seamless cotton 16-oz.....	150

Approved: May 29, 1947.

[SEAL] C. C. FARRINGTON,
 Vice President,
 Commodity Credit Corporation.

[F. R. Doc. 47-5318; Filed, June 4, 1947; 8:47 a. m.]

TITLE 7—AGRICULTURE

Subtitle A—Office of Secretary of Agriculture

PART 7—PRICE DECONTROL AND RECONTROL
 CERTIFICATION OF AGRICULTURAL COMMODITIES IN SHORT SUPPLY

Pursuant to the authority vested in me by the Emergency Price Control Act of 1942, as amended, and particularly by section 1A (e) of said act as added by the Price Control Extension Act of 1946,

I hereby determine and certify that no modifications in the certification of commodities in short supply (§ 7.50 Certification of Agricultural Commodities in short supply) made on September 1, 1946, as amended (11 F. R. 9669, 11349, 13135, 14063; 12 F. R. 60, 825, 1475, 2215, 3049) should be and none are hereby made.

(Pub. Law 548, 79th Cong.)

Done this 29th day of May 1947.

[SEAL] CLINTON P. ANDERSON,
 Secretary of Agriculture.

[F. R. Doc. 47-5307; Filed, June 4, 1947; 8:52 a. m.]

Chapter I—Production and Marketing Administration (Standards, Inspection, Marketing Practices)

PART 51—FRUITS, VEGETABLES AND OTHER PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

U. S. STANDARDS FOR POTATOES

By virtue of the authority (11 F. R. 7713) vested in me by the Secretary of Agriculture, I hereby approve the publication in the FEDERAL REGISTER of the following United States Standards for Potatoes which were issued September 10, 1941. These standards are currently in effect pursuant to the Department of Agriculture Appropriation Act of 1947 (Pub. Law 422, 79th Cong., 2d Sess., approved June 22, 1946)

§ 51.366 Potatoes—(a) General. (1) All percentages shall be calculated on the basis of weight.

(2) The tolerances for the standards are on a container basis. However, if the averages for the entire lot, based on sample inspection, are within the tolerances specified in the standards, the contents of individual packages in the lot may vary from the specified tolerances subject to the following limitations:

(i) When the tolerance specified is 10 percent or more, not over one-tenth of the individual packages in the lot may contain more than one and one-half times the tolerance except that at least one defective specimen shall be permitted in a package.

(ii) When the tolerance specified is less than 10 percent, not over one-tenth of the individual packages in any lot may contain more than double the tolerance specified, but no package may contain more than four times the tolerance for soft rot or wet breakdown except that at least one defective specimen shall be permitted in a package.

(b) Grades. (1) "U. S. Fancy" shall consist of potatoes of one variety or similar varietal characteristics which are firm, mature, bright, well shaped, free from freezing injury, blackheart, blight, shriveling, sprouting, wireworm injury, soft rot or wet breakdown, hollow heart, and internal discoloration, and free from injury caused by dirt or other foreign matter, sunburn, second growth, growth cracks, air cracks, cuts, scab, dry rot, rhizoctonia, other disease, other insects or mechanical or other means.

(i) The diameter of each potato shall be not less than 2 inches.

(ii) For long varieties such as Burbank, Russet Burbank, Early Ohio, Pride of Wisconsin, or other similar varieties, not less than 40 percent of the potatoes in any lot shall be 6 ounces or more in weight.

(iii) For round or intermediate shaped varieties such as Irish Cobbler, Bliss Triumph, Green Mountain, or other similar varieties, not less than 60 percent of the potatoes in any lot shall be 2¼ inches or larger in diameter.

(iv) The size of the potatoes may be stated in terms of minimum diameter or minimum weight, or of range in diameter or weight, or of a certain percentage over a certain size, following the grade name, but in no case shall the potatoes be below the sizes specified for this grade. (See Tolerance for Size.)

(v) Tolerance for defects: In order to allow for variations other than size incident to proper grading and handling, not more than 6 percent of the potatoes in any container may be below the requirements of the grade but not to exceed one-sixth of this amount, or 1 percent, shall be allowed for potatoes affected by soft rot or wet breakdown.

(2) "U. S. Extra No. 1" shall consist of potatoes of one variety or similar varietal characteristics which are fairly well shaped, fairly clean, free from freezing injury, blackheart, blight, and soft rot or wet breakdown and from damage caused by sunburn, second growth, growth cracks, air cracks, hollow heart, internal discoloration, cuts, shriveling, sprouting, scab, dry rot, rhizoctonia, other disease, wireworm, other insects or mechanical or other means.

(i) Unless otherwise specified, size of potatoes (See Size Classification and Tolerance for Size) shall be as follows:

(ii) The diameter of each potato shall be not less than 1½ inches.

(iii) For long varieties such as Burbank, Russet Burbank, Early Ohio, Pride of Wisconsin, or other similar varieties, not less than 60 percent of the potatoes in the lot shall be 6 ounces or larger, of which not less than one-half, or 30 percent, shall be 10 ounces or more in weight.

(iv) For round or intermediate shaped varieties, such as Irish Cobbler, Bliss Triumph, Green Mountain or other similar varieties, not less than 60 percent of potatoes in the lot shall be 2¼ inches or larger, of which not less than one-half, or 30 percent, shall be 2¾ inches or larger in diameter.

(v) Tolerance for defects: In order to allow for variations other than size incident to proper grading and handling, not more than 6 percent of the potatoes in any container may be below the requirements of the grade, but not to exceed one-sixth of this amount, or 1 percent, shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than 5 percent may be damaged by hollow heart, and internal discoloration.

(3) "U. S. No. 1" shall consist of potatoes of one variety or similar varietal characteristics which are fairly well shaped, free from freezing injury, blackheart, blight, and soft rot or wet break-

down, and from damage caused by dirt of other foreign matter, sunburn, second growth, growth cracks, air cracks, hollow heart, internal discoloration, cuts, shriveling, sprouting, scab, dry rot, rhizoctonia, other disease, wireworm, other insects or mechanical or other means.

(i) Unless otherwise specified the diameter of each potato shall not be less than $1\frac{1}{8}$ inches. (See Size Classification and Tolerance for Size.)

(ii) Tolerance for defects. In order to allow for variations other than size incident to proper grading and handling, not more than 6 percent of the potatoes in any container may be below the requirements of the grade but not to exceed one-sixth of this amount, or 1 percent, shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than 5 percent may be damaged by hollow heart and internal discoloration.

(4) "U. S. Commercial" shall consist of potatoes which meet the requirements of U. S. No. 1 grade except that they shall be free from serious damage by dirt and except for the increased tolerance for defects specified below.

(i) Unless otherwise specified, the diameter of each potato shall be not less than $1\frac{1}{8}$ inches. (See Size Classification and Tolerance for Size.)

(ii) Tolerance for defects: In order to allow for variations other than size—and sprouting incident to proper grading and handling, not more than a total of 20 percent of the potatoes in any container may be below the requirements of this grade, but not more than 5 percent may be seriously damaged by hollow heart and internal discoloration and not over 6 percent may be below the remaining requirements of U. S. No. 2 grade, provided that not more than one-sixth of this amount, or 1 percent, shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than 10 percent of the potatoes may have sprouts over $\frac{3}{4}$ -inch long but which are not seriously damaged by shriveling: *Provided*, That if all of the 20 percent tolerance is not used for other defects, the unused part of the tolerance may also be used for potatoes having sprouts over $\frac{3}{4}$ -inch long but which are not seriously damaged by shriveling.

(5) "U. S. No. 2" shall consist of potatoes of one variety or similar varietal characteristics which are free from freezing injury, blackheart, and soft rot or wet breakdown and from serious damage caused by dirt or other foreign matter, sunburn, second growth, growth cracks, air cracks, hollow heart, internal discoloration, cuts, shriveling, scab, blight, dry rot, other disease, wireworm, other insects, or mechanical or other means.

(i) Unless otherwise specified the diameter of each potato shall be not less than $1\frac{1}{2}$ inches. (See Size Classification and Tolerance for Size.)

(ii) Tolerance for defects: In order to allow for variations other than size, incident to proper grading and handling, not more than 6 percent of the potatoes in any container may be below the requirements of the grade, but not to exceed one-sixth of this amount, or 1 per-

cent, shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than 5 percent may be seriously damaged by hollow heart and internal discoloration.

(c) "Unclassified" shall consist of potatoes which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.

(d) *Size classification for all grades except U. S. Fancy.* (1) When the potatoes are designated as "U. S. No. 1," "U. S. Commercial," or "U. S. No. 2" without specifying a size classification, it is understood that the potatoes meet the minimum size specified in the grade but that no definite percentage of the potatoes is required to be larger than this minimum size.

(2) When potatoes meet the requirements of either size A or size B as described below, the size classification may be specified in connection with any of the U. S. grades except Fancy, as: "U. S. No. 1, Size A" "U. S. Extra No. 1, Size A" "U. S. Commercial, Size B" "U. S. No. 1, Size B" "U. S. No. 2, Size A" or "U. S. No. 2, Size B" in accordance with the facts. When Size A or Size B is used in connection with the grade, it is not permissible to specify any smaller sizes than those specified under these designations.

(3) Size A. (i) For long varieties such as Burbank, Russet Burbank, Early Ohio, Pride of Wisconsin, or other similar varieties, the diameter of each potato shall be not less than $1\frac{1}{8}$ inches and not less than 40 percent of the potatoes in the lot shall be 6 ounces or more in weight.

(ii) For round or intermediate shaped varieties such as Irish Cobbler, Bliss Triumph, Green Mountain, or other similar varieties, the diameter of each potato shall be not less than $1\frac{1}{8}$ inches and not less than 60 percent of the potatoes in the lot shall be $2\frac{1}{4}$ inches or larger in diameter.

(4) Size B: For all varieties the size shall be from $1\frac{1}{2}$ inches to not more than 2 inches in diameter.

(5) Other sizes: When either of the above size designations is not used in connection with U. S. Extra No. 1, U. S. No. 1, U. S. Commercial, or U. S. No. 2 grades, it is permissible to specify any other minimum size such as "1 $\frac{1}{2}$ inches minimum," "2 inches minimum" or both a minimum and a maximum size as "1 $\frac{1}{8}$ inches to 3 inches," "6 to 10 ounces" or to specify a certain percentage over a certain size as "25 percent or more $2\frac{1}{4}$ inches and larger," "50 percent or more 6 ounces and larger."

(6) Tolerance for size: (i) In order to allow for variations incident to proper sizing, not more than 3 percent of the potatoes in any container may be below the specified minimum size except that a tolerance of 5 percent shall be allowed for potatoes packed to meet a minimum size of $2\frac{1}{4}$ inches or more in diameter, or 6 ounces or larger in weight. In addition, not more than 15 percent may be above any specified maximum size.

(ii) When a percentage of the potatoes is specified to be of a certain size and

larger, no part of any tolerance shall be used to reduce such a percentage for the lot as a whole, but individual containers may have not more than 15 percent less than the percentage required or specified: *Provided*, That the entire lot averages within the percentage specified. For example, a lot specified as 25 percent $2\frac{1}{2}$ inches and larger may have containers with not less than 10 percent $2\frac{1}{2}$ inches and larger provided the lot as a whole averages 25 percent $2\frac{1}{2}$ inches and larger.

(e) *Definitions.* (1) "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

(2) "Bright" means practically free from dirt or other foreign matter, and that the outer skin (epidermis) has the attractive color normal of the variety.

(3) "Well shaped" means the normal shape for the variety and that the potato is not pointed, dumbbell-shaped, excessively elongated, or otherwise ill-formed.

(4) "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing injury or sunscald.

(5) "Internal discoloration" means discoloration such as is caused by net necrosis or any other type of necrosis, stem-end browning, internal brown spot, or other similar types of discoloration not visible externally, except blackheart.

(6) "Injury" means any defect which more than slightly affects the shipping quality or the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than 2 percent of the total weight of the potato including peel covering defective area.

(7) "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome)

(8) "Fairly well shaped" means that the appearance of the individual potato or the general appearance of the potatoes in the container is not materially injured by pointed, dumbbell-shaped or otherwise ill-formed potatoes.

(9) "Fairly clean" means that from the viewpoint of general appearance the potatoes in the container are reasonably free from dirt or other foreign matter and that individual potatoes are not materially caked with dirt or materially stained.

(10) "Damage" means any injury or defect which materially injures the shipping quality or the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than 5 percent of the total weight of the potato including peel covering defective area. Loss of outer skin (epidermis) shall not be considered as damage unless the skinned surface is materially affected by very dark discoloration. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(i) Second growth or growth cracks which have developed to such an extent

as to materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(ii) Air cracks which are deep, or shallow air cracks which materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(iii) Shriveling when the potato is more than moderately shriveled, spongy, or flabby.

(iv) Sprouting when more than 10 percent of the potatoes have sprouts over three-fourths of an inch long.

(v) Surface scab which covers an area of more than 5 percent of the surface of the potato in the aggregate.

(vi) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than 5 percent of the total weight of the potato including peel covering defective area.

(vii) Rhizoctonia when the general appearance of the potatoes in the container is materially injured or when individual potatoes are badly infected.

(viii) Wireworm, grass root or similar injury when any hole, on potatoes ranging in size from 6 to 8 ounces, is longer than $\frac{3}{4}$ -inch or when the aggregate length of all holes is more than $1\frac{1}{4}$ inches. Smaller potatoes shall have lesser amounts and larger potatoes may have greater amounts, provided that the removal of the injury by proper trimming does not cause the appearance of such potatoes to be injured to a greater extent than that caused by the proper trimming of such injury permitted on a 6 to 8 ounce potato.

(ix) Dirt when the general appearance of the potatoes in the container is more than slightly dirty or stained, or when individual potatoes are badly caked with dirt or badly stained; or other foreign matter which materially affects the appearance of the potatoes.

(11) "Serious damage" means any injury or defect which seriously injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than 10 percent of the total weight of the potato including peel covering defective area. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

(i) Dirt when the general appearance of the potatoes in the container is seriously affected by tubers badly caked with dirt; or other foreign matter which seriously affects the appearance of the potatoes.

(ii) Fairly smooth cuts such as are made by the digger or by a knife to remove injury when both ends are clipped, or when more than an estimated one-fourth of the potato is cut away, or, in the case of long varieties, when the remaining portion of the clipped potato weighs less than 6 ounces. Irregular types of cuts which seriously affect the appearance of the individual potato, or which cannot be removed without a loss of more than 10 percent of the total weight of the potato including peel covering defective area.

(iii) Shriveling when the potato is excessively shriveled, spongy, or flabby.

(iv) Surface scab which covers an area of more than 50 percent of the surface of the potato in the aggregate.

(v) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than 10 percent of the total weight of the potato including peel covering defective area.

(vi) Wireworm, grass root or similar injury when any hole, on potatoes ranging in size from 6 to 8 ounces, is longer than $1\frac{1}{4}$ inches or when the aggregate length of all holes is more than 2 inches. Smaller potatoes shall have lesser amounts and larger potatoes may have greater amounts; *Provided*, That the removal of the injury by proper trimming, does not cause the appearance of such potatoes to be injured to a greater extent than that caused by the proper trimming of such injury permitted on a 6 to 8 ounce potato.

Done at Washington, D. C. this 2d day of June 1947.

[SEAL] E. A. MEYER,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 47-5319; Filed, June 4, 1947; 8:47 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Plum Order 4]

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

GRADES AND SIZES

§ 936.305 *Plum Order 4*—(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR, Cum. Supp., 936.1 et seq.) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, issued under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, 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 regulation of shipments of Climax plums, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that 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 Agricultural Marketing Agreement

Act of 1937, as amended, is insufficient for such compliance.

(b) *Order*. (1) During the period beginning at 12:01 a. m., P. s. t., June 6, 1947, and ending 12:01 a. m., P. s. t., August 1, 1947, no shipper shall ship:

(i) Any package or container of Climax plums containing plums which do not meet the requirements of U. S. No. 1 grade, or higher grade (specified for such grades in the United States Standards for plums and prunes (fresh) 12 F. R. 2305) with a total tolerance of fifteen (15) percent for defects not considered serious damage, in addition to the usual tolerances permitted in said United States Standards; or

(ii) Any package or container of Climax plums containing plums of a size smaller than the size that will pack a 4 x 5 standard pack, as specified in the aforesaid United States Standards, in a standard basket, as specified in paragraph number 1 of section 828.1 of the Agricultural Code of California. The aforesaid 4 x 5 standard pack is defined more specifically in subparagraph (2) of this paragraph.

(2) As used in this section, the aforesaid 4 x 5 standard pack is defined more specifically as follows:

(i) At least thirty-five (35) percent, by count, of the total of such plums contained in any such pack measure not less than $1\frac{1}{16}$ inches in diameter, such diameter, as defined in the aforesaid United States Standards, being the shortest distance measured through the center of the plum at right angles to a straight line running from the stem to the blossom end;

(ii) At least sixty (60) percent, by count, of the total of such plums contained in any such pack measure, as aforesaid, not less than $1\frac{1}{16}$ inches in diameter; and

(iii) No plums contained in any such pack measure, as aforesaid, less than $1\frac{1}{16}$ inches in diameter.

(3) Each shipper, prior to making each shipment of Climax plums, shall, during the period set forth in sub-paragraph (1) of this paragraph, have the plums included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service, heretofore designated by the Plum Commodity Committee and hereby approved; and each such shipper shall submit promptly, or cause to be submitted promptly, to the Plum Commodity Committee, Federal-State shipping point inspection certificates stating the grades and sizes of the Climax plums contained in each such lot or shipment: *Provided, however*, That in case the following conditions exist in connection with any such shipment:

(i) A request for inspection is made to the Federal-State Inspection Service not later than 5:00 p. m. of the day before the fruit will be available for inspection;

(ii) The fruit is available for inspection between the hours of 7:00 a. m. and 8:00 p. m. of the day specified in the request for such inspection; and

(iii) The Federal-State Inspection Service furnishes the shipper with a signed statement that it is not practicable, under such conditions, for the Fed-

eral-State Inspection Service to make the inspection within the necessary time;

the shipper, by submitting, or causing to be submitted, such signed statement to the Plum Commodity Committee, may make the particular shipment without such inspection, but such shipper shall still be held responsible for conforming with all grade and size regulations applicable to such shipment.

(4) The determination in § 936.301 with respect to shipments of plums into, in, or through the San Francisco-Sacramento region and the Los Angeles region shall be applicable to this section.

(5) The terms "shipper," "ship," "shipping point," and "shipment" shall have the same meaning as when used in the amended marketing agreement and order. The term "serious damage" shall have the same meaning as set forth in the aforesaid United States Standards.

(48 Stat. 31, as amended, 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 936.1 et seq.)

Done at Washington, D. C., this 3d day of June 1947.

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

[F. R. Doc. 47-5378; Filed, June 4, 1947; 10:40 a. m.]

[Plum Order 5]

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

GRADES AND SIZES

§ 936.306 Plum Order 5—(a) Findings.

(1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR, Cum. Supp., 936.1 et seq.), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, issued under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, 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 regulation of shipments of Tragedy plums, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that 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 Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance.

(b) Order (1) During the period beginning at 12:01 a. m., P. s. t., June 6,

1947, and ending at 12:01 a. m., P. s. t., October 1, 1947, no shipper shall ship:

(i) Any package or container of Tragedy plums containing plums which do not meet the requirements of U. S. No. 1 grade, or higher grade (as specified for such grades in the United States Standards for plums and prunes (fresh) 12 F. R. 2305) with a total tolerance of twenty-five (25) percent for defects not considered serious damage, in addition to the usual tolerances permitted in said United States Standards; or

(ii) Any package or container of Tragedy plums containing plums of a size smaller than the size that will pack a 6 x 6 standard pack, as specified in the aforesaid United States Standards, in a standard basket, as specified in paragraph numbered 1 of section 828.1 of the Agricultural Code of California. The aforesaid 6 x 6 standard pack is defined more specifically in subparagraph (4) of this paragraph.

(2) During the period set forth in subparagraph (1) of this paragraph:

(i) The total quantity of Tragedy plums which a shipper may ship during any day, from any shipping point, shall meet the following additional conditions:

(a) Of said total quantity, at least eighty-five (85) percent, by number of packages, shall be of a size not smaller than a size that will pack a 5 x 6 standard pack, as specified in the aforesaid United States Standards, in the aforesaid standard basket; and said 5 x 6 standard pack is defined more specifically in subparagraph (3) of this paragraph; and

(b) The remainder of such total quantity may be of a size that will pack a 6 x 6 standard pack, as aforesaid, or of larger sizes up to, but not including, a size that will pack a 5 x 6 standard pack, as aforesaid.

(ii) If any shipper, during any two (2) consecutive days, ships from any such shipping point less than the maximum allowable portion of such Tragedy plums that will pack a 6 x 6 standard pack, and larger sizes, as aforesaid, the amount of such undershipment of such plums may be shipped only during the next succeeding calendar day, in addition to such Tragedy plums of such size that the respective shipper could have shipped on such succeeding calendar day if there had been no undershipment during the two (2) preceding days.

(3) As used in this section, the aforesaid 5 x 6 standard pack is defined more specifically as follows:

(i) At least thirty-five (35) percent, by count, of the total of such plums contained in any such pack measure not less than $1\frac{1}{16}$ inches in diameter, such diameter, as defined in the aforesaid United States Standards, being the shortest distance measured through the center of the plum at right angles to a straight line running from the stem to the blossom end;

(ii) At least sixty (60) percent, by count, of the total of such plums contained in any such pack measure, as aforesaid, not less than $1\frac{5}{16}$ inches in diameter; and

(iii) No plums contained in any such pack measure, as aforesaid, less than $1\frac{3}{16}$ inches in diameter.

(4) As used in this section, the aforesaid 6 x 6 standard pack is defined more specifically as follows:

(i) At least thirty-five (35) percent, by count, of the total of such plums contained in any such pack measure, as aforesaid, not less than $1\frac{1}{16}$ inches in diameter

(ii) At least sixty (60) percent, by count, of the total of such plums contained in any such pack measure, as aforesaid, not less than $1\frac{3}{16}$ inches in diameter and

(iii) No plums contained in any such pack measure, as aforesaid, less than $1\frac{1}{16}$ inches in diameter.

(5) Nothing contained in this section shall be construed:

(i) As preventing a shipper from shipping Tragedy plums of a size larger than the size that will pack a 5 x 6 standard pack, as aforesaid, if said plums meet the grade requirements hereof; or

(ii) As permitting the shipment of Tragedy plums of a size smaller than a size that will pack a 6 x 6 standard pack, as aforesaid, even if the plums do meet said grade requirements.

(6) Each shipper, prior to making each shipment of Tragedy plums, shall, during the period set forth in subparagraph (1) of this paragraph, have the plums included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service, heretofore designated by the Plum Commodity Committee and hereby approved; and each such shipper shall submit promptly, or cause to be submitted promptly, to the Plum Commodity Committee, Federal-State shipping point inspection certificates stating the grades and sizes of the Tragedy plums contained in each such lot or shipment: *Provided, however* That, in case the following conditions exist in connection with any such shipment:

(i) A request for inspection is made to the Federal-State Inspection Service not later than 5:00 p. m. of the day before the fruit will be available for inspection;

(ii) The fruit is available for inspection between the hours of 7:00 a. m. and 8:00 p. m. of the day specified in the request for such inspection; and

(iii) The Federal-State Inspection Service furnishes the shipper with a signed statement that it is not practicable, under such conditions, for the Federal-State Inspection Service to make the inspection within the necessary time;

the shipper, by submitting or causing to be submitted, such signed statement to the Plum Commodity Committee, may make the particular shipment without such inspection, but such shipper shall still be held responsible for conforming with all grade and size regulations applicable to such shipment.

(7) The determination in § 936.301 with respect to shipments of plums into, in, or through the San Francisco-Sacramento region and the Los Angeles region shall be applicable to this section.

(8) The terms "shipper," "ship," "shipping," "shipping point," and "shipment," shall have the same meaning as when used in the amended marketing agreement and order. The term "serious damage" shall have the same meaning

as set forth in the aforesaid United States Standards.

(48 Stat. 31, as amended, 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 936.1 et seq.)

Done at Washington, D. C., this 3d day of June 1947.

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

[F. R. Doc. 47-5380; Filed, June 4, 1947; 10:42 a. m.]

[Plum Order 6]

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

GRADE

§ 936.307 Plum Order 6—(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR, Cum. Supp., 936.1 et seq.) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, issued under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, 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 regulation of shipments of plums of the Amador, Apex, California Blue, Earliana, Emily, Improved Satsuma, Satsuma, Shiro, Splendor and Standard varieties (hereinafter referred to as "miscellaneous varieties of plums") as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that 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 Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance.

(b) Order (1) During the period beginning at 12:01 a. m., P. s. t., June 6, 1947, and ending at 12:01 a. m., P. s. t., October 1, 1947, no shipper shall ship:

(i) Any package or container of miscellaneous varieties of plums containing plums which do not meet the requirements of U. S. No. 1 grade, or higher grade (as specified for such grades in the United States Standards for plums and prunes (fresh) 12 F. R. 2305) with a total tolerance of ten (10) percent for defects not considered serious damage, in addition to the usual tolerances permitted in said United States Standards.

(2) Each shipper, prior to making each shipment of miscellaneous varieties of plums shall, during the period set forth in subparagraph (1) of this paragraph, have the plums included in each such shipment inspected by a duly authorized

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representative of the Federal-State Inspection Service, heretofore designated by the Plum Commodity Committee and hereby approved; and each such shipper shall submit promptly, or cause to be submitted promptly, to the Plum Commodity Committee, Federal-State shipping point inspection certificates stating the grades of the miscellaneous varieties of plums contained in each such lot of shipment: *Provided, however*, That, in case the following conditions exist in connection with any such shipment:

(i) A request for inspection is made to the Federal-State Inspection Service not later than 5:00 p. m. of the day before the fruit will be available for inspection;

(ii) The fruit is available for inspection between the hours of 7:00 a. m. and 8:00 p. m. of the day specified in the request for such inspection; and

(iii) The Federal-State Inspection Service furnishes the shipper with a signed statement that it is not practicable, under such conditions, for the Federal-State Inspection Service to make the inspection within the necessary time;

the shipper, by submitting or causing to be submitted, such signed statement to the Plum Commodity Committee, may make the particular shipment without such inspection, but such shipper shall still be held responsible for conforming with all grade regulations applicable to such shipment.

(3) The determination in § 936.301 with respect to shipments of plums into, in, or through the San Francisco-Sacramento region and the Los Angeles region shall be applicable to this section.

(4) The terms "shipper," "ship," "shipping," "shipping point," and "shipment" shall have the same meaning as when used in the amended marketing agreement and order. The term "serious damage" shall have the same meaning as set forth in the aforesaid United States Standards.

(48 Stat. 31, as amended, 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 936.1 et seq.)

Done at Washington, D. C., this 3d day of June 1947.

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

[F. R. Doc. 47-5378; Filed, June 4, 1947; 10:40 a. m.]

Chapter XXI—Organization, Functions, and Procedure

Subchapter C—Production and Marketing Administration

PART 2305—FRUIT AND VEGETABLE BRANCH ORGANIZATION

Section 2305.1 (b) (6) of Title 7, issued September 11, 1946 (11 F. R. 177A-268) is hereby amended by adding at the end thereof a new sentence to read as follows: "The Director is authorized to exercise all of the powers vested in the Assistant Administrator by the rules of practice (7 CFR 47) issued under the Perishable Agricultural Commodities Act (7 U. S. C. 499a et seq.) with power to redelegate to any officer or employee in the Branch."

(Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244)

Issued this 29th day of May 1947.

[SEAL] E. A. MEYER,
Assistant Administrator Production and Marketing Administration.

[F. R. Doc. 47-5316; Filed, June 4, 1947; 8:47 a. m.]

TITLE 10—ARMY WAR DEPARTMENT

Chapter V—Military Reservations and National Cemeteries

PART 504—ARMY EXCHANGES

MISCELLANEOUS AMENDMENTS

Amend paragraph (c) (5) (i) of § 504.5 and rescind § 504.13 as follows:

§ 504.5 Activities. * * *
(c) Concessions. * * *

(5) Contracts with concessionaires will provide:

(1) For the payment of commissions to the exchange at the rate of 10 per centum of gross concession sales, except that the army commander or, in the case of class III installations, the officer-in-charge of the appropriate Army Exchange Service regional office may authorize the execution of a concession contract providing for payment of commissions at a higher rate, or at a lower rate where it is determined by the exchange officer, with the approval of the commanding officer, that a concession contract requiring the payment of the 10 per centum commission is not feasible in the case of an activity which cannot practicably be conducted by the exchange itself,

* * * * *
§ 504.13 Liquidation of accounts payable of exchanges lost through enemy action. [Rescinded]

[AR 210-65 June 12, 1945 as amended by C 6, May 15, 1947] (R. S. 161, 5 U. S. C. 22)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-5236; Filed, June 4, 1947; 8:43 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs., Serial No. 331]

PART 202—ACCOUNTS, RECORDS, AND REPORTS

Correction

In Federal Register Document 47-4813, appearing at page 3311 of the issue for Friday, May 23, 1947, the following changes are made:

The eleventh line of § 202.3 (c) should read: "for the prescribed period, may be destroyed if"

In paragraph (d) 24B, paragraph (2) should read: "(2) Clock cards and flight crews' time records: 3 yrs."

In paragraph (d) 28 the word "issues" should read "issued"

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5234]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

CANUTE CO.

§ 3.6 (n) *Advertising falsely or misleadingly—Nature—Product:* § 3.96 (a) *Using misleading name—Goods—Nature.* In connection with the offering for sale, sale, or distribution of respondent's preparation, Canute Water, or any other preparation of substantially similar composition or possessing substantially similar properties, (1) disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, etc., of respondent's preparation, which advertisements represent, directly or through inference, that respondent's preparation is water or anything other than hair dye, or which advertisements use in the context thereof the term "pure" to designate or describe respondent's preparation, Canute Water; or (2) using the term "Canute Water" as a brand or trade name, to designate or describe respondent's said hair-dye preparation without clearly and conspicuously stating in immediate connection and conjunction therewith that said preparation is a silver-nitrate hair dye; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Canute Company, Docket 5234, March 31, 1947]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of March A. D. 1947.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, testimony and other evidence in support of and in opposition to the allegations of said complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Canute Company, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of its preparation, Canute Water, or any other preparation of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from directly or indirectly

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission

Act which advertisement represents, directly or through inference, that respondent's preparation is water or anything other than hair dye, or which advertisement uses in the context thereof the term "pure" to designate or describe respondent's preparation, Canute Water.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act of respondent's cosmetic preparation which advertisement contains any of the representations prohibited in paragraph 1 hereof.

3. Using the term "Canute Water" as a brand or trade name, or the term "Water" as a part of such brand or trade name, to designate or describe respondent's hair-dye preparation without clearly and conspicuously stating in immediate connection and conjunction therewith that said preparation is a silver-nitrate hair dye.

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

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-5311; Filed, June 4, 1947;
8:53 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 51685]

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

WITHDRAWAL OF COVERINGS OR CONTAINERS OF ARTICLES OR MATERIALS FROM BONDED MANUFACTURING WAREHOUSES

Section 19.15 (b) Customs Regulations of 1943 (19 CFR, Cum. Supp., 19.15 (b)), is hereby amended to read as follows:

§ 19.15 *Withdrawal for exportation of articles manufactured in bond; waste, or by products, for consumption.* * * *

(b) The coverings or containers of imported articles or materials, whether or not subject to duty apart from their contents, are not "articles or materials" within the meaning of section 311, Tariff Act of 1930, as amended, and need not be exported, but may be withdrawn from the warehouse for consumption under customs Form 7505 upon payment of the duties applicable to such coverings or containers in their condition as withdrawn.

(Sec. 311, 46 Stat. 691, sec. 404, 49 Stat. 1960; 19 U. S. C. 1311)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: May 27, 1947.

E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 47-5312; Filed, June 4, 1947;
8:53 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 10—PRACTICE OF ATTORNEYS AND AGENTS BEFORE THE TREASURY DEPARTMENT

Sections 10.1 to 10.13, inclusive, are Part 10 as published in the original edition of the Code of Federal Regulations and as amended from time to time thereafter, including minor clarifying and technical amendments now made.

Sec.

- 10.1 Committee established.
- 10.2 Rules and regulations relating to practice.
- 10.3 Qualifications for enrollment.
- 10.4 Application for enrollment.
- 10.5 Customhouse brokers.
- 10.6 Roster of enrollees; enrollment cards.
- 10.7 Proceedings for disbarment, suspension, and reinstatement.
- 10.8 Authority to prosecute claims.
- 10.9 Substitution of attorneys or agents; revocation of authority.
- 10.10 Disreputable conduct.
- 10.11 Striking names from roll.
- 10.12 Application and effective date of regulations.
- 10.13 Withdrawal or amendment of regulations.

AUTHORITY: §§ 10.1 to 10.13, inclusive, issued under section 3, 23 Stat. 258; Pub. Law 404, 79th Cong. 60 Stat. 237; 5 U. S. C. 261.

§ 10.1 *Committee established—(a) Committee on Practice.* A Committee on Practice is hereby created consisting of such number of members as shall be appointed by the Secretary of the Treasury. The Secretary shall designate a chairman of the Committee. The Secretary in his discretion may appoint a part-time member or members of the Committee, and, whenever in his judgment such action is necessary, the Secretary may appoint some person to serve temporarily as a substitute for a regular member of the Committee. The Committee shall have such powers to prescribe rules for its own government and procedure as are set forth elsewhere in the regulations in this part. The Committee shall meet at such times as it may designate or at the call of the chairman. Two members of the Committee shall constitute a quorum.

(b) *Duties of the Committee.* The Committee shall receive and act upon applications to be recognized as attorneys or agents before the Treasury Department; receive and act upon applications for reenrollment from attorneys or agents who have been disbarred; conduct hearings; make inquiries; and perform other duties as prescribed herein.

(c) *Secretary of the Committee.* The Secretary of the Treasury may appoint a person to act as secretary of the Committee or designate a member of the Committee to act as secretary. The secretary of the Committee shall keep and maintain its records, shall have custody of all its papers, records, rolls, and files, and shall perform such other duties reasonably incident to his office as the Committee shall direct. If no secretary is appointed or designated, the duties

herein enumerated shall devolve upon the chairman of the Committee, or upon such person or persons as he may designate.

(d) *Attorney for the Government.* The Secretary of the Treasury shall appoint an attorney not a member of the Committee as Attorney for the Government to prepare and present all formal statements of charges against enrolled attorneys or agents, to supervise the gathering of evidence in support of such charges, including the taking of depositions, to represent the Government in all proceedings before the Committee, to represent the Government in all proceedings pursuant to § 10.7, and to perform other duties incident to his position.

§ 10.2 *Rules and regulations relating to practice—(a) Eligibility to practice.*

(1) No attorney or agent shall be eligible to practice before the Treasury Department unless such attorney or agent is enrolled in accordance with the regulations in this part or prior regulations, except that any individual may appear, without enrollment, on his own behalf or in behalf of a member of his immediate family if such appearance is without compensation; and a member of a partnership, an officer of a corporation, or an authorized regular employee of an individual, partnership, corporation, or estate, may likewise appear, without enrollment, in any matter relating to such individual, partnership, corporation, or estate pending before the Treasury Department if he presents adequate identification to the officials of the Department. Enrollment is not required for appearances by trustees, receivers, guardians, administrators, and executors on behalf of trusts, receiverships, guardianships, or estates of which such persons are the trustees, receivers, guardians, administrators, or executors, if adequate identification is presented to the officials of the Department. This rule also applies to an individual, a partnership, an estate or trust, or a corporation with respect to the liability of the individual, partnership, estate or trust, or corporation as a transferee of property of a taxpayer and to a fiduciary with respect to the liability of the fiduciary under section 518 (a) 48 Stat. 760; 31 U. S. C. 192. No enrolled person or other person authorized to appear before the Treasury Department without enrollment shall represent a claimant before the Treasury Department in any matter to which the enrollee, as officer or employee of the United States, gave personal consideration or as to the facts of which he gained knowledge while in the Government service.

(2) No former officer, clerk, or employee of the Treasury Department shall act as attorney or agent, or as the employee of an attorney or agent within 2 years after the termination of such Treasury employment, in any matter pending in such Department during the period of his employment therein, unless he shall first obtain the written consent thereto of the Secretary of the Treasury or his duly authorized representative. This consent will not be granted unless it appears (i) that the applicant was not, during the period of 2 years immediately

preceding the date of application, employed in the particular departmental or field section in which was pending the matter, to handle which consent is sought, provided that this requirement shall not apply to persons employed in an administrative capacity such as head of a unit, division, or section, or employed as a reviewer or conferee or in an advisory capacity; and (ii) that employment as an agent or attorney is not prohibited by section 5, 17 Stat. 202; 5 U. S. C. 99, or other law, or by the regulations of the Treasury Department. Such applicant shall be required to file a declaration to the effect that he gave no personal consideration to such matter and had no knowledge of the facts involved in such matter while he was employed in the Department and that he is not now associated with, and will not be associated with, any former employee who has gained knowledge of the case while employed by the Treasury Department, and that his employment is not prohibited by law, or by the regulations of the Treasury Department. The statements contained in such declaration shall not be sufficient if disproved by an examination of the files and records pertaining to the case. Applications for consent should be directed to the Committee on Practice on Form 901 and should state the former connection with the Department of the applicant and identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and this notice shall be filed by him in the record of the case.

(3) Nor shall any enrolled person knowingly (i) assist a person who has been employed by a client to represent him before the Treasury Department in connection with any matter to which such person gave personal consideration or as to the facts of which such person gained personal knowledge while in the Government service, or (ii) accept assistance from any such person in connection with any such matter, or (iii) share fees with any such person in connection with any such matter.

(b) *Scope of practice before the Department.* Practice before the Treasury Department shall be deemed to comprehend all matters connected with the presentation of a client's interests to the Treasury Department, including the preparation and filing of necessary written documents, and correspondence with the Treasury Department relative to such interests. Unless otherwise stated the term "Treasury Department" as used in this paragraph and elsewhere in this part includes any division, branch, bureau, office, or unit of the Treasury Department, whether in Washington or in the field, and any officer or employee of any such division, branch, bureau, office, or unit.

(c) *Knowledge of client's omission.* Each enrolled attorney or agent who knows that a client has not complied with the law or has made an error in, or an omission from, any return, document, affidavit, or other paper, which the law requires such client to execute, shall advise his client promptly of the fact of such noncompliance, error, or omission.

(d) *Duty of enrollees concerning violations.* It shall be the duty of an enrolled attorney or agent, when requested by the Committee or the attorney for the Government, to give the Committee or the said attorney any information which he may have concerning violations of the regulations in this part or of the occurrence of any acts or omissions which would be grounds for suspension or disbarment, unless said information is privileged.

(e) *Use of fictitious names.* Every enrolled attorney or agent practicing as an individual shall use his legal name in the conduct of his legal, accounting, or other professional practice. The term "company," "associates," "accountants," "auditors," "engineers," or other plural forms suggesting a partnership, or language of similar import, used in connection with a name or title, or any fictitious title, or trade name, shall be used only by a bona fide partnership consisting of two or more members, and all stationery, listings, advertisements, and announcements of enrolled persons shall conform to the principles herein stated.

(f) *Rights and duties of agents.* An agent enrolled before the Treasury Department shall have the same rights, powers, and privileges and be subject to the same duties as an enrolled attorney. *Provided,* That an enrolled agent shall not have the privilege of drafting or preparing any written instrument by which title to real or personal property may be conveyed or transferred for the purpose of affecting Federal taxes, nor shall such enrolled agent advise a client as to the legal sufficiency of such an instrument or its legal effect upon the Federal taxes of such client: *And provided further,* That nothing in the regulations in this part shall be construed as authorizing persons not members of the bar to practice law.

(g) *Certification of documents.* Every claim, affidavit, written argument, brief, or statement of fact, prepared or filed by an enrolled attorney or agent in any matter pending before the Treasury Department, shall have affixed thereto a statement signed by such attorney or agent showing whether he prepared such document and whether or not he knows of his own knowledge that the statements of fact contained therein are true.

(h) (Revoked.)

(i) *Enrollees as notaries.* No enrolled attorney or agent as notary public shall take acknowledgments, administer oaths, certify papers, or perform any official act in connection with matters in which he is employed as counsel, attorney, or agent, or in which he may be in any way interested before the Treasury Department. Under the provisions of this paragraph an enrolled person who is a notary public is prohibited from taking any acknowledgment, oath, or certification as a notary public in connection with any tax return, protest, or other document which he has prepared or in the preparation of which he has assisted. (26 Op. Atty. Gen. 236)

(j) *Unimpaired status required.* It shall be incumbent upon each enrolled person (1) who is authorized to practice as a certified public accountant or as a public accountant to maintain unim-

paired his right to practice as a certified public accountant or public accountant; (2) who is admitted to practice before any court to maintain unimpaired his right to practice before such court; and (3) who is enrolled or admitted to practice before another department or agency of the Government to maintain unimpaired his standing before such department or agency.

(k) *Certain partnerships prohibited.* No enrolled person shall maintain a partnership for the practice of law, accountancy, or other related professional service with a person who is under disbarment from practicing before the Treasury Department or any other Government department or agency, or with an unenrolled person who is neither an attorney legally practicing law nor a certified public accountant or a public accountant legally practicing accountancy.

(l) *Practice by corporations prohibited.* No enrolled person shall be connected with an accounting corporation either as officer, employee, or stockholder; nor shall any enrolled person, while employed as an officer, employee, attorney, or agent of any corporation, practice before the Treasury Department on behalf of such corporation as the representative of the officers, employees, directors, stockholders or members, customers or clients, of such corporation, except as permitted by § 10.5. The term "corporation" as used in this paragraph and elsewhere in this part shall be deemed to include associations, joint stock companies, and insurance companies. Nothing contained herein shall prevent an enrolled person from being employed by agricultural cooperative associations, on a nonprofit basis and not subject to Federal income taxes, to represent before the Treasury Department the groups or units constituting membership of such associations: *Provided*, That individuals may not be so represented.

(m) *Clients of unenrolled persons.* No enrolled person shall represent before the Treasury Department clients of an unenrolled person who is neither an attorney nor an accountant regularly engaged in the practice of accountancy nor a customhouse broker, or who to the knowledge of the enrolled person solicits business, obtains clients, or otherwise conducts his practice in a manner forbidden under the regulations in this part to enrolled persons.

(n) *Assistance from unenrolled persons.* No enrolled person shall in any Treasury Department matter knowingly and directly or indirectly

(1) Employ or accept assistance from any unenrolled person whose application for enrollment shall at any time have been denied for a cause involving moral turpitude, or from a person who has been disbarred from practice before any department or agency of the Government or before any court of record, or who is under suspension from practice before any such department, agency, or court, or who has been deprived of his certificate as a certified public accountant or public accountant, or whose name after the effective date hereof has been stricken from the roll of attorneys and agents authorized to represent claimants

before the Treasury Department in the course of disbarment proceedings against him, or

(2) Accept employment as associate, correspondent, or sub-agent, from, or share fees with, any such person, or any person who is not an attorney or a public accountant regularly engaged in the practice of accountancy, or who is not a licensed customhouse broker.

(o) *Preparation of financial statements.* Each enrolled person shall exercise due diligence in preparing financial statements for clients and in certifying to the correctness of the same.

(p) *Diligence as to accuracy.* Each enrolled person shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any Treasury Department matter, and no enrolled person shall withhold information relative to any such matter from a client who is entitled to the information.

(q) *Moneys received in trust.* Each enrolled person shall promptly pay over to the Government when due all sums received for the payment of any duty, tax, or other debt or obligation owing to the Government, and shall promptly account to clients for funds received for them from the Government, or received from a client in excess of the charges properly payable in respect of the client's business.

(r) *Endorsement of client's checks.* No enrolled person shall without authority of his client endorse or accept any Government draft, check, or warrant drawn to the order of such client.

(s) *Use of influence forbidden.* No enrolled person shall attempt to influence the action of any official or employee of the Treasury Department in any Treasury Department matter by the use of threats, false accusations, duress, or by the offer of any special inducement or promise of advantage, or by the bestowing of any gift or favor or other thing of value.

(t) *Production of records.* No enrolled person shall neglect or refuse to produce records or evidence in any matter before the Treasury Department upon proper and lawful demand by a duly authorized agent of the Department, unless the attorney or agent has reasonable grounds to believe and does believe that the said demand is of doubtful legality or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by such Department or agent to procure such information.

(u) *Attempting to obtain information.* No enrolled person shall procure, or attempt to procure, directly or indirectly, from Government records or other Government sources information of any kind which is not made available by proper authority.

(v) *Solicitation and advertising, direct or indirect, prohibited.* No enrolled attorney or agent shall in any manner whatsoever solicit, directly or indirectly, or by implication, employment from persons not clients or friends in matters before the Treasury Department or in matters related thereto. Among other things the following shall be deemed to be prohibited by this paragraph:

(1) The publication of articles or the delivery of addresses on Federal tax questions by an enrolled person over the radio or elsewhere in connection with which the name of the firm of which he is a member, associate, or employee, or the address of the writer or speaker is given either by the writer, speaker, announcer, or publisher, provided that nothing herein shall be construed to prohibit the publication, by periodicals admitted to second-class mailing privileges, of such information concerning contributors of articles as is usually published in such periodicals.

(2) The mailing of circulars, letters, pamphlets, or other printed or written matter to persons not clients or friends of such enrolled person which contain no direct solicitation of employment but which do include the name and a description of the practice and address of such enrolled person.

(3) Advertising in one or more of the following forms: (i) Signs, printing, or other advertising matter, indicating previous connection with the Treasury Department; (ii) representation, orally, in writing, or in any other manner, of special influence with the officials or employees of the Treasury Department through acquaintance or otherwise; (iii) the use of any title or other description of the attorney or agent or his practice which tends to suggest some connection with the Treasury Department of the United States, and any title or description containing the words "United States" shall be presumed to carry such suggestion, except that there is no objection to the use of the words "Enrolled to practice before the United States Treasury Department"; (iv) distribution of bulletins, circulars, pamphlets, or so-called "tax services," to persons who are not clients or friends of the attorney or agent containing decisions or rulings of the Treasury Department, the Tax Court of the United States, or courts on Federal tax matters, or comment thereon by the attorney or agent; (v) distribution to persons not clients or friends of the practitioner of circulars or pamphlets advertising any business, educational, or social institution, or organization, which circular or pamphlet contains a card or advertisement of the practice of such attorney or agent.

(4) The following kinds of advertising will not be deemed to constitute a violation of this paragraph:

(i) Letterheads, professional cards, and the customary professional insertions in professional, telephone, and city directories, or in newspapers, trade or professional journals, or other publications admitted to second-class mailing privileges, provided they set forth only the name and address of the attorney or agent or the name of the firm of which he is a member or with which he is associated, a brief description of the nature of his practice, to wit, whether he practices as an attorney or accountant, and, if desired, any field of practice or service in which such attorney or agent may specialize;

(ii) The distribution by former officers or employees of the Government of cards briefly stating the fact of their former

official status and announcing their new association: *Provided*, The cards are addressed only to personal or business acquaintances: *And provided further*, That such cards are distributed only once and within a reasonable time after severance of official connection with the Government and within 30 days after the formation of a new association.

(w) *Preparation of documents by enrollees.* Each enrolled person shall exercise due diligence in preparing or assisting in the preparation of, approving, and filing returns, documents, affidavits, and other papers relating to Treasury Department matters, and in otherwise representing clients before the Treasury Department; and no enrolled person shall unreasonably delay the prompt disposition of matters before the Treasury Department by neglecting to answer correspondence, by unreasonably delaying the filing of closing agreements, by filing frivolous claims for refunds, or otherwise.

(x) *Duty to request name to be stricken upon accepting employment with the United States.* It shall be the duty of every enrolled person who becomes a judge of any court of record or an officer or employee (1) of the United States, (2) of any corporation owned wholly by the United States, (3) of the District of Columbia, or (4) of any State or subdivision thereof whose duties disclose facts or information applicable to Federal tax matters, to request the Committee on Practice to place his name on the inactive list of Treasury Department practitioners during the period of such incumbency. Any person who on becoming an officer or employee of the Treasury Department requested that his name be stricken from the roll and surrendered his enrollment card to the Committee for cancellation and whose employment with the Department has been or shall be terminated in good standing shall be entitled upon his written request to have his name restored to the roll and his enrollment card returned to him.

(y) *Fees; agreements.* (1) No enrolled person shall exact from his client a manifestly unreasonable fee, whether contingent or otherwise, in any matter before the Treasury Department. The reasonableness of a fee in any case is within limits a matter of judgment and depends upon all the facts and circumstances thereof, including the complexity and difficulty of the case, the amount of time and labor required for its proper preparation and presentation, the amount involved, and the professional standing and experience of the attorney or agent.

(2) A wholly contingent fee agreement shall not be entered into with a client by an enrolled person unless the financial status of the client is such that he would otherwise be unable to obtain the services of an attorney or agent. Partially contingent fee agreements are permissible where provision is made for the payment of a minimum fee, substantial in relation to the possible maximum fee, which minimum fee is to be paid and retained irrespective of the outcome of the proceeding. Such minimum fee need not be paid in advance, if provi-

sion for its payment is made irrespective of the outcome of the case. The payment of or agreement to pay a nominal minimum fee will not satisfy the requirements of this subparagraph.

(3) Whenever an enrolled attorney or agent shall enter into a contract to represent a client before the Treasury Department on a wholly or partially contingent basis, he shall file with the Committee a signed statement to that effect, containing the terms of the contract as they relate to compensation.

(4) When a power of attorney is filed with the Treasury Department it shall be the duty of the attorney or agent filing the same to file therewith a statement as follows:

(Place) _____
 (Date) _____
 (have) _____

This is to certify that I (have not) entered into a contingent or partially contingent fee agreement for the representation before the Department of _____ in the matter of _____ under the terms of a power of attorney filed with the Treasury Department on _____ and (in case a contingent or partially contingent fee agreement has been made) that a report of such fee agreement (has) been made to the Committee on Practice.

This requirement shall not be applicable to powers of attorney wherein the authority granted is limited to the filing of tax or information returns.

(z) *Duty to observe canons of ethics.* Each enrolled person shall conduct his practice in an ethical and professional manner and it shall be the duty of each enrolled attorney to observe the canons of ethics as adopted by the American Bar Association and of each enrolled agent to observe the ethical standards of the accounting profession. Among other forms of unethical and unprofessional conduct the following will be deemed to constitute such conduct: The use of intemperate and abusive language, the making of false accusations or statements knowing them to be false, or the circulation of malicious and libelous matter in connection with Treasury practice.

§ 10.3 *Qualifications for enrollment.* (a) (1) Persons of the following classes who are found, upon consideration of their applications, to possess the qualifications required by the regulations in this part may be admitted to practice before the Treasury Department as attorneys or agents respectively:

(i) Attorneys at law who have been admitted to practice before the courts of any State or Territory, or the District of Columbia, and who are lawfully engaged in the active practice of their profession.

(ii) Certified public accountants who have duly qualified to practice as certified public accountants in their own names, under the laws and regulations of any State or Territory, or the District of Columbia, and who are lawfully engaged in active practice as certified public accountants.

(2) Applicants who are employed by corporations on a full-time basis and who do not maintain offices apart from such employment with their services avail-

able to the general public will not be considered to be in active practice within the meaning of the term as used above.

(3) Applicants for enrollment to practice before the Treasury Department are required by statute to "show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases." (5 U. S. C. 261) The burden is upon applicants to establish clearly their right to enrollment by showing that they possess (i) a good character and reputation, (ii) an adequate education, and (iii) a knowledge of the laws and regulations relating to tax matters and other subjects which they expect to handle before the Department and of the rules and regulations governing practice before the Department.

(4) Good character and good reputation are not identical requirements. The former is determined by the applicant's actual qualities; the latter depends upon the opinion entertained of the applicant by those who have had the opportunity of knowing him in the community in which he resides or in which he practices his profession. It follows that evidence of any act or omission which tends to establish lack of integrity or untrustworthiness or other qualities reprehensible in a professional man, is material as bearing upon the character of the applicant, notwithstanding there is clear proof that his reputation is good. An applicant must furnish as references the names and addresses of at least six persons who are acquainted with his reputation and with whom the applicant has come in contact in his profession or business.

(b) (1) Among the causes sufficient to justify denial of an application for enrollment are: Any conduct, or practices, or proposed practices, which would constitute a violation of any of the provisions of the regulations in this part if the applicant were enrolled or any other conduct which would be a ground for suspension or disbarment under the applicable law or laws; any conduct which would be deemed grossly unfair in commercial transactions by accepted standards; or a bad reputation imputing to an applicant conduct of a criminal, dishonest, or unethical kind.

(2) The Committee on Practice will endeavor to ascertain all the facts deemed necessary by it to pass upon any application without expense or undue inconvenience to the applicant. In the event, however, that the Committee is not satisfied with the information received, it may require the applicant to appear in person before the Committee or before some person or persons designated by it for the purpose of undergoing additional written or oral examination as to his fitness for enrollment. The Committee may grant a hearing on an application at the applicant's request.

(c) Application for enrollment may be denied in any case in which it appears that the applicant has terminated his employment with the Treasury Department in violation of an obligation assumed as a condition of such employ-

ment to remain in the service of the Department for a specified period or for a reasonable time.

(d) Only citizens of the United States over the age of 21 years are eligible for enrollment. A person who is unable for any reason to take the oath of allegiance, and to support the Constitution of the United States, as required of persons prosecuting claims against the United States by Title 31, section 204, United States Code cannot be enrolled.

(e) Corporations and partnerships are ineligible for enrollment.

(f) Officers and employees of any State, or subdivision thereof, whose duties require them to pass upon, investigate, or deal with tax matters of such State or subdivision, shall be ineligible for enrollment, provided such employment may disclose facts or information applicable to Federal tax matters.

(g) Judges of courts of record shall be ineligible for enrollment.

(h) All persons to whom section 198 or section 203 of Title 18 of the United States Code applies, all persons prohibited by other law from representing claimants against the United States, all persons regularly employed by corporations owned wholly by the United States, and all persons regularly employed by the District of Columbia shall be ineligible for enrollment.

(i) The qualifications for enrollment stated in paragraph (a) (1) (i) and (ii) are prerequisites for general enrollment for practice before the Treasury Department.

(j) *Special enrollment.* However, special enrollment for the presentation of matters before a particular bureau or division may be effected in the following manner. An applicant for such special enrollment shall present his qualifications to the Committee. The Committee shall prescribe an examination for such applicant. If the Committee is satisfied that the applicant is possessed of the qualifications necessary to enable him to render valuable services to claimants and other persons before the particular bureau or division before which he is seeking authorization to practice, it shall issue to the applicant an appropriate special enrollment card.

(k) *Authority for a particular matter* Moreover, authority for the presentation of a particular matter before the Treasury Department may be effected in the following manner. An applicant for such authority shall present his qualifications to the Committee. If the Committee is satisfied that the applicant is possessed of the qualifications necessary to enable him to render valuable services to his principal in the presentation of the particular matter before the Treasury Department, it shall issue to the applicant an appropriate letter of authority. Such a letter of authority shall not be necessary, except in the case of matters before the Bureau of Internal Revenue, if the officer or employee of the bureau or division before whom appearance is made, is satisfied that the person appearing is not under orders of suspension or disbarment from the Treasury Department and is so clearly qualified that application to the Committee would be a useless formality.

Nothing in paragraphs (j) and (k) shall authorize any procedure to permit a person to act as a customhouse broker without compliance with the requirements of Part 11 of this chapter, nor limit the rights granted by such Part 11 to customhouse brokers to represent their clients before the Treasury Department.

§ 10.4 *Application for enrollment.* Applicants for enrollment shall submit to the Committee an application in duplicate, properly executed on Form 23. Applications in any other form may not be considered. Members of the bar of an American court of record will apply for enrollment as attorneys; all other applicants will apply for enrollment as agents. All applications for enrollment must be individual. While members of a partnership should apply as individuals and not in the partnership name, an enrolled attorney or agent may represent clients before the Treasury Department in the name of the partnership of which he is a member or with which he is otherwise regularly connected. In case all of the members of a partnership are not enrolled, then the enrolled attorney or agent shall be responsible for any acts or omissions of the unenrolled partner or partners which are in violation of law or of the provisions of the regulations in this part, to the same extent as though the offending partner himself were enrolled.

§ 10.5 *Customhouse brokers.* Section 641 of the Tariff Act of 1930 (46 Stat. 759; 19 U. S. C. 1641), as amended, provides in part that the Secretary of the Treasury may prescribe rules and regulations governing the licensing as customhouse brokers of citizens of the United States of good moral character, and of corporations, associations, and partnerships. The Department's regulations pursuant thereto are published in Part 11 of this chapter. A customhouse broker so licensed requires no further enrollment under the regulations in this part for the transaction, within the customs districts in which he is licensed, of any business relating specifically to the importation or exportation of merchandise under customs or internal-revenue laws. He is also entitled, without further license or enrollment, to represent claimants or other persons before the Treasury Department in Washington in any matter in which he acted as a customhouse broker in any district in which he is licensed. When serving in such capacity, a licensed customhouse broker shall, in addition to being subject to the provisions of section 641 of the Tariff Act of 1930, as amended, and the rules and regulations thereunder, be subject also to all the provisions of the laws and regulations set forth in this part, as revised from time to time, and shall be responsible as specified in 31 CFR 11.7 (d) for violation of any such laws or regulations committed by his or its officers, employees, or authorized attorneys or agents, in connection with the prosecution on behalf of the principal of any business before the Treasury Department in Washington.

§ 10.6 *Roster of enrollees; enrollment cards.*—(a) *Roster of attorneys and agents.* A roster of all attorneys and agents who make application for enroll-

ment or who are enrolled, or whose applications have been denied, or who have been suspended or disbarred, will be kept in the office of the Committee on Practice. All bureaus, offices, and divisions of the Treasury Department subject to the exceptions in § 10.5 in the case of the Bureau of Customs, are prohibited from recognizing or dealing with any unenrolled attorney or agent as the representative of any person having a claim pending before the Department; *Provided*, That the Committee on Practice may grant, pending action upon an application, temporary recognition to an applicant not required to take an examination in connection with his application; *And provided further* That an unenrolled person who has not been disbarred or suspended from practice before the Treasury Department may be permitted to make initial appearance in a particular case. Such permission shall in no case authorize an unenrolled person to appear before the Treasury Department in Washington, D. C., or to represent a claimant in any formal hearing; It shall be the duty of the Government official before whom such person appears to notify him that if he wishes to appear further in the case, or in any formal hearing, or before the Treasury Department in Washington, it will be necessary to file an application for enrollment.

(b) *Information as to enrollment.* The Committee will furnish upon request information as to whether any individual is enrolled. Other information will be made available to the various departments and agencies of the Government and to any person entitled to receive the same in accordance with the rules and regulations of the Treasury Department, and, except as prohibited by law, access to the files and records of the Committee will be granted to the Tax Court of the United States and its representatives.

(c) *Enrollment cards.* The Committee on Practice shall issue an enrollment card to every attorney or agent upon his enrollment. Unless advised to the contrary by the Committee on Practice, any officer of the Treasury Department may consider the holder of such an enrollment card as duly authorized to practice before the Department.

§ 10.7 *Proceedings for disbarment, suspension, and reinstatement.*—(a) *Proceedings for suspension and disbarment.* If an officer or employee of the Treasury Department has reason to believe that an enrolled attorney or agent has violated any provision of the laws or regulations governing practice before the Treasury Department, or if a complaint concerning any enrolled attorney or agent is made to any such officer or employee, he shall promptly make a written report thereof to the attorney for the Government. If any other person has information of such violations, he may also make written report thereof to the said attorney. The attorney and the Committee will treat as strictly confidential the identity of the informant in any case in which the informant is other than an officer or employee of the Treasury Department, unless the informant in giving his information states that his identity

and connection therewith are not confidential.

(b) *Rules of procedure.* The Attorney for the Government may, either on the basis of such information or upon his own motion where he has cause to believe that any enrolled attorney or agent has violated any provision of the laws or regulations governing practice before the Treasury Department, institute proceedings for suspension or disbarment against any enrolled attorney or agent, hereinafter called the respondent in this paragraph, by filing with the Committee a statement of charges signed by the Attorney for the Government. Subject to the provisions of the Administrative Procedure Act (60 Stat. 237) such proceedings shall be governed by the following rules:

(1) *Opportunity to avoid proceeding.* The Attorney for the Government shall, before a proceeding is instituted, give to the respondent notice in writing that:

(i) Transmits a copy of the proposed statement of charges, or a specification of the substance thereof;

(ii) Cites sections 5 (b) and 9 (b) of the Administrative Procedure Act;

(iii) Calls upon the respondent to show cause why the proceeding should not be instituted;

(iv) Informs the respondent that the notice affords him opportunity to make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(v) Invites any negotiation that the respondent deems it desirable to enter into; and

(vi) Specifies a reasonable time for response to such notice: *Provided*, That, if prior to institution of the proceeding, the Attorney for the Government determines that the case is one in which such notice would be improper and unnecessary, he shall file his findings and his reasons therefor in the record, and such proceeding may be instituted without first giving notice.

(2) *Service*—(i) *Service of notice and statement of charges.* Notice of a proceeding for suspension or disbarment, signed by the Secretary or a member of the Committee, shall be served upon the respondent in the following manner:

(a) By delivery to the respondent personally, or

(b) By registered mail, with demand for a return card signed by the respondent: *Provided*, That, if an enrolled attorney or agent shall have signed and filed with the Committee on Practice his written consent to be served in some other manner it shall be sufficient if service is made in that manner. Where the service is by registered mail, the receipt of the return card duly signed shall be satisfactory evidence of service. The notice shall give the place and time within which the respondent shall file his answer, which time shall be not less than 20 days from the date of service of the notice, and shall contain or be accompanied by a statement of charges, which statement shall be signed by the Attorney for the Government.

(ii) *Service of papers other than notice and statement of charges.* Papers other than the original notice and statement of

charges shall be served on the respondent as follows:

(a) By delivering the same to the respondent personally, or by registered mail; or

(b) By leaving them at his office with his clerk or with a person in charge thereof; or

(c) By depositing them in a United States post office or post office box, enclosed in a sealed envelope, plainly addressed to such respondent at the address under which he is enrolled or at his last address known to the Committee.

(d) When the respondent is represented by attorney, by service upon the attorney in the same manner as provided in subdivisions (a), (b) and (c) of this subdivision for service on the respondent.

(3) *Examiner.* There shall preside at the reception of the evidence an examiner, appointed as provided in the Administrative Procedure Act: *Provided*, however That until examiners are appointed as provided in said act (but in no case initiated after June 10, 1947) the Committee shall act as examiner, and its action shall be taken by majority vote.

(4) *Filing of papers.* Whenever under this paragraph the filing of a paper in a proceeding is required or permitted, and the place of filing is not specified either by rule of the examiner in the particular proceeding or pursuant to this paragraph, the paper shall be filed with the Committee on Practice, Treasury Department, Washington, D. C.

(5) *Extension of time.* In any case in which the time for filing, pleading, making a submittal, or making an appeal, shall have expired, or shall be about to expire, to the prejudice of a party, the examiner shall have the power in his discretion and upon appropriate application and showing by the party prejudiced, to extend the time, as justice may be deemed to require.

(6) *Negotiation.* At any time prior to hearing by the examiner, the Attorney for the Government is authorized, in his sound discretion, to negotiate with the respondent for the purposes contemplated by sections 5 (b) and 9 (b) of the Administrative Procedure Act. The parties may at any time during the hearing limit the issues by stipulation. Any stipulations resulting from such negotiation shall be entered in the record.

(7) *Resignation to avoid disbarment.* If pursuant to negotiation (or otherwise) the respondent resigns to avoid possible institution of disbarment proceedings, or to avoid possible disbarment or suspension in a pending proceeding, the Committee may, upon motion of the Attorney for the Government, accept the resignation. If the Committee overrules the motion it shall enter a formal order which shall recite the findings of fact and conclusions of the Committee and which shall be made of record in the proceeding, if any, against the respondent before the examiner.

(8) *Statement of charges.* The statement of charges shall give a plain and concise description of the facts which it is claimed constitute grounds for suspen-

sion or disbarment, without a detailed description of such facts. A statement of charges which fairly informs the respondent of the charges against him so that he is able to prepare his defense shall be deemed sufficient. Different means by which a purpose may have been accomplished or different intents with which acts may have been committed may be alleged in the statement of charges in a single count in the alternative.

(9) *Bill of particulars.* If, in order to prepare his defense, the respondent desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged misconduct, he may present a motion in writing to the examiner asking that the statement of charges be made more specific, setting forth in such motion in specific manner in what respect the statement of charges leaves him in doubt and describing the particular language of the statement of charges as to which additional information is needed. If in the opinion of the examiner such information is reasonably necessary to enable the respondent to prepare his defense, the examiner shall direct the Attorney for the Government to furnish the respondent with an amended statement of charges giving the needed information.

(10) *Answer.* The respondent's answer shall be filed in writing within the time specified in the original notice unless on application the time is extended pursuant to subparagraph (5) of this paragraph. The answer shall be made under oath before a notary public or other officer authorized to administer oaths and shall be filed in duplicate with the Committee on Practice.

(11) *Content of answer.* In his answer the respondent should specifically admit or deny every material allegation of fact in the statement of charges. Every allegation in the statement of charges not denied shall be deemed admitted, unless the respondent shall state in his answer that he has no knowledge thereof sufficient to form a belief, which statement shall be considered a denial. In answer to a statement of charges, no enrolled person shall deny a material allegation of fact which he knows to be true, or state in such answer that he is without sufficient information to form a belief when in fact he possesses such information.

(12) *Affirmative defense.* In his answer the respondent may also state affirmatively special matters of defense, and shall not give in evidence any matters in avoidance or of defense, consistent with the truth of the allegations of the statement of charges, unless in his answer he states such matters specifically.

(13) *Complaining witness.* The Attorney for the Government may in his discretion furnish a complaining witness with a copy of the answer if in his opinion such action will aid in ascertaining the truth or falsity of the charges. The term "complaining witness" for the purposes of this provision shall include any officer or employee of the Treasury De-

partment or any enrolled attorney or agent who may have reported the alleged misconduct to the Attorney for the Government, or any other person upon whose information the Attorney for the Government has instituted the proceeding.

(14) *Reply to answer* If the answer contains affirmative matter in avoidance, consistent with the truth of the material allegations in the statement of charges, a reply by the Attorney for the Government admitting or denying the new matter set forth in the answer shall be filed and served upon the respondent.

(15) *Supplemental charges*. If it appears that a denial of a material allegation of fact in the statement of charges, or a statement that the respondent has no knowledge sufficient to form a belief, was made in bad faith in the answer; or that the respondent has knowingly introduced false testimony during proceedings against him for suspension or disbarment, the Attorney for the Government may thereupon file supplemental charges, which charges may be tried with the other charges in the case, provided the respondent shall be given due notice thereof and afforded an opportunity for preparing a defense thereto.

(16) *Sufficiency of the pleadings*. The examiner shall have authority to pass upon the sufficiency of the statement of charges, the answer, and all other pleadings. The parties may be heard upon the sufficiency of any pleadings whenever in the opinion of the Examiner a hearing thereon is necessary or desirable.

(17) *Immaterial mistakes*. The Examiner shall disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place or the ownership of any property, a failure to prove immaterial allegations in the description of the respondent's conduct, or any other immaterial mistake in the pleadings.

(18) *Hearings*. Subject to this paragraph the examiner may determine the time, place, and manner in which hearings shall be conducted; the form in which evidence shall be received; and may adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of suspension, disbarment, and reinstatement cases. Written notice of the time and place of all hearings shall be given the respondent in the manner provided in this paragraph for the service of papers. No hearing shall be held in less than 10 days from the date of service on the respondent of the notice of such hearing, except that the Examiner may postpone or adjourn hearings when necessary or desirable, on notice to the parties.

(19) *Testimony*. Unless the examiner shall otherwise direct, the testimony of witnesses at all hearings will be taken under oath and stenographically recorded and transcribed.

(20) *Depositions*. Depositions for use at a hearing may, with the written approval of the examiner, be taken by either the Attorney for the Government or the respondent, or their duly authorized representatives, upon oral or written inter-

rogatories, before any officer duly authorized to administer an oath for general purposes, or an officer of the Internal Revenue Bureau authorized to administer an oath in internal revenue matters, upon not less than 10 days' written notice to the other party. Such notice shall state the names of the witnesses, and the time and place where such depositions are to be taken: *Provided*, That when depositions are taken as aforesaid, if both parties are present or represented at the time and place specified for the taking of the depositions, either party may, after the examination of the witnesses produced under the order of the Examiner, be entitled to produce and examine other witnesses; but in such case one day's notice must be given to the other party or his duly authorized representative there present, unless such notice is waived: *And provided further* That the parties or their duly authorized representatives may agree in writing upon a time when and place at which such depositions are to be taken, without formal notice. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served with the notice, and copies of any written cross-interrogatories shall be mailed or delivered to the opposing party or his duly authorized representative at least 5 days before the time of taking the depositions.

(21) *Documents*. Whenever any book, document or paper is introduced as an exhibit in a proceeding, the examiner may authorize, upon such conditions as he may deem proper, the withdrawal of such exhibit upon the request of the Attorney for the Government, or of the respondent or his attorney.

(22) *Proof partial*. If the examiner finds that a part of the charges in the statement of charges is not sufficiently proved but that the residue thereof is so proved, he may base his findings on any facts established by the evidence which are grounds for suspension or disbarment and which are substantially charged by the said residue of the statement of charges.

(23) *Proof variance*. In the case of a variance between the allegations in the statement of charges and the evidence, the examiner shall have power to base his findings on any facts established by the evidence which are grounds for suspension or disbarment, and to order the amendment of the statement of charges to conform to the evidence: *Provided*, That the respondent has had or is given reasonable opportunity to present his defense to such amended charges, with such postponements of the hearing as may be reasonably necessary to permit the respondent to present such defense.

(24) *Submittals*. After the reception of evidence has been concluded, the Examiner shall by rule afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor. In the event that depositions are introduced on behalf of the Government at the hearing or in the event that oral testimony in support of the charges is produced by the Government at the hearing, the Attorney for

the Government, as soon as possible after the hearing, shall prepare and file with the examiner proposed findings of fact based upon all the evidence in the case.

(25) *Exceptions to proposed findings*. Upon receipt of proposed findings and conclusions submitted by a party pursuant to subparagraph (24) of this paragraph, the Examiner shall forward to the other parties in the case or their attorneys a copy thereof together with a copy of the transcript of such oral testimony and depositions as may have been introduced. Such parties shall have not less than 10 days after receipt of such papers in which to submit in writing to the Examiner their exceptions, if any, to such proposed findings and conclusions. Neither such parties nor their attorneys shall have the right to receive any copies of exhibits introduced at the hearing or at the taking of the depositions. Such parties or their attorneys, however, shall have the right to examine all exhibits. Upon receipt of such exceptions, or after the time for filing such exceptions has expired if no such exceptions are filed, the Examiner shall make his findings and conclusions as required by subparagraph (26) of this paragraph.

(26) *Decision by the examiner*. After the parties rest, the examiner shall make his decision in the case, which decision shall include (i) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record and (ii) a recommended order of suspension or disbarment or his order to dismiss the charges, as the case may require. In making his findings and conclusions as to the truth of any charges which are duly put in issue by the papers in any case and upon which a hearing is had, the examiner shall be guided by the preponderance of reliable, probative, and substantial evidence. If at any hearing upon issues of fact raised by the papers in the case the respondent fails to put in any evidence, the examiner may base his findings upon the evidence submitted by the attorney for the Government.

(27) *Effect of initial decision*. If the decision of the examiner does not contemplate the suspension or disbarment of the respondent, such initial decision in the absence of an appeal pursuant to subparagraph (28) of this paragraph shall without further proceedings become the decision of the Secretary of the Treasury.

(28) *Appeal*. Any party adversely affected or aggrieved, within 30 days after the decision is filed with the Committee, has the right to appeal from such initial decision of the Examiner by filing notice of appeal and to submit exceptions to the decision and supporting reasons therefor, which submittals shall be included in the record of the case. Upon the expiration of said period, the entire record shall be transmitted to the Secretary of the Treasury.

(29) *Submittals on recommended decision*. If the recommended decision of the Examiner contemplates the suspension or disbarment of the respondent, any party has the right, within 30 days after the decision is filed with the Com-

mittee, to submit exceptions to such recommended decision and supporting reasons therefor, which submittals shall be included in the record of the case. Upon the expiration of said period, the entire record shall be transmitted to the Secretary of the Treasury.

(30) *Decision by Secretary of the Treasury.* The Secretary of the Treasury will make the agency decision in each case in which an appeal has been taken from the initial decision of the Examiner as provided in subparagraph (28) of this paragraph and in each case in which the decision of the Examiner contemplates the suspension or disbarment of the respondent. In making such decision, the Secretary of the Treasury, pursuant to the provisions of the Administrative Procedure Act, will review the whole record or such portions thereof as may be cited by any party to permit limiting of the issues.

(31) *Notice of decisions.* Each decision (initial, recommended, or agency) shall promptly be filed in the record, and the Committee shall thereupon give notice thereof to the parties in the manner prescribed for the service of papers.

(32) *Notice of suspension or disbarment.* Upon issuance of an order of suspension or disbarment of an attorney or agent by the Secretary of the Treasury notice thereof shall be given by the Committee to the heads of all interested bureaus, offices, and divisions of the Treasury Department and to other interested departments and agencies of the Government in such manner as the Committee may determine. Such person will not thereafter be recognized during the period of suspension or disbarment as an attorney or agent in any matter before the Treasury Department. Notice in such manner as the Committee may determine may be given to the proper authorities in the State from which an enrolled attorney, certified public accountant, or public accountant derives his license to practice in the event that such attorney, certified public accountant, or public accountant is suspended or disbarred.

(33) *Reopening.* Any attorney or agent who has been suspended or disbarred may make written application to the Committee to have the order of suspension or disbarment vacated or modified upon the ground (i) of newly discovered evidence, or (ii) that important evidence is now available which the applicant was unable to produce at the original hearing by the exercise of due diligence. Every application for reinstatement shall be filed with the Committee in duplicate. Such application must set forth specifically the precise character of the evidence to be relied upon in its support and shall state the reasons why the applicant was unable to produce it when the original charges were heard. If the Examiner after due consideration of the application shall deem it sufficiently meritorious to warrant a hearing, he shall so advise the Committee, who shall set a time and place for such hearing and give due notice thereof to the applicant. Upon the conclusion of the hearing the Committee shall transmit the recommended decision

of the Examiner to the Secretary of the Treasury for his approval or disapproval. In the event that the Secretary shall issue an order vacating or modifying the prior order of suspension or disbarment, notice thereof shall be given by the Committee to all those to whom notice of the original order of suspension or disbarment was sent. In all cases not covered by the foregoing provisions, a disbarred attorney or agent who desires to be restored to the roll must file a new application for enrollment and otherwise comply with the requirements of § 10.3.

(34) *Saving provision.* The regulations governing suspension, disbarment and reinstatement that were in force and effect March 31, 1947, are referred to in this subparagraph as the old rules. This paragraph as amended effective April 1, 1947, is referred to in this subparagraph as the new rules. The old rules shall continue to govern any proceeding that was instituted prior to March 31, 1947: *Provided, however* That if in the course of the proceeding there is taken any action that is authorized by the old rules but that is not authorized by the new rules, said action shall not constitute grounds for disturbing any order thereafter made in the proceeding: (i) Unless it is shown that the action was in derogation of substantive rights, and not merely procedural rights; and (ii) unless upon occurrence of the action the respondent made timely objection supported by his reasons, and the objection was overruled: *Provided further* That adherence may be had to the new rules pursuant to stipulation of the parties.

§ 10.8 *Authority to prosecute claims.* A power of attorney from the principal in proper form may be required of enrolled attorneys or agents in any case by heads of bureaus, offices, and divisions. In the prosecution of claims before the Bureau of Internal Revenue, involving the assertion of demands for payment of money by the United States, proper powers of attorney shall always be filed before an attorney or agent is recognized.

§ 10.9 *Substitution of attorneys or agents; revocation of authority—(a) Substitution of attorneys or agents.* Where the power of attorney under which an enrolled attorney or agent is acting expressly confers the power of substitution, such attorney or agent may, by a duly executed instrument, substitute another enrolled attorney or agent in his stead: *Provided,* That such other attorney or agent will be recognized as such only after due notice in writing has been given the head of the bureau, office, unit, or division before which the matter is pending: *And provided further* That where the enrolled attorney or agent designated in the power of attorney, with power of substitution, has himself by reason of his suspension or disbarment or his subsequent entry into Government service become ineligible further to represent before the Treasury Department the client who executed the power, the Treasury Department shall be under no obligation to recognize any substitute power of attorney executed at any time by such attorney or agent, authorizing

some other enrolled attorney or agent to appear before the Department upon behalf of such client, and it will be necessary for such client to retain a new attorney or agent.

(b) *Conflicting powers of attorney.* Where there is a contest between members of a dissolved firm or between two or more attorneys or agents, acting under the same power of attorney, as to which one is entitled to prosecute a matter pending before the Treasury Department or to receive a draft, warrant, or check, the client only shall thereafter be recognized, unless the members or survivors of the dissolved firm, or the contesting attorneys or agents, file an agreement signed by all designating which of them shall be entitled to prosecute such matter or to receive the said draft, warrant, or check. In no case shall the delivery of a final draft, warrant, or check to the client be delayed more than 60 days by reason of failure to file such agreement.

(c) *Revocation of powers.* The revocation of an authority to represent a claimant before the Treasury Department shall in no case become effective, so far as the Department is concerned, until due notice in writing has been given the head of the bureau, office, or division before which such matter is pending, and the filing of evidence of notification of the revocation to the attorney whose power has been revoked.

§ 10.10 *Disreputable conduct.* (a) The Secretary of the Treasury may after due notice and opportunity for hearing suspend, and disbar from further practice before the Treasury Department any attorney or agent shown to be incompetent, disreputable, or who refuses to comply with the rules and regulations in this part, or who shall with intent to defraud, in any manner wilfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

(b) Among other forms of disreputable conduct the following are deemed to constitute such conduct:

(1) Conviction of a crime involving moral turpitude.

(2) Making false answers in the application for enrollment with knowledge that such answers are false.

(3) Preparing or filing for himself or another a false Federal income tax return or other statement on which Federal taxes may be based, knowing the same to be false.

(4) Suggesting to a client or a prospective client an illegal plan for evading payment of Federal taxes, knowing the same to be illegal.

(5) Giving false testimony in any proceeding before the Committee on Practice, or in any other proceeding before the Treasury Department, or before any tribunal authorized to pass upon Federal tax matters, knowing the same to be false.

(6) Filing any false or fraudulently altered document or affidavit in any case or other proceeding before the Treasury Department, or procuring the filing thereof, knowing the same to be false or fraudulently altered.

(7) Using, with intent to deceive, false or misleading representations to procure employment in any case or proceeding before the Treasury Department.

(8) Giving, with intent to deceive, false or misleading information relative to a matter pending before the Treasury Department to any officer or agent of the Department.

(9) Preparing a false financial statement for a corporation, partnership, association, or individual, or certifying the correctness of such false statement, knowing the same to be false.

(10) Imparting to a client false information relative to the progress of a case or other proceeding before the Treasury Department, knowing the same to be false.

(11) False representations by an enrolled agent that he is an attorney or a certified public accountant.

(12) Preparing or assisting in the preparation of, or filing, a false claim against the United States, knowing the same to be false.

(13) Approving, for filing, a false income tax return prepared by some other person, knowing the same to be false.

(14) Misappropriation of sums received from clients for the purpose of payment of taxes or other obligations due the Government, or of funds or other property belonging to a client.

(15) Improper retention of a fee for which no services have been rendered.

(16) Obtaining or attempting to obtain money or other thing of value from a claimant by false representations, knowing the same to be false.

(17) Obtaining or attempting to obtain money or other thing of value from a claimant by duress or undue influence.

(18) Concealing or attempting to conceal assets in order to evade the payment of Federal taxes.

(19) Representing to a client or prospective client that the attorney or agent can obtain extraordinary favors from the Treasury Department or an officer or employee thereof or has access to unusual sources of information within the Department.

(20) Soliciting or procuring the giving of false testimony in any proceeding before the Committee on Practice or in any other proceeding before the Treasury Department.

§ 10.11 *Striking names from roll.* (a) On request of an attorney or agent, the Committee may strike his name from the roll, but before granting the request the Committee shall make inquiries to ascertain whether the request has been made in order to evade proceedings for suspension or disbarment, in which event the request shall be denied unless the Committee shall deem it to the best interest of all parties concerned to grant such request.

(b) The Committee may upon motion of the attorney for the Government or upon its own motion strike from the roll the name of any person who has failed to supply the information required by section 15 of Department Circular 230, revised October 1, 1934, provided that any attorney or agent whose name has been so stricken from the roll may have his name restored thereto by filing with the

Committee such information and a statement showing that his failure to supply it within the time specified in such circular was not due to any fault on his part. Upon the receipt of such information and statement, the name of such attorney or agent shall be restored to the roll unless it shall appear that he is ineligible for enrollment, in which event he shall be advised of the fact and given 60 days within which to present to the Committee satisfactory evidence that he is eligible for enrollment.

§ 10.12 *Application and effective date of regulations.* The regulations in this part supersede the regulations promulgated by Treasury Department Circular No. 230 of October 1, 1934, relating to the recognition of attorneys, agents, and others, as heretofore amended and supplemented. This part shall apply to attorneys, agents, and licensed customhouse brokers representing claimants before any office of the Treasury Department, with such exceptions as to customhouse brokers as are set forth in § 10.5, and shall be effective from and after October 1, 1936. The regulations in this part shall also apply to all unsettled matters then pending in this Department or which may hereafter be presented or referred to the Department or offices thereof for adjudication, and shall be applicable to all those now enrolled to practice before the Treasury Department as attorney or agent, and all proceedings within the purview of section 3 of the act of July 7, 1884, 23 Stat. 258 (5 U. S. C. 261) after October 1, 1936, shall in all procedural matters be governed by the provisions of the regulations in this part and such supplementary rules as may from time to time be adopted pursuant to said regulations: *Provided*, That violations of the regulations committed prior to October 1, 1936, shall in all substantive matters be dealt with according to the provisions of the regulations in force at the time when the act or acts alleged to constitute such violations occurred.

§ 10.13 *Withdrawal or amendment of regulations.* The Secretary of the Treasury reserves the power to withdraw or amend or supplement at any time or from time to time all or any of the regulations in this part, and may make such special orders as he may deem proper in any case.

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

MAY 29, 1947.

[F. R. Doc. 47-5313; Filed, June 4, 1947;
8:53 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

PART 6—SECURITY OF PORTS AND CONTROL OF VESSELS IN NAVIGABLE WATERS OF THE UNITED STATES

TRANSFER OF REGULATIONS TO CORPS OF ENGINEERS

CROSS REFERENCE: For adoption and continuation in effect by the Corps of

Engineers, War Department, of the regulations in this part, see Chapter II of this title, *infra*.

For revocation of Proclamation 2412, which delegated to the Secretary of the Treasury authority to exercise powers conferred by section 1 of Title II of the act of June 15, 1917 (40 Stat. 220; 50 U. S. C. 191) with respect to control of vessels in territorial waters of the United States, see Proclamation 2732 (12 F. R. 3583)

Chapter II—Corps of Engineers, War Department

SECURITY OF PORTS AND CONTROL OF VESSELS IN NAVIGABLE WATERS OF THE UNITED STATES

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917, Chapter XLIX of the act of July 9, 1918 and section 7 of the River and Harbor Act of March 4, 1915 (33 U. S. C. 1, 3, 471) the regulations now contained in Chapter I, Part 6, Title 33, Code of Federal Regulations, are hereby adopted and continued in full force and effect.

This approval shall take effect immediately to insure continuity of the regulations pending review to determine what revisions are necessary to better conform to peacetime requirements.

(Sec. 7, 38 Stat. 1053, sec. 7, 40 Stat. 266, Chapter XIX, 40 Stat. 892; 33 U. S. C. 1-3)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-2988; Filed, June 4, 1947;
10:25 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

[Circular 1647]

PART 257—LEASE OR SALE OF SMALL TRACTS, NOT EXCEEDING FIVE ACRES, FOR HOME, CABIN, CAMP, HEALTH, CONVALESCENT, RECREATIONAL OR BUSINESS SITES

The regulations governing leases or sales under the act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a), as amended, contained in Part 257, Cum. Supp., as amended by Circular Nos. 1602, March 30, 1945, and 1613, February 27, 1946, are amended to read as follows:

Sec.	
257.1	Statutory authority; lands which may be leased or sold.
257.2	Definitions.
257.3	Policy.
257.4	Qualifications of applicants; restrictions on purchase and lease.
257.5	Execution and filing of applications.
257.6	Fee.
257.7	Action on application by Manager.
257.8	Classification of land.
257.9	Occupancy; preference right of applicant; action on application.
257.10	Issuance of lease; option to purchase.
257.11	Renewal of lease; preference rights.

Sec.	
257.12	Assignment of lease; subleases of leased lands.
257.13	Cancellation or modification of lease.
257.14	Sale.
257.15	Minerals.
257.16	Timber.
257.17	Rectangular tracts.
257.18	Supplemental plats.
257.19	Irregular tracts; cost of special survey.
257.20	Tracts on unsurveyed land.
257.21	Appeals.

AUTHORITY: §§ 257.1 to 257.21, inclusive, issued under 52 Stat. 609; 43 U. S. C. 682a.

§ 257.1 *Statutory authority; lands which may be leased or sold.* The act of June 1, 1938 (52 Stat. 609) as amended by the act of July 14, 1945 (59 Stat. 467-43 U. S. C. 682a) authorizes the Secretary of the Interior, in his discretion, to lease or sell to any person who is the head of a family, or who has arrived at the age of 21 years, and is a citizen of the United States, or who has filed his declaration of intention to become such citizen, as required by the naturalization laws, a tract of not exceeding 5 acres, in reasonably compact form, of any vacant, unreserved, surveyed public land, or surveyed public land withdrawn or reserved by the Secretary of the Interior for any purposes, or surveyed lands withdrawn by Executive Orders 6910 of November 26, 1934, and 6964 of February 5, 1935, for classification, which the Secretary may classify as chiefly valuable as a home, cabin, camp, health, convalescent, recreational, or business site. The act is applicable to lands in such areas as grazing districts, but is not applicable to lands withdrawn by the Secretary solely under delegated authority (e. g., under Executive Order No. 9337, of April 24, 1943) or to land in such reservations as national forests, national parks or national monuments, or to the reverted Oregon and California railroad or the reconveyed Coos Bay wagon road grant lands, in Oregon. The lands cannot be leased or sold until classified for such purposes.

The act applies to public lands in Alaska, and permits employees of the Department of the Interior stationed in Alaska, in the discretion of the Secretary, to purchase or lease one tract in Alaska for any purpose under the act, except as a business site.

§ 257.2 *Definitions.* (a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "Regional Administrator" means the Regional Administrator, Bureau of Land Management. Where there is no Regional Administrator, it means the Director, Bureau of Land Management.

(d) "Manager" means Manager of the District Land Office. Where there is no District Land Office, it means the Regional Administrator.

(e) "The act" means the act of June 1, 1938 (52 Stat. 609) as amended.

(f) *Sites.* (i) A "home site" is a site suitable for a permanent, year-round residence for a single person or a family.

(ii) A "cabin site" is a site suitable for a summer, weekend, or vacation residence.

(iii) A "camp site" is a site suitable for temporary camping and for the erection

of simple or temporary structures and shelters, such as tents, tent platforms, etc.

(iv) A "health site" is a site suitable for the temporary or permanent residence of a single person or of a family for the prevention or cure of disease or illness.

(v) A "convalescent site" is a site suitable for residence of a single person or family for the purpose of recuperation from a disease or illness.

(vi) A "recreational site" is a site chiefly suitable for noncommercial outdoor recreation.

(vii) A "business site" is a site suitable for some form of commercial enterprise.

§ 257.3 *Policy.* It is the policy of the Secretary in the administration of the act of June 1, 1938, to promote the beneficial utilization of the public lands subject to the terms thereof, and at the same time to safeguard the public interest in the lands. To this end applications for sites will be considered in the light of their effect upon the conservation of natural resources and upon the welfare not only of the applicants themselves but of the communities in which they propose to settle.

Applications will not be allowed, for example, which would lead to private ownership or control of scenic attractions or water resources that should be kept open to public use. Nor will isolated or scattered settlement be permitted which would impose heavy burdens upon state or local governments for roads, schools, and police, health, and fire protection. Types of settlement, or business which might create "eyesores" along public highways and parkways will be guarded against.

No direct sale will be made of lands under the act. Use and improvement of the land under lease will be required before it will be sold. Leases of lands which are classified for lease and sale will contain an option permitting the lessee to purchase as provided in § 257.10. Lands which are classified for lease only will not be sold and leases of such land will not contain an option to purchase clause.

§ 257.4 *Qualifications of applicants; restrictions on purchase and lease.* An application to lease or purchase may be made by any person, including a married or single woman, who is a citizen, or has declared his or her intention to become a citizen, of the United States, and who is 21 years of age or, if under that age, the head of a family. Unless warranted by special circumstances, where a husband and wife are living together, only one of them may acquire a tract under the act.

Employees of the Department of the Interior stationed in Alaska may lease or purchase one tract in Alaska for any purpose under the act except business.

No person will be permitted to lease or purchase more than one tract under the act, except upon a satisfactory showing that such action is warranted. Where more than one tract is applied for under the act by the same person, except where otherwise authorized by the Regional Administrator, each tract must be the subject of a separate application, which must be complete in itself, must be filed in

accordance with all of the applicable regulations, and must be accompanied by a showing that the allowance of more than one application is warranted by the circumstances.

In each application to purchase or lease, the applicant must furnish data sufficient to identify all other applications under the act, if any, filed by him or any member of his family. Such data should include the serial number and date of filing of each such application and the district land office at which it was filed.

§ 257.5 *Execution and filing of applications.* An application for lease under the act must be filed on Form 4-775. An application for sale should be made on Form 4-775a. All applications must be prepared with an original and one copy. The applicant must furnish all the information required by the form, including the declaration that he has personally examined the lands for which the application is filed. The application must be filed with the manager of the land office for the district within which the land is situated. If the land is in a State in which there is no district land office, the application must be filed with the Regional Administrator for the State in which the land is situated. The application need not be under oath but must be signed by the applicant.¹

§ 257.6 *Fee.* An application for lease must be accompanied by a filing fee of \$5, which will be carried as unearned, pending action on the application. If the application is rejected, the fee will be returned. If a lease is offered to the applicant, the fee will be considered as earned and will be retained. An application for sale need not be accompanied by a filing fee.

§ 257.7 *Action on application by Manager.* If an application is not properly executed or is not accompanied by the required fee, or is otherwise irregular, the manager will reject it.

§ 257.8 *Classification of land.* If the application is regular and the status of the land applied for warrants its consideration for classification under the act, the Regional Administrator, upon receipt of the application, will proceed to have such studies and investigations made as may be required for a determination as to whether or not it should be classified for small tract purposes. Where the land applied for has been withdrawn or reserved by the Secretary, the concurrence of the bureau having supervision over the land must be obtained before the land may be classified.

A single tract of 5 acres or less may be classified as suitable for one or more of the above types of sites specified in § 257.2. Each tract will be classified as available either for lease and sale or for lease only. Tracts which are classified for lease only will not be subject to sale.

The Regional Administrator may classify lands under the act either on his

¹Title 18 U. S. C. sec. 80 makes it a crime for any person knowingly or willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement as to any matter within its jurisdiction.

own motion or upon application. Where land is classified by the Regional Administrator on his own motion, prior to September 27, 1954, veterans of World War II have a preference right for 90 days, after the effective date of the classification of the lands, in which to file a small tract application. (Section 4, act of September 27, 1944; 58 Stat. 745; 43 U. S. C. 282).

No lease will be offered and no sale authorized prior to the classification of the land for such disposal.

§ 257.9 *Occupancy; preference right of applicant; action on application.* The filing of an application confers no right upon the applicant to settle upon, use or occupy the land and all persons are warned not to make such settlement, and not to use or occupy the land prior to the issuance of a lease. Any such unauthorized settlement, use or occupancy constitutes a trespass.

When an application is regularly filed pursuant to the regulations in this part prior to the time the manager is notified by the Regional Administrator that the area is under consideration for small tract classification, a preference right to lease or purchase will be accorded the applicant if the land is thereafter classified for the type of site for which application has been made and the application is made to conform to the area and dimensions specified in the classification order.

Applications filed subsequent to the receipt of such notice by the manager shall be acted upon and disposed of in accordance with the terms of the respective classification orders.

§ 257.10 *Issuance of lease; option to purchase.* The manager will act on applications for and may issue leases upon lands, for periods not exceeding five years, which are classified for any purpose specified in the act, other than business: *Provided*, That (a) the applicant, upon the issuance of such lease, will have only one tract under the act and (b) the application covers a tract as established by the order of classification. All other leases, including those for business sites, will be issued by the Regional Administrator.

Leases under the act will be prepared in quadruplicate on Form 4-776. A lease will be issued for a period of not more than five years, unless the character of the venture justifies a longer period. Each lessee will be required to pay the annual rental, in advance, to the manager of the proper district land office. If the annual rental does not exceed \$10, the lessee will be required to pay the rental for the entire lease period in advance of the issuance of the lease. The advance rental will be considered as earned upon issuance of the lease and will be retained.

The lease will contain provisions relating to the improvements to be placed on the lands and such other conditions of occupancy as are set forth in the order of classification, including an appropriate set back of the improvements from the boundaries of the leased tract. Plans for improvements may be submitted to the Regional Administrator for approval in advance of construction.

All leases of tracts which are classified for lease and sale will contain a provision affording the lessee or his duly approved successor in interest an option to purchase the tract at or after the expiration of one year from the date the lease is issued, provided the improvements required by the lease have been made and the lessee or his successor in interest has otherwise complied with the terms and conditions of the lease, including the option to purchase clause. The option to purchase clause will set forth the appraised value of the unimproved land at the date the lease was issued. This value, together with the cost of survey, if any, necessary to describe the land properly, will constitute the price at which the land may be purchased. Any rental paid in advance for the lease period subsequent to the date that an application for sale is properly filed will be credited against the purchase price.

Leases of tracts which are classified for lease only will not contain an option to purchase clause.

§ 257.11 *Renewal of lease; preference rights.* The manager may act upon applications to renew leases which he is authorized to issue. (See § 257.10.) He may issue such renewal leases for periods not exceeding five years; provided the land then is classified for the purpose specified in the original lease. All other applications to renew leases will be acted upon, and renewal leases issued, by the Regional Administrator.

Upon the filing of an application for the renewal of a lease, not more than six months or less than 60 days prior to its expiration, the lessee or his duly approved successor in interest will be accorded a preference right to a new lease, upon such terms and for such duration as may be fixed by the appropriate officer designated above, if the terms of the lease have been complied with and it is determined that a new lease should be granted. No option to purchase clause may be placed in the renewal lease if it is not in the original lease unless the lands have been classified for sale.

§ 257.12 *Assignment of lease; subleases of leased lands.* The manager may approve assignments of leases and subleases of the lands subject to leases which he is authorized to issue (See § 257.10) All other assignments and subleases will be approved by the Regional Administrator.

Proposed assignments of leases, and proposed subleases of leased lands, in whole or in part, must be submitted, in triplicate, within 90 days from the date of execution for approval by the appropriate officer designated above. The proposed assignment or sublease must contain all of the terms and conditions agreed upon by the parties thereto, must be accompanied by the same showing by the assignee or sublessee as is required of applicants for a lease, and must be supported by a showing that the assignee or sublessee agrees to be bound by the provisions of the lease. No assignment or sublease will be recognized unless and until approved by the appropriate officer designated above.

§ 257.13 *Cancellation or modification of lease.* The Regional Administrator

may modify or cancel any lease where the lessee has failed to comply with any of the terms, covenants and stipulations of the lease or to abide by any of the regulations in this part, and such default has continued for 30 days after written notice thereof.

§ 257.14 *Sale.* The Regional Administrator may authorize the sale of those tracts which have been classified for sale whenever, within the limitations of the lease and the regulations in this part, he may consider such action appropriate.

Lands will be classified for sale where found to be primarily suitable for use and occupancy as provided by the act, and where their disposal and use in private ownership will not interfere unduly with the use of private lands or other Federal lands. Tracts will be sold under the act when the lessee or his duly approved successor in interest has placed the improvements on the tract required by the lease and otherwise has complied with the terms and conditions of the lease but no sale may be made and no application for sale may be filed until the tract has been under lease to the sale applicant or his duly approved successor in interest for at least one year from the date the lease was issued. The sales price of the tract will be indicated in the option to purchase clause of the lease.

An application for sale should be made on Form 4-775a. When a sale is authorized, the applicant will be allowed sixty days from service of notice of such authorization to deposit either the full amount of the purchase price, or, if he desires, one-fourth thereof. If only one-fourth of the purchase price is paid, the balance may be paid in equal semi-annual instalments but must be paid within two years after the initial payment has been made. The applicant's right to the tract and the money he has paid will be forfeited if he fails to make full payment within that period.

Any advance rentals paid for the lease period subsequent to the date that the application for sale is properly filed will be credited against the purchase price.

If the applicant has paid the full purchase price and otherwise complied with the foregoing and no objection appears, cash certificate will be issued by the Manager, to be followed by patent.

§ 257.15 *Minerals.* Any lease or patent issued under the act will reserve to the United States (a) all deposits of coal, oil, gas or other minerals, together with the right to prospect for, mine, and remove the same under such regulations as the Secretary may prescribe, and (b) all fissionable source materials, together with the right to prospect for, mine and remove the same, in accordance with the Act of August 1, 1946 (60 Stat. 755) Any minerals subject to the leasing laws, in the lands patented or leased under the terms of the act may be disposed of to any qualified person under applicable laws and regulations in force at the time of such disposal. No provision is made at this time to prospect for, mine, or remove the other kinds of minerals that may be found in such lands, and until rules and regulations have been issued, such reserved deposits will not be subject to prospecting or disposition.

§ 257.16 *Timber* A lessee will not be permitted to cut timber from the leased lands without first obtaining permission from the Regional Manager. Such permission will not be granted except where the timber is to be cut to clear the land or to make improvements.

§ 257.17 *Rectangular tracts.* The official township plats ordinarily provide the basis for descriptions of tracts, in compact form, in units of 5 acres or aliquot parts thereof. Where a tract, not exceeding five acres, can be conformed to legal subdivisions of the survey, no additional official survey will ordinarily be made by the Government beyond the identification of the quarter section corners.

§ 257.18 *Supplemental plats.* Where a tract is situated in the fractional portion of a sectional lotting, a supplemental plat may be required to afford a suitable description. The plat will be prepared at the time of the approval of the application. If the subdivision of the sectional lotting would result in narrow strips or other areas containing less than 2½ acres, not suitable for sale or lease as separate units, such excess areas, in the discretion of the Regional Administrator, may be included in the adjoining 5-acre tracts.

§ 257.19 *Irregular tracts; cost of special survey.* Where, in the opinion of the Regional Administrator, the rectangular form is not the most desirable plan for development of an area, tracts irregular in form, not in excess of 5 acres each, may be leased or sold in accordance with the regulations in this part. Applicants for such tracts will be required to submit a metes-and-bounds description sufficiently complete to identify the location, boundary, and area of the lands. Where a special official survey is required of an irregular tract for the purpose of patent or lease description, the cost thereof will be paid by the applicant. If there is a group of contiguous or closely associated tracts to be surveyed at one time the cost will be prorated among the tracts on an acreage basis. The applicant will be required to make an advance payment to the manager, equal to the estimated cost of executing the survey, before the field work will be undertaken. He will be credited with any excess payments prior to the issuance of patent or lease.

§ 257.20 *Tracts on unsurveyed land.* Unsurveyed public lands are not subject to lease or sale under the act. Should an application be filed for such lands, the manager will reject it. However, if desired, the applicant may file a request for the survey of the lands with the Public Survey Office of the State in which the lands are situated or with the Regional Administrator of the region in which the lands are situated if the lands are not within an organized surveying district. The description must be sufficiently complete to identify the location, boundary, and area of the land. There should also be given, if possible, the approximate description or location of the land by section, township and range. A

person who requests the survey of an area acquires no preferential right to apply for the land under the act upon the completion of the survey and the official filing of the plat. After the survey is completed and the official plat is placed on record, the surveyed area will be subject to the provisions of the act and application may then be filed.

§ 257.21 *Appeals.* An appeal pursuant to the rules of practice, Part 221, may be taken from any decision of the manager to the Regional Administrator, from the latter's decision to the Director, and, from his decision to the Secretary.

FRED W. JOHNSON,
Director.

Approved: May 27, 1947.

OSCAR L. CHAPMAN,
Under Secretary of the Interior.

Form 4-776
(April 1945)

(To be executed in quadruplicate)

UNITED STATES DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

Serial No. ----

LEASE UNDER SMALL TRACT ACT

Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. Sec. 682a) as amended

This indenture of lease, entered into as of _____, by and between the United States of America, party of the first part, hereinafter called the Lessor, acting in this behalf by the _____ and _____ of _____ party of the second part, hereinafter called the Lessee, pursuant to the terms and provisions of the Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, and the regulations thereunder, all of which are made a part hereof.

Witnesseth:

That the Lessor, in consideration of the rents to be paid and the covenants to be observed as herein set forth, does hereby grant and lease to the Lessee an exclusive right and privilege of using for _____ the following described tract of land:

Section _____, Township _____ Range _____, Meridian _____, containing _____ acres, together with the right to construct and maintain thereon all buildings or other improvements necessary to the full enjoyment thereof for the purposes for which this lease is given, for a period of _____ years. Upon filing an application for renewal of the lease, not more than six (6) months or less than sixty (60) days prior to the expiration thereof, the Lessee or his duly approved successor in interest will be accorded a preference right to a new lease, upon such terms and for such duration as may be fixed by the officer signing this lease, if the terms of the lease have been complied with and such officer shall determine that a new lease should be granted.

The lessee or his duly approved successor in interest may purchase the above described land at or after the expiration of one year from the date of this lease, provided the improvements required hereunder have been made and he has otherwise complied with the terms and conditions of this lease. The purchase price shall be \$_____, plus the cost of survey, if any, necessary to describe the land properly. In no event may an application to purchase be filed prior to the expiration of one year from the date of this lease.

In consideration of the foregoing, the Lessee hereby agrees:

(a) To pay the Lessor, in advance, an annual rental of \$_____.

(b) To construct upon the leased land, to the satisfaction of the Regional Administrator, improvements, which under the circumstances are presentable, substantial, and appropriate for the use for which the lease is issued. Plans for improvements may be submitted to the Regional Administrator for approval in advance of construction.

(c) To observe all State, county, and other laws and regulations which are applicable to the premises, including sanitary laws and regulations and laws relating to the cost and maintenance of partition fences, and to keep the premises in a neat and orderly condition.

(d) If pursuant to the lease, the site may be used in whole or in part for business, to conduct all business operations in an orderly manner and in accordance with the requirements of the laws of the State in which the land is located, as well as the laws of the United States, and not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and that he will require an identical provision to be included in all subcontracts.

(e) Not to commit waste or injury to the land, or to devote it to any occupation or use other than the purposes for which this lease is issued.

(f) To take all reasonable precautions to prevent and suppress forest, brush, and grass fires.

(g) That neither he nor members of his family, or employees, will set fires that will result in damage, and that fires will be extinguished before the premises are left unattended.

(h) Not to cut timber from the leased lands without first obtaining permission from the Regional Manager. Such permission will not be granted except where the timber is to be cut to clear the lands or to make improvements.

(i) To take all possible precautions to prevent pollution of waters on and in the vicinity of this tract.

(j) To observe all laws and regulations for the protection of game animals, game birds, and nongame birds, and not to disturb such animals or birds unnecessarily.

It is further understood and agreed:

(k) That there is reserved to the United States all of the coal, oil, gas, and other mineral deposits in the leased land; that any deposits of coal, oil, gas, or other minerals subject to the leasing laws in the leased land may be disposed of under applicable laws and regulations in force at the time of such disposal; that the right to prospect for, mine, and remove the other kinds of minerals that may be found in the leased land shall be subject to such rules and regulations as may be prescribed by the Secretary of the Interior and that until such rules and regulations have been issued such reserved deposits will not be subject to disposition or prospecting. That there is reserved to the United States, pursuant to the provisions of the Act of August 1, 1946 (Public Law 535, 79th Cong.), all uranium, thorium, or any other materials which are or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same.

(l) That nothing contained in this lease shall restrict the acquisition, granting, or use of permits or rights of way under existing laws.

RULES AND REGULATIONS

(m) That the Lessee will not enclose roads or trails commonly used for public travel. That this lease is taken subject to the rights of others to cross the leased premises on, or as near as practicable to, the exterior boundaries thereof, as a means of ingress or egress to or from other lands leased under authority of this act.

Whenever necessary, the Regional Administrator may make final decision as to the location of right-of-way.

(n) That authorized representatives of the Department of the Interior at any time shall have the right to enter the leased premises for the purpose of inspection, and that Federal agents, including game wardens, shall at all times have the right to enter the leased area on official business.

(o) That the Lessee shall not sell or remove any timber growing on the leased land, for use elsewhere.

(p) That this lease is granted subject to valid existing rights.

(q) That this lease shall be subject to cancellation by the Regional Administrator for failure of the Lessee to timely make any required payment of annual rental, or for failure of the Lessee otherwise to perform or observe any of the terms, covenants, and stipulations hereof, or of any of the regulations issued under the Act of June 1, 1938, where such default has continued for thirty (30) days after written notice thereof by the Regional Administrator.

(r) That upon the cancellation of this lease for any reason, or upon its expiration, unless a renewal is requested, the Lessee will be allowed a reasonable time, to be determined by the Regional Administrator, within which to remove his improvements from the land, or to make other disposition thereof. Upon the failure of the Lessee to take such action, the improvements will become the property of the United States.

(s) That the Lessee will not assign this lease, or any interest therein, nor sublet any portion of the leased premises, without prior approval of the officer signing the lease, and will not speculate in the privileges herein granted. The approval of a transfer will be withheld, if it is for speculative purposes.

(t) It is further covenanted and agreed that each obligation hereunder shall extend to, and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

(u) That no Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and that the provisions of Section 3741 of the Revised Statutes (41 U. S. C. 22), and Sections 114, 115, and 116 of the Criminal Code, approved March 4, 1909 (35 Stat. 1109, 18 U. S. C. 204-206), relating to contracts, enter into and form a part of this lease, so far as the same may be applicable.

THE UNITED STATES OF AMERICA,
By (Title)
(Lessee)

In witness whereof:

Witnesses to signature of Lessee:

(All applications must be prepared with an original and 1 copy. See footnote, paragraph 1.)

UNITED STATES DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Serial No.
Receipt No.

(Location of district land office)

APPLICATION FOR LEASE UNDER SMALL TRACT ACT
Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. sec. 682a), as amended

(a) I, (Give full name)
of (Street and number or other address)

(City or town, and State)

hereby make application to lease under the Small Tract Act public lands not exceeding approximately five acres, described as follows:

(See footnote, paragraph 2)

Section, Township, Range, Meridian, containing acres.

(b) For what period do you desire a lease?

(See footnote, paragraph 3)

(c) State facts as to your citizenship

(See footnote, paragraph 4)

(d) Give your age. If under 21, state whether you are the head of a family and the circumstances under which you claim such status.

(e) Give the names and ages of members of your family, or others who are chiefly dependent upon you for support

(f) State the facts as to springs or water holes, if any, on the land, and as to other waters, if any, on or having a relation to the land

(See footnote, paragraph 5)

(g) From what source do you propose to obtain water for domestic use?

(h) To the best of your knowledge, does the land contain minerals? If so, state the facts

(i) Does the land contain timber? If so, state the facts

(j) Will it be necessary for you to cut timber in order to clear the land, or for use as improvements? If so, state what timber must be cut

(See footnote, paragraph 6)

(k) What use do you propose to make of the land?

(See footnote, paragraph 7)

(l) If the site is to be used in whole or in part for business, do you agree to conduct all business operations in an orderly manner and in accordance with all requirements of the laws of the State in which the land is located, as well as the laws of the United States? If the site is for business, give the names and addresses of two persons to whom reference may be made as to your reputation and business standing

(m) What improvements do you intend to make on the land?

(Describe the improvements, in detail. Attach drawings if convenient.)

(n) Give estimated cost of the proposed improvements \$..... Of the annual maintenance of the proposed improvements \$.....

(o) What sanitation and toilet facilities will be provided?

(p) Do you agree to observe all State, county, and other sanitary laws and regulations applicable to the premises and to keep the premises in a neat and orderly condition?

(q) Is this application made for your own use and benefit?

(r) Is the land now improved, occupied or used? If so, by whom and for what purposes?

(Name and address)

(Purposes for which land is used)

(s) Give names and state distances from the tract applied for to nearest:

Improved road

School

Town, village, or trading center

(t) Have you examined the land?

If so, when?

(u) Have you heretofore applied for a tract under this Small Tract Act? If so, identify such application by land office and serial number, or otherwise

(See footnote, paragraph 9)

(v) Are you a veteran of World War II?

(If so, see footnote 10)

(Sign here with full name)

I declare, under penalty of law that I have examined the foregoing application and the lands described therein and to the best of my knowledge and belief the statements in the application are true, correct and complete.

(See footnote, paragraph 8)

FOOTNOTES

1. The application must be prepared with an original and one copy, and filed in the proper district land office. If the land is in a State in which there is no district land office, the application must be filed with the Regional Administrator for the State in which the land is situated. If the land is within a State with respect to which there is no Regional Administrator the application must be filed in the Bureau of Land Management, Washington, D. C. The application must be accompanied by a fee of \$5.

2. An application may not be filed for unsurveyed land. If the land has not been classified under the Small Tract Act, the application also constitutes a petition for classification. The land, not in excess of 5 acres, must be described by aliquot parts of a legal subdivision or subdivisions, if possible. The official township plats ordinarily provide the basis for description of tracts, in compact form, in units of 5, 2 1/2, or 1 1/4 acres. Where a tract, not exceeding 5 acres, can be conformed to legal subdivisions of the survey, no additional official survey will ordinarily be made by the Government. Plats showing the official surveys are available for public inspection at the land office for the district in which the lands are situated, at the office of the Regional Administrator for the State in which the land is situated, and in the Bureau of Land Management, Washington, D. C.

Where the rectangular form does not make the most desirable plan for development, a tract, irregular in form, may be applied for, not in excess of 5 acres. In such cases, a metes-and-bounds description (the direction and length of the connecting line from the the initial point on the boundary to the nearest public-land survey corner, and the direction and length of each boundary course), will be required in the application, sufficiently complete to identify the location,

boundary, and area of the tract, which will be regarded as defining its maximum limits.

3. Leases will not be issued for periods of more than 5 years, unless the character of the venture justifies a longer period.

4. Applicant must state whether he is a citizen of the United States or has declared his intention to become such citizen. If not native born, he must give the date of his naturalization or declaration, the title and location of the court in which the proceedings were heard, and the number, if any, of the document.

5. If there are springs or water holes on the land, applicant should state the size thereof and give an estimate of the quantity of water in gallons they are capable of producing daily. If any part or parts of the land are irrigated, or are affected by constructed or proposed irrigation ditches or canals, their location, area, source of water supply, and other pertinent facts should be stated. The relation of the tract to surface streams or springs rising on or flowing across it or in its vicinity should be indicated. The location and depth of wells, elevation or water plane relative to the surface, and other pertinent facts which will disclose the quantity and quality of the water supply, obtainable from either ordinary or artesian wells on the land, should be given. If there are no wells thereon such information should be furnished as to any other wells in that vicinity.

6. A lessee will not be permitted to cut timber for the purpose of clearing the land, or to make improvements, without first submitting to the Regional Administrator a statement as to his plans and until after permission to cut the timber has been granted.

7. Applicant must state the purposes for which the tract is to be used, which may include one or more of the following: (a) A home site—a site suitable for a permanent, year-round residence for a single person or a family. (b) A cabin site—a site suitable for a summer, week-end, or vacation residence. (c) A camp site—a site suitable for temporary camping and for the erection of simple or temporary structures and shelters, such as tents, tent platforms, etc. (d) A health site—a site suitable for the temporary or permanent residence of a single person or of a family for the prevention of disease or illness. (e) A convalescent site—a site suitable for residence of a single person or family for the purpose of recuperation from a disease or illness. (f) A recreational site—a site chiefly suitable for noncommercial outdoor recreation. (g) A business site—a site suitable for some form of commercial enterprise. A tract may be designated as one or more of the above types of sites. For example, a business site may also be a home site. It is important that the application should specify all purposes for which it is intended or desired to use the land, which must be limited to the types of use herein specified.

8. The application need not be executed under oath. It should be noted, however, that 18 U. S. C. sec. 80 makes it a crime for any person knowingly, or wilfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statements in any matter within its jurisdiction.

9. A person may not file more than one application under the act of June 1, 1938, unless upon a satisfactory showing he is permitted to do so. When more than one application is filed each application must be complete in itself and in accordance with all applicable regulations.

An application for public lands surveyed into small tract units may not embrace more than one tract unless the restriction should appear unreasonable because of special conditions.

An applicant must furnish data sufficient to identify all prior applications, if any, filed by him under the act.

10. A veteran of World War II claiming a preferred right of application must furnish with his application a certified copy of his discharge, or an affidavit corroborated by two reputable and disinterested witnesses, showing when he entered the service, when discharged, and the organization in which he served.

(All applications must be prepared with an original and 1 copy. See footnote, paragraph 1.)

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial No. -----
Receipt No. -----

(Location of district land office)

APPLICATION FOR SALE UNDER SMALL TRACT ACT
Act of June 1, 1938 (53 Stat. 603; 43 U. S. C. sec. 682a), as amended (a) 1, -----

(Give full name)

of -----
(Street and number or other address)

(City or town, and State)

hereby apply for the purchase under the Small Tract Act of public lands not exceeding approximately five acres, described as follows:

Section -----, Township -----, Range -----,
----- Meridian, containing -----
acres.

(b) I now hold these lands under Small Tract Lease No. ----- issued on -----

(c) Have you fully complied with all of the terms and conditions of the lease and the regulations under which it was issued? -----
If not, attach a statement indicating in what respect there has been noncompliance and the reasons therefor.

(d) What improvements have you made on the land? -----

(Describe the improvements, in detail. Attach photographs and drawings if convenient.)

(e) Give estimated cost of the improvements \$----- of the annual maintenance of the improvements \$-----

(f) What sanitation and toilet facilities have been provided? -----

(g) Is this application made for your own use and benefit? -----

(h) Is the land now improved, occupied, or used by anyone other than you? -----
If so, by whom and for what purposes? -----

(Name and address)

(Purposes for which land is used)

(i) Have you heretofore applied for, leased or purchased a tract under the Small Tract Act? ----- If so, identify such application, lease or purchase by land office and serial number, or otherwise.

(See footnote, paragraph 2)

I declare, under penalty of law (See footnote 3) that I have examined the foregoing application and the lands described therein and to the best of my knowledge and belief the statements in the application are true, correct and complete.

FOOTNOTES

1. The application must be prepared with an original and one copy, and filed in the proper district land office. If the land is in a State in which there is no district land office,

the application must be filed with the Regional Administrator for the State in which the land is situated. If the land is within a State with respect to which there is no Regional Administrator the application must be filed in the Bureau of Land Management, Washington, D. C.

2. An applicant must furnish data sufficient to identify all prior applications, if any, filed by him, and all other leases to, or purchases by, him if any, under the act.

3. The application need not be executed under oath. It should be noted, however, that 18 U. S. C. sec. 80 makes it a crime for any person knowingly, or wilfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statements in any matter within its jurisdiction.

[F. R. Doc. 47-5245; Filed, June 3, 1947; 8:49 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Order 137]

RATES AND CHARGES FOR GOVERNMENT COMMUNICATIONS BY TELEGRAPH

MAY 29, 1947.

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the 28th day of May 1947;

The Commission having under consideration the matter of rates and charges for Government communications by telegraph: *It is ordered:*

1. That the charges for telegraph communications between the several departments of the Government and their officers, relating exclusively to the public business in their transmission over the lines or circuits of any telegraph company subject to the Post Roads Act, approved July 24, 1866, Rev. Stats. Secs. 5263-5269 (U. S. C. Title 47), shall not exceed eighty (80) per centum of the charges applicable to commercial communications of the corresponding classification, of the same length, and between the same points in the United States, which shall be deemed herein to include Alaska, subject to the following:

(a) The minimum charge for Day Messages (telegrams) shall be 25 cents, for Day Letters 45 cents, for Night Messages 20 cents, for Night Letters 30 cents, and for Serial messages 54 cents, unless any of these amounts shall be greater than the minimum for a corresponding commercial message in which event the provision set forth in paragraph 4 below shall apply; (b) A Day Letter shall be charged for as a Day Letter or a Day Message, according to which of these classifications shall produce the lower charge for the particular message; (c) an overnight message shall be charged for as a Night Message or a Night Letter, according to which of these two classifications shall produce the lower charge for the particular message; (d) when the first section of a Serial message is not followed by another on the same day, it shall be charged for as a Day Message; when more than one section is filed on the same day, the sections shall be

charged for at the Serial rates or each section shall be charged for as a Day Message, according to which of these classifications shall produce the lower total charge; and (e) the provisions of this paragraph shall apply only to Government messages filed as Day Messages, Day Letters, Night Messages, Night Letters, and Serial messages.

2. That the rates and charges for telegraph communications between the several departments of the Government and their officers, relating exclusively to the public business between points in the United States and points in possessions of the United States, between points in different possessions, and between points in the United States including such possessions and points in foreign countries and ships at sea, transmitted by any carrier or carriers subject to the Post Roads Act, or subject to the terms of a permit or license granted by the President of the United States giving the Postmaster General authority to fix rates for Government communications by telegraph (such a carrier being hereinafter called a domestic carrier) shall, between all points embraced within the scope of such Act, permit or license, not exceed fifty (50) per centum of the full ordinary charges applicable to commercial communications of the same length and between the same points, except that charges for Government code messages shall not exceed fifty (50) per centum of the charges for like commercial code messages, subject to the following: (a) In cases where Government messages are transmitted between any of such points in part over the facilities of any domestic carrier and in part over the facilities of any other carrier, or administration, (hereinafter called a foreign carrier) the charges for Government communications shall not exceed the following: (1) For Government communications between points in the United States and Mexico or Canada; and (2) for Government communications between all other points, the amounts derived by applying the percentages specified in the first ordering paragraph herein and the percentages specified in this paragraph, respectively, to the full portion of the commercial charges accruing to the domestic carriers, plus the charges actually made for United States Government communications by foreign carriers: (b) the charges for Government ordinary messages between the following named points, shall be:

Per word

Between Fisherman's Point, Guantanamo Bay, Cuba and Canal Zone... \$0.09
Between Limon, San Jose, and Puntarenas, C. R., and Canal Zone..... 0.075

and the charges for Government code messages between the foregoing points shall be 60 per centum of the charges above specified for Government ordinary messages; and (c) with respect to Government messages to and from ships at sea the percentages specified shall not apply to the coastal station and ship station charges.

3. That if any new service shall be established, a supplementary order may be issued fixing the Government charge for such service.

4. That in no case shall the charge for a Government message exceed the charge for a corresponding commercial message; nor shall the portion of the through charges accruing to the domestic carriers for United States Government communications exceed the portion accruing to such carriers for like communications of any foreign government between the same points.

5. That in cases where the charge for a Government message, as determined herein, shall include a fraction of a cent, such fraction, if less than one-half, shall be disregarded, if one-half or more, it shall be counted as one cent; except that the charge for Government code messages shall be rounded up to the next higher half cent, if the fraction be less than one-half and to a full cent, if the fraction be more than one-half.

6. That every Government message shall have priority over all other messages of the same classification, and every Government day message, serial message, ordinary message and code message shall also have priority over all other messages regardless of the classification; and every Government message shall, unless otherwise provided herein, be subject to the classifications, practices and regulations applicable to the corresponding commercial communications.

7. That every domestic carrier which is subject to the Communications Act of 1934, shall immediately file with this Commission all schedules of charges applicable to Government communications established pursuant to this order, said schedules to be filed in full compliance with the requirements of section 203 of the Communications Act of 1934, and with Part 61 of the Commission's rules and regulations (Title 47—Telecommunications—Chapter I) to be constructed in such manner and form that the full charges for all Government messages from origins to destinations can be exactly and readily ascertained therefrom, and to name effective dates as of July 1, next ensuing: *Provided, however* That in cases where charges in excess of those herein prescribed are collected because of conditions over which domestic carriers have no control such charges shall be shown in the schedules but the excess shall be refunded to the United States Government.

8. That in every case where any schedule containing charges applicable to commercial messages shall be changed, or the charges made by any foreign carrier shall be changed, the schedule containing the charges applicable to Government messages shall be correspondingly changed, effective on the same date.

9. That nothing herein contained shall apply to charges fixed by agreement between any department of the United States Government and the companies performing the service if such agreement be authorized in any statute of the United States.

10. That nothing herein contained shall be construed to give Government messages priority over radio communications or signals which are given a higher priority under section 321 (b) of the Communications Act of 1934, as amend-

ed; or under Article 26 of the General Radio Regulations (Cairo Revision, 1938) Annexed to the International Telecommunications Convention (Madrid; 1932)

This order shall become effective on the first day of July 1947 and shall continue in effect until June 30, 1948, both dates inclusive, unless changed by order of the Commission.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5344; Filed, June 4, 1947;
8:46 a. m.]

PART 1—ORGANIZATION, PRACTICE AND PROCEDURE

MISCELLANEOUS AMENDMENTS

MAY 29, 1947.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 28th day of May, 1947;

The Commission having under consideration the establishment of a Hearing Division composed of presiding officers appointed pursuant to the provisions of the Administrative Procedure Act, and the creation of a Review Section in the Broadcast Division; and

It appearing, that the adoption of such proposals requires that Part I of the Commission's rules and regulations be revised and amended; and

It appearing further, that such revisions and amendments will be in the public interest and that publication of notice of proposed rule making pursuant to section 4 of the Administrative Procedure Act is not required herein;

It is ordered, That Part 1 of the Commission's rules and regulations entitled "Rules Relating to Organization and Practice and Procedure" be, and it is hereby, amended in the following respects, effective June 11, 1947.

1. Section 1.4 is amended by adding paragraph (f) to read as follows:

§ 1.4 *General description of Commission organization.* * * *

(f) Hearing Division.

2. Section 1.74 (f) is amended to read as follows:

§ 1.74 *Broadcast Division.* * * *

(f) Review Section, which reviews the records of hearings, proposed findings and conclusions, decisions of presiding officers and such additional material as comprise the record of a proceeding; prepares review reports and, in accordance with Commission directives, its decisions; and is responsible for coordinating all hearings and prehearing conferences, and for scheduling the times and places for such hearings and conferences.

3. Subpart A is amended by adding the following new section:

§ 1.91 *Hearing Division.* Hearing Division, under the supervision of the Commission, is composed of presiding officers who presided at hearings as directed by the Commission and in accordance with the provisions of the Ad-

Administrative Procedure Act; who prepare recommended and initial decisions; and who perform such additional duties as are not inconsistent with their duties and responsibilities as presiding officers.

4. Section 1.841 is amended to read as follows:

§ 1.841 *Applicability.* Sections 1.843, 1.851 (a) (b) (c) and (d) and 1.857 shall apply only to cases which have been designated for hearing on or after December 11, 1946; ² *Provided, however* That these sections shall be applicable to cases designated for hearing prior to December 11, 1946 if consolidated with a case designated for hearing on or after that date.

5. Section 1.843 is amended to read as follows:

§ 1.843 *Designation of presiding officers.* (a) So far as will be practicable, presiding officers shall be assigned to cases in rotation with due consideration for the following factors: (1) The grade classification of the presiding officer, (2) the nature of the case to be heard, (3) the specialized experience of the presiding officer, and (4) the extent of the presiding officer's workload.

(b) Except where the Commission determines that due and timely execution of its functions requires otherwise, presiding officers shall be so designated, and notice thereof made public, at least 10 days prior to the date set for hearing. In the event that a presiding officer deems himself disqualified and desires to withdraw from the case he shall notify the Commission of his withdrawal at least 7 days prior to the date set for hearing. Any party or any person who has been granted leave to be heard, or the General Counsel of the Commission, may in good faith request the presiding officer to withdraw on the grounds of personal bias or other disqualification. The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the presiding officer may file a response thereto. Such affidavit must be filed within 5 days of the date set for hearing or within 2 days after the presiding officer is designated, whichever is later, but in no event later than the close of the first day of the hearing. If the presiding officer believes himself not disqualified he shall so rule and proceed with the hearing. If the person seeking disqualification excepts from the ruling of the presiding officer he shall so state at the time the ruling of the presiding officer is made and the presiding officer shall certify the question together with the affidavit and any response filed in connection therewith, to the Commission. The Commission may rule on the question without hearing or it may require testimony or argument on the issues raised. The affidavit, response, testimony and decision thereon shall be part of the record in the case. The failure to file an objection to the presiding officer designated by the Commission within the time required by this section, or to file

an exception to the ruling of the presiding officer shall be deemed a waiver thereof by the parties to the proceeding.

6. Section 1.844 is amended to read as follows:

§ 1.844 *Authority of presiding officers.* The functions of all presiding officers shall be conducted in an impartial manner. They shall have authority, with respect to cases assigned to them, from the date of their designations as presiding officers to date of submission of their decisions and transfer of the cases to the Commission, subject to the published rules and regulations of the Commission and within its powers, to:

(a) Administer oaths and affirmations,
(b) Examine witnesses,
(c) Issue subpoenas authorized by law,
(d) Rule upon offers of proof and receive relevant evidence at any place in the United States designated by the Commission,

(e) Take or cause depositions to be taken whenever the Commission determines that the ends of justice would be served thereby,

(f) Regulate the course of the hearing, maintain discipline and decorum, and exclude from the hearing any person found guilty of contemptuous conduct,

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties,

(h) Take any other action necessary under the foregoing and authorized by the published rules and regulations of the Commission, but no such officer shall be empowered to decide any motion offered in the course of a hearing to dismiss the proceeding or to decide any other motion which involves a final determination of the merits of the proceedings.

7. Section 1.847 is amended to read as follows:

§ 1.847 *Certification of transcript.* After the close of the hearing the complete transcript of testimony, together with all exhibits, shall be certified as to identity by the presiding officer and filed in the office of the Secretary of the Commission. Notice of such certification shall be served on all parties to the proceedings.

8. The last sentence of the footnote to § 1.849 is amended to read as follows: "Any party not directed to file proposed findings of fact and conclusions of law may so file, if he desires to do so, by notifying the Commission of his intention before the record is closed."

9. Section 1.851 (a) is amended to read as follows:

§ 1.851 *Initial, recommended and proposed decisions.* (a) Unless otherwise directed by the Commission the presiding officer shall prepare a recommended decision as provided for in paragraph (d) of this section, which shall be made public and filed in the docket of the case simultaneous with the issuance of the Commission's proposed decision.

² In cases involving rule making and the issuance of initial licenses the presiding officer shall prepare a recommended decision only if the hearing in the case commenced on or after June 11, 1947.

10. Section 1.851 (b) is amended to read as follows:

(b) In such cases as the Commission shall consider appropriate therefor, the order or notice designating the presiding officer may specify that such presiding officer shall prepare an initial decision as provided for in paragraph (c) of this section.

11. Section 1.851 (d) is amended to read as follows:

(d) In cases where a recommended decision is prepared by the presiding officer, such decision shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record; the appropriate rule, order, sanction, relief, or denials thereof; and recommendations as to what disposition of the case should be made. The recommended decision shall be transmitted to the Commission and shall not be made public until the Commission issues a proposed decision. After such transmission the case shall be transferred to the Commission and the presiding officer's jurisdiction over the proceedings shall cease.

12. Section 1.851 (e) as amended to read as follows:

(e) In all cases where a recommended decision is prepared by the presiding officer (or where no decision is prepared by a presiding officer) the Commission will issue a proposed decision containing its proposed findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and the appropriate rule, order, sanction, relief, or denial thereof. If a recommended decision has been prepared by the presiding officer, the Commission will append it to its proposed decision and issue both simultaneously. The proposed decision will show the ruling of the Commission upon each relevant and material finding and conclusion proposed by the parties.

13. Section 1.851 (f) is redesignated as § 1.851 (g)

14. New § 1.851 (f) is adopted to read as follows:

(f) In the event that a presiding officer becomes unavailable to the Commission after the commencement of the hearing and before the receipt of testimony has been concluded, the Commission will designate a presiding officer from the Hearing Division and shall specify the type of decision, if any, which such presiding officer shall prepare in the case. In cases involving matters set forth in § 1.857 (b) such designee shall be bound by the provisions of § 1.857 (a). Where a presiding officer becomes unavailable to the Commission after the receipt of testimony has been concluded, the record shall be certified to the Commission for decision.

15. The first sentence of § 1.854 (a) is amended to read as follows:

§ 1.854 *Exceptions: briefs, request for oral argument.* (a) Within 20 days from the date of issuance of the Commission's initial decision by the presiding officer,

² See footnote to § 1.851 (a).

or the Commission's proposed decision (and presiding officer's recommended decision, if any) the parties to the proceeding, and the General Counsel of the Commission, may file a statement in writing setting forth such exceptions to said decisions or to any part of the record or proceeding (including rulings upon all motions or objections) as they rely upon. * * *

16. Section 1.857 (a) is amended to read as follows:

§ 1.857 *Separation of functions.* (a) For hearings involving the matters listed in paragraph (b) of this section, there shall be designated to preside therein one or more Commissioners or a presiding officer from the Hearing Division. Except as authorized by the provisions of section 5 (c) of the Administrative Procedure Act, no such officers shall consult or confer with any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officers during such time, be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission. No officer, employee or agent engaged in the performance of investigative or prosecuting functions for the Commission in any case shall, in that or a factually related case, participate or advise in any decision arising out of a proceeding set forth in paragraph (b) of this section.

17. The first sentence of § 1.857 (c) is amended to read as follows:

(c) Every notice or order containing the Commission's designation of presiding officer shall indicate whether this section shall be applicable to the particular proceeding. * * *

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5346; Filed, June 4, 1947;
8:48 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[4th Rev. S. O. 180, Amdt. 12]

PART 95—CAR SERVICE

DEMURRAGE ON REFRIGERATOR CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Fourth Revised Service Order No. 180 (10 F. R. 14970) as amended (11 F. R. 1627, 1991, 3605, 4038, 6983, 9453, 10092, 11707, 12395; 12 F. R. 1421, 3032) and good cause appearing therefor: *It is ordered, That:*

Fourth Revised Service Order No. 180 (49 CFR § 95.330) as amended, be, and it is hereby, further amended by substituting the following paragraph (a) for paragraph (a) thereof during the effectiveness of this amendment:

(a) *Demurrage charges on refrigerator cars.* (1) After the expiration of the free time lawfully provided by tariffs (subject to modification by service orders) on a refrigerator car held for orders, bill of lading, payment of freight charges, reconsignment, diversion, re-shipment, inspection, forwarding directions, loading or unloading, the demurrage charges shown in paragraph (a) (2) of this section shall be applicable in lieu of tariff charges.

(2) Demurrage charges shall be \$2.20 per car per day or a fraction thereof for the first and second day; \$5.50 per car per day or a fraction thereof for the third and fourth day; and \$11.00 per car per day or a fraction thereof for each succeeding day.

Effective date. This amendment shall become effective at 7:00 a. m., June 1, 1947.

Expiration date. This amendment shall expire at 7:00 a. m., July 1, 1947.

It is further ordered, That a copy of this order and direction be served upon each State railroad regulatory body and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W P BARTEL,
Secretary.

[F. R. Doc. 47-5305; Filed, June 4, 1947;
8:52 a. m.]

[4th Rev. S. O. 180, Amdt. 13]

PART 95—CAR SERVICE

DEMURRAGE ON REFRIGERATOR CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Fourth Revised Service Order No. 180 (10 F. R. 14970) as amended (11 F. R. 1627, 1991, 3605, 4038, 6983, 9453, 10092, 11707, 12395; 12 F. R. 1421, 3032) and good cause appearing therefor: *It is ordered, That:*

Fourth Revised Service Order No. 180 (49 CFR § 95.330) as amended, be, and it is hereby, further amended as follows:

No common carrier by railroad subject to the Interstate Commerce Act shall charge or collect any demurrage on a refrigerator car subject to paragraph (a) (1) of this section for any detention to such a car on the demurrage days of May 30, 31, or June 1, 1947.

Effective date. This amendment shall become effective at 7:00 a. m., May 30, 1947.

It is further ordered, That a copy of this order and direction be served upon

each State railroad regulatory body and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W P BARTEL,
Secretary.

[F. R. Doc. 47-5301; Filed, June 4, 1947;
8:51 a. m.]

[Rev. S. O. 188, Amdt. 10]

PART 95—CAR SERVICE

REFRIGERATOR CAR DEMURRAGE ON STATE BELT RAILROAD OF CALIFORNIA

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Revised Service Order No. 188 (10 F. R. 15175) as amended (11 F. R. 1626, 1992, 3605, 4038, 7043, 9453, 10092; 12 F. R. 1420, 3033), and good cause appearing therefor: *It is ordered, That:*

Revised Service Order No. 188 (49 CFR § 95.334) as amended, be, and it is hereby, further amended by substituting the following paragraph (a) for paragraph (a) thereof during the effectiveness of this amendment:

(a) *Demurrage charges to be applied on refrigerator cars engaged in intraterrestrial transportation.* (1) The State Belt Railroad of California shall apply the demurrage charges shown in paragraph (a) (2) to any refrigerator car used for transporting any commodity to, from, or between industries, plants, or piers located at points or places named in District A and/or B as described in Item No. 15 of Tariff I. C. C. No. 5 of the State Belt Railroad operated by the State of California.

(2) After the expiration of forty-eight (48) hours' free time after a refrigerator car is first placed for loading and until shipping instructions covering such car are tendered to said carrier's agent and/or after forty-eight (48) hours' free time after a refrigerator car is first placed for unloading and until such car is unloaded and released, the demurrage charges shall be \$2.20 per car per day or fraction thereof for the first and second day; \$5.50 per car per day or fraction thereof for the third and fourth day; and \$11.00 per car per day or fraction thereof for each succeeding day.

NOTE: After a refrigerator car is loaded and released for movement by the tender of shipping instructions to said carriers agent, if the car is not actually placed for unloading for any reason within forty-eight (48) hours after such car is released for movement, but is held by the carrier short of place of delivery

for unloading, such car will be considered as constructively placed at the expiration of the said forty-eight (48) hours and demurrage time shall be computed from the expiration of the said forty-eight (48) hours until said car is unloaded and released.

Effective date. This amendment shall become effective at 7:00 a. m., June 1, 1947.

Expiration date. This amendment shall expire at 7:00 a. m., July 1, 1947.

It is further ordered, That a copy of this order and direction be served upon the California State Railroad Commission and upon the State Belt Railroad of California; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-5300; Filed, June 4, 1947; 8:50 a. m.]

[Rev. S. O. 188, Amdt. 11]

PART 95—CAR SERVICE

REFRIGERATOR CAR DEMURRAGE ON STATE BELT RAILROAD OF CALIFORNIA

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Revised Service Order No. 188 (10 F. R. 15175) as amended (11 F. R. 1626, 1992, 3605, 4038, 7043, 9453, 10092; 12 F. R. 1420, 3033, and good cause appearing therefor: *It is ordered,* That:

Revised Service Order No. 188 (49 CFR § 95.334) as amended, be, and it is hereby, further amended as follows:

The State Belt Railroad of California shall not charge or collect any demurrage on a refrigerator car subject to paragraph (a) (1) of this section for any detention to such a car on the demurrage days of May 30, 31, or June 1, 1947.

Effective date. This amendment shall become effective at 7:00 a. m., May 30, 1947.

It is further ordered, That a copy of this order and direction be served upon the California State Railroad Commission and upon the State Belt Railroad of California; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-5302; Filed, June 4, 1947; 8:51 a. m.]

[S. O. 394, Amdt. 10]

PART 95—CAR SERVICE

FREE TIME ON REFRIGERATOR CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Service Order No. 394 (10 F. R. 15003) as amended (10 F. R. 15073, 15354; 11 F. R. 408, 1627, 1992, 2277, 4039, 9453; 12 F. R. 1235) and good cause appearing therefor: *it is ordered,* that:

Section 95.394 *Free time on refrigerator cars*, of Service Order No. 394, as amended, be, and it is hereby, further amended as follows:

When computing time under this order May 30, 31 and June 1, 1947 shall not be counted or included in the periods provided in paragraphs (a) or (b) of this section.

It is further ordered, that this amendment shall become effective at 12:01 a. m., May 30, 1947; that a copy of this order and direction be served upon each State railroad regulatory body, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-5303; Filed, June 4, 1947; 8:51 a. m.]

[S. O. 396, Amdt. 7]

PART 95—CAR SERVICE

RESTRICTIONS ON RECONSIGNING OF PERISHABLES

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

Upon further consideration of Service Order No. 396 (10 F. R. 15003) as amended (11 F. R. 1627, 4038, 9453; 12 F. R. 1235, 2288, 2479) and good cause appearing therefor: *it is ordered,* that:

Service Order No. 396, Perishables—restrictions on reconsigning, (codified as 49 CFR § 95.396) as amended, be, and it is hereby, further amended as follows:

When computing the two-day (48 hour) period provided in paragraph (b) of this section May 30, 31 and June 1, 1947, shall not be counted, or be included in such period.

It is further ordered, that this amendment shall become effective at 12:01 a. m. May 30, 1947, and it shall apply only on cars to be diverted or reconsigned on or after the effective date hereof.

It is further ordered, that a copy of this order and direction be served upon each State railroad regulatory body, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-5304; Filed, June 4, 1947; 8:52 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

17 CFR, Part 9721

MILK IN TRI-STATE MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO PROPOSED AMENDMENTS TO ORDER

Pursuant to the rules of practice and procedure, as amended, governing pro-

ceedings to formulate marketing agreements and orders (7 CFR Supps., 900.1 et seq., 10 F. R. 11791, 11 F. R. 7737; 12 F. R. 1159) notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the order, as amended, and to a proposed marketing agreement, regulating the handling of milk in the Tri-State milk marketing area, to be made effective pursuant to the provisions

of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1940 ed. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 0303, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this recommended decision in the FEDERAL REGISTER.

Preliminary statement. A public hearing, on the record of which the proposed amendments to the order, as amended,

and the proposed marketing agreement were formulated was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of proposed amendments filed by the Huntington Interstate Milk Producers Association, Scioto County Milk Producers Association, Marietta Cooperative Milk Producers Association, and Athens Milk Sales, Inc. Additional proposals for consideration were submitted by the Dairy Branch, Production and Marketing Administration. The public hearing was held at Gallipolis, Ohio, March 7-8, 1947, upon notice issued on February 27, 1947 (12 F. R. 1400).

The principal issues developed at the hearing were concerned with the following:

1. Revising the Class I milk price differential over the basic formula price to provide a seasonal price pattern and increase the annual average level of the differential.

2. Revising the Class II milk price differential over the basic formula price to provide a seasonal price pattern and increase the annual average level of the differential.

3. Reviewing the provisions of the order relating to handler location adjustment deductions on producer milk for the purpose of modifying or deleting such provisions.

Findings and conclusions. The proposed findings and conclusions with respect to the issues presented at the hearing, together with the reasons therefor, are as follows:

1. The Class I milk price differential over the basic formula price should be revised to provide a seasonal price pattern (including "floor prices") and an increase in the annual average level of the differential.

There has been a maladjustment in the supply of regular producer milk in relation to the market demand for Class I milk and Class II milk in the Tri-State area. The utilization of Class I milk and Class II milk has been relatively uniform throughout the year, whereas the receipt of milk from producers varies greatly between the seasons of the year. The variation in the receipts of producers' milk between the flush production season and the short production season has become progressively wider for several years. Production varies seasonally to such an extent that in 1946 it was nearly twice as great in June as in December. The cost of producing milk is considerably higher during the fall and winter months than May and June. A price plan to induce an increase in milk production during the fall and winter seasons is urgent for the Tri-State market. A Class I price differential employing absolute floor prices in the seasonal pattern is required to assure a substantially higher price in the fall and winter months compared to the spring months and thus develop a more level annual pattern of production.

Producers need definite assurance of substantially higher prices during the fall and winter months if they are to produce more milk during these seasons. Absolute floor prices for the 1947 and 1948 season will give this assurance. If the

basic formula produces a higher price for these fall and winter months it should prevail as a further guarantee that the Class I price will be more in line with the then current marketing conditions.

The record supports the adoption of a seasonal Class I price differential which compared to May and June, months of flush production, would be 10 cents higher for the 4 months of March, April, July, and August, and 25 cents higher for the 6 months of September through February. Normally the basic formula price will be from 20 to 40 cents higher during the short production months than for May and June. Also normally the percentage utilization of producers' milk for fluid purposes is higher during the fall and winter months, resulting in about 10 cents higher blend price compared to May and June. Adding these three factors together it is estimated the blend price for the short production months will exceed the May and June prices from 55 to 75 cents. Recent price plans employed in the Tri-State area have not provided as much seasonal variation in producer prices as was customary prior to the maximum price regulations during the war emergency. For this period of time farmers were induced to produce all the milk possible with little regard to the season or the requirements of the local market. Under these conditions maximum milk production shifted to the spring months when production costs are at their lowest level. To halt and reverse this trend, especially at a time when general milk market conditions are unsettled, will require definite assurance that the fall and winter prices will be substantially higher than for May and June. An absolute floor price for Class I milk will give farmers this assurance. It is concluded that such a price pattern will afford an incentive to shift milk production from spring to fall and winter months.

Furthermore, the level of production of regular producer milk has been insufficient to meet the needs of Class I milk and Class II milk in the Tri-State area. During the 18 month period (August, 1945-January, 1947) under the order the receipts of milk from regular producers was only 88 percent of the total milk utilized in Class I and Class II. It has been necessary for handlers to supplement producer milk in Class I and II with milk from other sources, usually not meeting the quality standard of regular producer milk.

General economic conditions and business activity indicate a continued good demand for milk and milk products.

The price of livestock and grains have advanced sharply in 1947 and, compared to decreasing milk prices, offer returns from alternative farm enterprises which will tend to discourage milk production if this relationship continues over an extended period of time.

Tri-State handlers compete with milk buyers in other areas for milk supplies to be used for fluid milk purposes. Milk dealers operating in Charleston, West Virginia, procure milk from farmers residing in the Tri-State milkshed. Some of these farmers were formerly

producers for Tri-State handlers. Condenseries receiving both graded and ungraded milk in the Tri-State milkshed supply milk to fluid users in Charleston, West Virginia and eastern cities. The Charleston, West Virginia, market is located in a deficit milk production area and is a constant competitive outlet for milk supplies of the Tri-State market area. Charleston, West Virginia, buyers of milk are soliciting producers in the Tri-State area and were offering \$5.60 per hundredweight during February, 1947, compared to \$4.76 paid by Tri-State handlers in the other than Huntington area. The Waterford Creamery, Athens, Ohio, quoted a price of \$5.60 for the last half of January, 1947. The Crowley Dairy of Jackson, Ohio, quoted \$5.40 during February, 1947. Both of these quotations were for 4 percent butterfat Grade "A" milk to be shipped to eastern markets including Charleston, West Virginia. One Tri-State handler in Marietta, Ohio, is engaged in supplying milk procured in excess of his own fluid requirements to the Charleston, West Virginia, market.

The Class I differential over the basic formula price (18 midwest condenseries) was established November 1, 1946, when the basic formula price was relatively high compared to the prices paid by Southern Ohio condenseries and Charleston, West Virginia, handlers. Since that time the basic formula price and the resulting Class I price have decreased relatively lower than the prices paid by Ohio condenseries and Charleston handlers. The basic formula price declined 68 cents from November, 1946, to January, 1947. The Southern Ohio condenser average price declined 47 cents and the Charleston price remained approximately constant for the same period. Thus for January the Class I price was at a 21-cent lower level compared to competing Ohio condenseries and 68-cent lower level compared to Charleston prices than when the present differential was established. This relative difference in prices makes the Tri-State milk supply more vulnerable to competing markets.

The trend of the costs of feeds, labor, and supplies incurred by producers in the production of milk has been upward during 1946 and 1947. The price of 16 percent dairy ration, a representative dairy feed, has increased substantially for the first 3 months of 1947 as compared to the same period of 1946. The price of this feed decreased somewhat from July 1946 (the peak reached when ceiling prices were removed), until February 1947. During February and March 1947, the price of mixed dairy feeds advanced sharply and established a new upward trend. Attempting to find an index that will reflect many milk price making factors the order provides a basic formula price which is the price paid for manufacturing milk by a selected group of midwest condenseries. The basic price formula does not, however, reflect fully all the factors necessary at arriving at a price for Class I milk. The order therefore provides a differential that is added to the basic formula price to arrive at the Class I price. This differential is utilized to reflect various price making factors not fully covered

by the basic formula and to balance the relative weights of such factors under current local economic conditions so that the Class I price will be at a level which will reflect, in addition to the price and availability of feeds, other economic conditions which affect market supply and demand for milk in the marketing area and will insure an adequate supply of pure and wholesome milk and be in the public interest. The basic formula price has decreased 68 cents from November 1946 to January 1947, the last month reported in the hearing record. Farmers producing milk for fluid purposes must use feed, labor and supplies more extensively to maintain production at a more uniform and higher level than is required of manufacturing milk producers. Consequently, the increases in the prices which have taken place in those commodities affect the fluid milk producers more than the producers of milk for condenseries.

Handlers contend that since the present Class I differential was established, producer prices have advanced and some feed prices have declined, and for these reasons they urge that no change be made in the annual average level of the Class I differential. The present Class I differential of 95 cents and 75 cents for the Huntington and other than Huntington areas over the basic formula price was made effective November 1, 1946. The Huntington district Class I price for February, the latest price quoted in the record, was 99 cents less than the price for November. To continue the differential at the present level because some feed prices may have declined slightly since the differential was established would lose sight of the fact that whatever decline may have occurred in some feed prices has been accompanied by a considerably greater decline in milk prices and would ignore the other heretofore mentioned price-making factors and is therefore unwarranted. Handlers also minimize the competition between the Tri-State area and the Charleston, West Virginia, market and the local condenseries and assert that the "local condensery threat" is a fiction and that the Charleston threat is similar to that which has existed over a long period of time. However, the record shows that these competitive markets do have a substantial effect on the supply of milk in the Tri-State area and therefore must be considered in determining a Class I differential which will tend to procure and maintain an adequate supply of milk for the Tri-State market.

It is concluded that the proper weighing of the above-mentioned price-making factors—a shortage of producer milk in relation to fluid sales, a good demand for fluid milk, the increasing disparity between the prices of fluid milk and the prices of competing farm enterprises, the competition of other areas at higher prices for the Tri-State milk supply, and the disparity between local condenseries and basic formula prices—indicate the need for revising the level of the Class I price differential upward approximately 30 cents per hundredweight on an annual average. It is further concluded that the

milk producers of the Tri-State area need at this time, when they are planning their fall and winter production program, more definite assurance as to the level of milk prices than is afforded by the basis formula. In order to obviate uncertainty inherent in the basic formula during abnormal postwar marketing conditions a "floor price" for Class I milk is established below which the price will not be permitted to go. The level of floor prices for the fall and winter months should be substantially higher than the prices prevailing during May and June to emphasize the seasonal factor of milk pricing and assure farmers of higher prices during the seasons when an increase in milk production is most needed by the market. A Class I floor price for the other than Huntington district beginning July 1, 1947 of \$4.42 and increasing to \$4.86 beginning September 1, 1947 (44 cents below November 1946) will recognize this seasonality and result in prices well above the current level of May and June prices.

These changes are accomplished by revising the present year-round Class I price differential of \$0.95 and \$0.75 for the Huntington and other than Huntington districts, respectively, above the basic formula price, to the following seasonal pattern:

Month	Huntington district	Other than Huntington district
May and June	\$1.19	\$0.90
March, April, July, and August	1.29	1.09
Other 6 months	1.35	1.15
Average	1.23	1.05

Provided, That for the months of July and August, 1947, the price for Class I milk shall not be less than \$4.62 and \$4.42 for the Huntington and other than Huntington district, respectively, and for the months of September, October, November and December, 1947, and January and February, 1948, such prices shall not be less than \$5.06 and \$4.86, respectively.

2. The Class II milk price differential over the basic formula price should be revised to provide a seasonal price pattern (including "floor prices") and an increase in the annual average level of the differential. The relationship between the present Class I and Class II differentials should be maintained month by month in the revised seasonal price pattern and in the floor prices.

The material facts with reference to revising the Class II price differential over the basic formula price to a seasonal pattern and a higher annual average level and the floor prices are the same as those set forth with respect to Class I.

3. The provisions of the order relating to handler location adjustment deductions on producer milk should be deleted.

Handlers do not receive milk from producers except at a "fluid milk plant" as defined in § 972.1 (h) (1) of the order. Producers retain title to milk until it is received by a handler at a fluid milk plant as defined in § 972.1 (h) (1) of the order. No handler operates or has operated a fluid milk plant as defined in § 972.1 (h)

(2) of the order and there is no evidence that such a plant will be operated. Location adjustments pursuant to § 972.8 (g) have not been made because producer milk was not received by a handler under such circumstances. Therefore § 972.1 (h) (2) and § 972.8 (g) are superfluous and should be deleted. These provisions of the order may be deleted without revising other provisions of the order.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Producer Associations and various handlers subject to Order No. 72. The briefs contain statements of fact, conclusions, and arguments with respect to all of the proposals discussed at the hearing. Every point covered in the briefs was carefully considered, along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. Although all of the briefs do not contain specific requests to make proposed findings, it is assumed that the arguments and conclusions submitted were for this purpose and are treated accordingly. To the extent that such proposed findings and conclusions are inconsistent with the proposed findings and conclusions contained herein, the implied request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and amendments to the order. The following amendments to the order, as amended, are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as proposed here to be further amended.

1. Delete § 972.1 (h) and substitute therefor the following:

§ 972.1 *Definitions.* * * *

(h) "Fluid milk plant" means a plant out of which a route is operated wholly or partially within the marketing area: *Provided*, That a "fluid milk plant" shall not mean such portions of a building or facilities used for receiving or processing such milk, or milk product, as is required by the appropriate health authority to be kept physically separate from the receiving or processing of Class I milk for the community(s) served.

2. Delete § 972.5 (b) and substitute therefor the following:

§ 972.5 *Minimum prices.* * * *

(b) *Class I milk prices.* Subject to the provisions of (e), (f) (g) and (h) of this section, the minimum prices per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class I milk, shall be the basic formula price determined pursuant to paragraph (a) of this section plus the following amounts for the delivery periods indicated:

PROPOSED RULE MAKING

Delivery period	Huntington district plants	Other plants
May and June.....	\$1.10	\$0.90
March, April, July, and August.....	1.20	1.00
September, October, November, December, January, and February.....	1.35	1.15

Provided, That for the months of July and August, 1947, the price for Class I milk shall not be less than \$4.62 and \$4.42 for the Huntington and other than Huntington district, respectively, and for the months of September, October, November and December, 1947, and January and February, 1948, such prices shall not be less than \$5.06 and \$4.86.

3. Delete § 972.5 (c) and substitute therefor the following:

(c) *Class II milk prices.* Subject to the provisions of (e) (f) (g) and (h) of this section, the minimum prices per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class II milk, shall be the basic formula price determined pursuant to paragraph (a) of this section plus the following amounts for the delivery periods indicated:

Delivery period	Huntington district plants	Other plants
May and June.....	\$0.80	\$0.60
March, April, July, and August.....	.90	.70
September, October, November, December, January, and February.....	1.05	.85

Provided, That for the month of July and August, 1947, the price for Class II milk shall not be less than \$4.32 and \$4.12 for the Huntington and other than Huntington district, respectively, and for the months of September, October, November and December, 1947, and January and February, 1948, such prices shall not be less than \$4.76 and \$4.56.

4. Delete § 972.8 (g)

Filed at Washington, D. C. this 29th day of May 1947.

[SEAL] E. A. MEYER,
Assistant Administrator

[F. R. Doc. 47-5317; Filed, June 4, 1947; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 311]

[Docket No. 8401]

UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES

NOTICE OF PROPOSED RULE MAKING

MAY 29, 1947.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The proposed amendment to the rules and regulations is set forth in this notice and provides, substantially, the following:

(a) An instruction as to the limited significance of the sequence in which the

accounts are presented in the Uniform System of Accounts.

(b) The introduction of an account in which to record write-ups of plant and other plant adjustments not arising from acquisitions from predecessors.

(c) The introduction of a capital surplus account.

3. This proposed amendment is issued under the authority of sections 4 (i) and 220 (a) of the Communications Act of 1934, as amended.

4. Any interested person who is of the opinion that the proposed amendment to the rules and regulations should not be adopted or should not be adopted in the form set forth may file with the Commission on or before June 16, 1947, a written statement or brief setting forth his comments. The Commission will consider these written comments before adopting the proposed rules and if comments are submitted which appear to warrant the Commission in holding an oral argument, notice of the time and place of such oral argument will be given.

Proposed amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) of the Commission's rules and regulations, as revised to August 1, 1946:

1. At page 8, column 1, following § 31.01-9, insert the following new instruction:

§ 31.01-9a *Sequence of accounts.* The order in which the accounts are presented in this system of accounts is not to be considered as necessarily indicative of the order in which they will be scheduled at all times in reports to the Commission.

2. At page 9, column 2, amend § 31.1-13 (b) to read as follows:

(b) The necessary adjustments for the difference between (1) the face amount of bonds and other evidences of debt that have been reacquired and (2) the amounts actually paid for them plus the amounts of expenses incurred in connection with their reacquisition shall be included, when a debit, in account 413, "Miscellaneous debits to earned surplus," and when a credit, in account 402, "Miscellaneous credits to earned surplus." In the case of refinancing, amounts that ordinarily would thus be charged or credited to earned surplus may be made subject to amortization upon approval by the Commission in the specific instance.

3. At page 9, column 2, following § 31.1-13, paragraph (b) add new paragraphs as follows:

(c) The necessary adjustments for the difference between (1) the face amount of bonds and other evidences of debt that previously have been reacquired and are resold and (2) the amounts actually received for them less the amounts of expense incurred in connection with their resale shall be included when a debit in account 413, "Miscellaneous debits to earned surplus," and, when a credit, in account 402, "Miscellaneous credits to earned surplus."

¹For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

(d) The necessary adjustments for the difference between (1) the book amount of capital stock that has been reacquired and (2) the amount actually paid for it plus the amounts of expense incurred in connection with its reacquisition shall be included in account 179, "Other capital surplus," except that the excess of a debit adjustment over the balance in account 179, applicable to capital stock of the same class, shall be charged to earned surplus: *And, provided further,* That a credit adjustment shall be included in earned surplus to the extent that any previous charges to earned surplus on account of transactions in the same class of stock have not been offset by previous credits to earned surplus on account of such transactions.

(e) The necessary adjustments for the difference between (1) the book amount of capital stock that previously has been reacquired and is resold, and (2) the amount actually received for it less the amounts of expense incurred in connection with its resale shall be included in account 179, "Other capital surplus," except that the excess of a debit adjustment over the balance in account 179, applicable to capital stock of the same class, shall be charged to earned surplus: *And provided further* That a credit adjustment shall be credited to earned surplus to the extent that any previous charges to earned surplus on account of transactions in capital stock of the same class have not been offset by previous credits to earned surplus on account of such transactions.

(f) The company's records shall be so maintained that in reports to the Commission there may be shown the extent to which the surplus accounts have been charged and credited in connection with transactions in each class of capital stock.

4. At page 10, column 1, amend paragraph (e) of § 31.1-14 to read as follows:

(e) When capital stock which has been actually issued or assumed by the company is reacquired the proportion (based upon the relation of the amount of stock reacquired to the total amount of that particular class or series of stock outstanding before its reacquisition) of the balance in the discount and premium account with respect to the stock reacquired shall be cleared to account 179, "Other capital surplus," except that any excess of a debit amount over the balance in account 179, applicable to capital stock of the same class, shall be charged to earned surplus: *And provided further* That a credit amount shall be credited to earned surplus to the extent that any previous charges to earned surplus on account of transactions in capital stock of the same class have not been offset by previous credits to earned surplus on account of such transactions.

5. At page 11, column 1, following § 31.1-17, insert a new section as follows:

§ 31.1-18 *Surplus.* (a) The accounts designated as capital surplus accounts are designed to show (1) paid-in surplus (i. e., proprietary contributions in excess of the stated capital included in the capital-stock accounts), (2) donated

surplus (including (i) surplus created by donations of stock or assets by proprietary interests, and (ii) contributions of assets or forgiveness of debt by others) when the intent of the donor or bondholder is to increase the company's invested capital, (3) surplus arising from reacquisition or resale of, or otherwise trading in, the company's own capital stock, and (4) surplus arising from the reduction of the stated value of capital stock due to such occasions as retirement, reorganization or recapitulation.

(b) The balance-sheet accounts designated as earned-surplus accounts are designed to show the accumulated undistributed surplus derived from the normal operations of the company and from all sources (including sales of fixed assets) other than those sources referred to in paragraph (a) of this section.

(c) Not later than April 1, 1948 (except as provided in note hereto) the company shall submit to the Commission a transcript of its capital-surplus account or accounts covering the entire period from inception to January 1, 1948, showing in detail the nature and amounts of charges and credits, respectively, and the balance that was or, if it had always been maintained, would have been in the account at the close of each year. The transcript shall be accompanied by a summary statement in which the charges and credits for the entire period covered by the transcript have been classified according to their nature and summarized to show the aggregate amount of each such classification as well as the aggregate amount of charges and credits, respectively, for the period and the resulting balance in the account or accounts at January 1, 1948.

NOTE: Where a segregation corresponding to account 179, "Other capital surplus," has not been maintained in the past and any credits which would have been made to that account are obviously exceeded by the charges which would have been made thereto, the company may file a certified statement, in lieu of the foregoing transcript and summary, specifying that as of December 31, 1947, the balance in account 181, "Unappropriated earned surplus," contained no capital surplus. For the purpose of this determination, write downs or write offs of valid intangible assets shall be considered to have been a charge against other capital surplus, except where conclusive evidence indicates that such action was intended to be made against earnings.

6. At page 12, column 1, following § 31.100:4, insert a new section as follows:

§ 31.100:7 *Telephone plant adjustment.* (a) This account shall include the difference between the original cost (note instruction 31.01-3 (x)) estimated if not known, and the book cost of telephone plant, as at December 31, 1947, to the extent that such difference is not properly includible in account 100:4, "Telephone plant acquisition adjustment," and for which disposition has not previously been made.

(b) The amounts included in this account shall be so classified as to show the nature of each amount and shall be disposed of as the Commission may approve or direct.

NOTE: The provisions of this account shall not be construed as approving or authorizing the recording of appreciation of plant.

7. At page 16, column 2, amend paragraphs (b) and (c) of § 31.134:2 to read as follows:

(b) When any issue of capital stock, or a portion thereof, is reacquired, there shall be credited to this account and charged to account 179, "Other capital surplus," the amount herein with respect to such stock, except that any excess of such amount over the balance in account 179 applicable to capital stock of the same class, shall be charged to earned surplus.

(c) The company may amortize or write off the balance carried in this account by credits hereto and concurrent charges to account 179, "Other capital surplus," or to earned surplus in case the amount exceeds the balance in account 179 applicable to the same class of stock.

8. At page 22, column 1, following § 31.174, insert a new section as follows:

§ 31.179 *Other capital surplus.* Among the amounts includible in this account are credits arising from the reacquisition and resale, from the retirement and cancellation, from a reduction of a stated value, and from the donation by stockholders of the company's capital stock; surplus arising from the forgiveness of debt of the company; surplus recorded upon the reorganization or recapitalization of the company; and amounts that become the property of the company as a result of a forfeiture by others of deposits on subscriptions to capital stock and of installments paid on capital stock.

NOTE: When the circumstances under which debt is forgiven indicate that its forgiveness is an adjustment of earned surplus, it may be treated as such upon the approval by this Commission in the specific instance.

9. At page 22, column 1, change the center caption "Surplus" to read "Earned surplus" and amend § 31.180, "Surplus reserved," to read as follows:

§ 31.180 *Earned surplus reserved.* (a) This account shall include the amount of earned surplus reserved or otherwise set aside for any purpose not provided for elsewhere. (Note § 31.3-31.)

(b) Separate subaccounts shall be maintained under such titles as will designate the purpose for which each reserve recorded hereunder was created.

10. At page 22, column 2, amend § 31.181, "Unappropriated surplus," to read as follows:

§ 31.181 *Unappropriated earned surplus.* An account under this title shall be maintained in the general books of the company. It shall include the balance of all earned surplus accounts (400 to 416, inclusive).

11. At page 39, column 2, amend § 31.402 to read as follows:

§ 31.402 *Miscellaneous credits to earned surplus.* This account shall include amounts creditable to earned surplus not provided for elsewhere. Among

the items which shall be credited to this account are (Note § 31.01-8)

Amount of adjustments arising from transactions in the company's own capital stock which are not includible in account 179. (Note § 31.1-13 (d), (e), (f).)

Amounts of the credit balance at the time of its reacquirement in the discount, premium, and debt expense account relating to long-term debt reacquired. (Note § 31.1-15.)

Amounts received for abrogation of contracts.

Credits for amounts previously written off through charges to earned surplus.

Credits from adjustments in connection with the reacquisition of bonds and other evidences of debt. (Note also § 31.1-13 (b).)

Delayed credits to income, operating revenue, and operating expense accounts as provided in § 31.01-5.

Forfeitures of amounts deposited with the company under options for the sale or lease of property.

Profits arising from foreign exchange. (Note § 31.01-7.)

Profits derived from the resale of company securities owned other than capital stock.

Profits derived from the sale of securities of other companies.

Profits derived from the sale of unexpired leases.

Profits from the sale of land carried in account 103 and of depreciable property in account 103 not previously used in telephone service. (Note also account 174.)

Unclaimed dividends.

Unclaimed wages and vouchered accounts written off.

12. At page 40, column 1, amend § 31.413 to read as follows:

§ 31.413 *Miscellaneous debits to earned surplus.* This account shall include amounts chargeable to earned surplus not provided for elsewhere. Among the items which shall be charged to this account are (Note § 31.01-8)

Amortization, at the company's option, of the balance in account 201.

Amortization not provided for elsewhere.

Amount of adjustments arising from transactions in the company's own capital stock which are not includible in account 179. (Note § 31.1-13 (d), (e), (f).)

Amounts charged to earned surplus to cover past accrued depreciation not provided for. (Note also account 171.)

Amounts charged to earned surplus to extinguish, at the company's option, all or any part of the debit balance remaining in any particular discount, premium, and debt expense account for long-term debt actually outstanding. (Note § 31.1-15.)

Amounts charged to earned surplus in recognition of the decline in value of current assets and securities owned. (Note §§ 31-1.11, 31.1-12.)

Amounts of capital-stock expense written off which are not includible in account 179. (Note account 134:2.)

Amounts of the debit balance at the time of its reacquirement in the discount, premium, and debt expense account relating to long-term debt reacquired. (Note § 31.1-15.)

Amounts paid for abrogation of contracts. Appropriations to nonpar stock accounts. (Note § 31.1-16:1.)

Debits resulting from adjustments required in connection with the reacquisition of bonds and other evidences of debt. (Note § 31.1-13.)

Delayed debits to income, operating revenue, and operating expense accounts as provided in § 31.01-5.

Forfeiture of amounts deposited by the company under options for the purchase or lease of property.

Inventory, appraisal, and other costs incident to the contemplated acquisition, sale

or lease of property when the projects are abandoned.

Losses arising from foreign exchange. (Note § 31.01-7.)

Losses of funds due to bank failures. Losses resulting from the resale of company securities owned other than capital stock.

Losses resulting from the sale of land carried in account 103 and losses resulting from the sale, destruction, or retirement of depreciable property carried in account 103 not previously used in telephone service. (Note account 174.)

Losses resulting from the sale of securities of other companies.

Payments of amounts previously written off through credits to earned surplus.

Penalties and fines paid on account of violations of statutes pertaining to regulation.

Uncollectible receivables, or provisions therefor, not chargeable to other accounts.

13. Make the following changes in the table of contents and other points of reference:

(a) Make the following additions to the table of contents:

(1) At page 1, column 1, following § 31.01-9 insert: "§ 31.01-9a Sequence of accounts."

(2) At page 1, column 1, following § 31.1-17 insert: "§ 31.1-13 Surplus."

(3) At page 1, column 1, following § 31.100:4 insert: "§ 31.100:7 Telephone plant adjustment."

(4) At page 2, column 1, following § 31.174 insert: "31.179 Other capital surplus."

(5) At page 2, column 1, following § 31.174 insert: "Earned" to precede the word "Surplus."

(6) At page 2, column 1, change § 31-180 as follows: "§ 31.180 Earned surplus reserved."

(7) At page 2, column 1, change § 31-181 as follows: "§ 31.181 Unappropriated earned surplus."

(8) At page 2, column 2, following § 31.343 insert: "Earned" to precede the word "Surplus" in heading.

(9) At page 2, column 2, change § 31-4-40 as follows: "§ 31.4-40 Purpose of earned surplus accounts."

(10) At page 2, column 2, following § 31.4-40 insert: "Earned" to precede the word "Surplus" in heading.

(11) At page 2, column 2, change § 31-402 as follows: "§ 31.402 Miscellaneous credits to earned surplus."

(12) At page 2, column 2, change § 31-413 as follows: "§ 31.413 Miscellaneous debts to earned surplus."

(13) At page 2, column 2, change § 31-414 as follows: "§ 31.414 Contractual reservations of earned surplus."

(14) At page 2, column 2, change § 31-415 as follows: "§ 31.415 Miscellaneous reservations of earned surplus."

(b) Change cross reference to § 31.1-13 (b) to read § 31.1-13 (d-f) at the following points:

Page No.	Column No.	Section	Para-graph	Line (of paragraph)
7	1	31.01-3	(eo)	16
16	2	31.134:2	(a)	6
17	2	31.160	(b)	6

(c) Insert the word "earned" to precede the word "surplus" at the following points:

Page No.	Column No.	Section	Para-graph	Line (of paragraph)
7	2	31.01-5	(b)	4
7	2	31.01-7	(a)	11
8	1	31.01-7	(a)	1
9	2	31.1-31	(b)	5
9	2	31.1-32	(b)	7
10	2	31.1-15	(e)	3
10	2	31.1-15	(f)	12
11	1	31.1-15	(f)	1, 4
17	2	31.139	-----	25
20	2	31.169	-----	3
21	1	31.170	(a)	3
21	1	31.171	(a)	3
21	2	31.172	(b)	3
21	2	31.172	(c)	10
22	1	31.174	(b)	9
27	1	31.2-25	(e)	5
35	2	31.3-31	-----	10
36	1	31.3-31	-----	4, 5, 9
37	2	31.313	(d)	6, 7
37	2	31.314	(b)	12, 13
39	2	31.4-40	-----	1, 2, 4, 8, 12, 14
39	2	31.401	-----	3
40	1	31.410	-----	3
40	2	31.414	-----	1, 3 and note A
40	2	31.415	-----	1, 3, 6
62	1	31.672	(c)	6

At page 39, column 2, insert the word "Earned" to precede "Surplus" in the headings "Instructions for Surplus Accounts" and "Surplus Accounts."

(d) Make these additional changes in the following sections:

Section 31.01-3, paragraph (ee) page 7, column 1, insert "or" before "sale" and delete "or resale."

Section 31.1-14, paragraph (a) page 10, column 1, delete "or resale."

Section 31.1-15, paragraph (a) page 10, column 2, delete "or resale."

Section 31.134:2, paragraph (a) page 16, column 2, insert "or" before "sale" and delete "or resale."

(e) At page 1 in the footnote designated by dagger, change § 31.1-17 to § 31.1-18.

Adopted: May 28, 1947.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION, T. J. SLOWIE, Secretary.

[F. R. Doc. 47-5345; Filed, June 4, 1947; 8:53 a. m.]

FEDERAL POWER COMMISSION

[18 CFR, Part 03]

[Docket No. R-105]

UNIFORM SYSTEM OF ACCOUNTS

NOTICE OF RULE MAKING AND HEARING

MAY 27, 1947.

Amendment of Part 03, Substantive Rules, General Policy and Interpretations of Subchapter A, Chapter I, Title 18, Code of Federal Regulations: or amendment of Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, or otherwise.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. Under section 14 of the Federal Power Act, licenses for hydroelectric power projects of more than 100 horsepower installed capacity are required to carry as a condition the specific reservation of the right of the United States upon or after the expiration of the license to take over and thereafter to maintain and operate the project covered by the license and other property of the

licensee dependent for its usefulness upon the continuance of the license, upon payment to the licensee of the "net investment" of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus severance damages, the term "net investment" being defined in section 3 (13) of the act. The "net investment" appears to be of importance not only in connection with the acquisition price at the end of the license period but also for other purposes during the period of the license.

3. Clarification of the administrative interpretation to be given to section 3 (13) of the act and the items to be deducted from the actual legitimate original cost of a project in determining the "net investment", including the method to be followed by a licensee in accounting for such costs and deductions, is desirable at this time.

4. Pursuant to the authority vested in it by the Federal Power Act, particularly sections 10 (g) and 309 thereof (49 Stat. 842, 858; 16 U. S. C. 803 (g), 825 (h)) the Commission proposes to consider, in connection with all licenses under the Federal Power Act heretofore or hereafter issued for hydroelectric projects of more than 100 horsepower capacity, either (1) by a rule added as an amendment to Part 03, Substantive Rules, General Policy and Interpretations, of Subchapter A, Chapter I of Title 18, Code of Federal Regulations, or (2) by amendment of the Uniform System of Accounts Prescribed for Public Utilities and Licensees (Part 101 of Subchapter C, Chapter I of Title 18 of said code), but to be applicable only to licensees holding license under the Federal Power Act for hydro-electric projects of more than 100 horsepower installed capacity, or (3) otherwise as may seem appropriate, a rule substantially in the following form:

§ 03.4 Uniform System of Accounts; Account 258.1 Amortization Reserve; Federal. During the entire period of any license under the Federal Power Act for a hydroelectric power project of more than 100 horsepower installed capacity, all project earnings in excess of a fair return upon the net investment in said project and which have not been appropriated to amortization, sinking fund, or similar reserves, shall be appropriated annually to a special reserve under Account 258.1, Amortization Reserve--Federal, the credit balance in such special reserve to be applied annually as a deduction from actual legitimate original cost in determining net investment in accordance with section 3 (13) of the act.

5. A hearing on the above proposed rule will be held in the Commission's Hearing Room Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington 25, D. C., beginning at 10 o'clock

¹The number Account 258.1 referred to appears at page 35 of the Commission's pamphlet publication of its Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, effective January 1, 1937; the said Account constitutes § 101.258:1 of Part 101 of Subchapter C, Chapter I, of Title 18 of the Code of Federal Regulations (18 CFR 101.258:1).

a. m. (e. d. s. t.) on the 28th day of July, 1947, and any person desiring to be heard may either testify at such hearing, make a statement with respect to the proposed rule, or deposit with the presiding officer during said hearing or with the Secretary within 30 days after the close of said hearing, written data, views, or arguments with respect to said proposed rule or any suggestions or recommendations for a substitute rule, with the reasons therefor. The Commission will consider any testimony, statements, comments, or arguments so submitted before acting on the proposed amendment.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-5308; Filed, June 4, 1947;
8:52 a. m.]

[18 CFR, Part 03]

[Docket No. R-106]

PRODUCTION OR GATHERING OF NATURAL GAS INTERPRETATIVE STATEMENT OF COMMISSION'S JURISDICTION

MAY 27, 1947.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. In view of the uncertainty which has been manifested among the State officials and the industries concerned, regarding the Commission's alleged intent to assert jurisdiction over those who only produce, gather and process natural gas and sell it upon completion of such operations, it is proposed to adopt a general rule embodying an interpretation by the Commission of its jurisdiction under the Natural Gas Act and the construction of the exclusionary provisions of section 1 (b) of that act with reference to "production or gathering." The rule is proposed to be issued pursuant to the authority permitted the Federal Power Commission by the Natural Gas Act, particularly section 16 thereof (52 Stat. 821-833; 830; 15 U. S. C. 717-717w; 717o).

3. In order to clarify as fully as possible the intent of this proposed rule, the terms "production," "gathering," and "transportation" are defined; however, as regards some complex situations, it must be recognized that appropriate distinctions between "gathering" and "transportation" cannot always be prescribed by mere definitions. The nature of the particular functions performed in essentially a question of fact, dependent in a borderline case upon a consideration of the particular circumstances presented. Therefore, while not every jurisdictional question may be resolved by the adoption of the proposed rule and definitions, the Commission is of the opinion that the status of persons concerned with the administration of section 1 (b) with reference to "production or gathering" will, in the great majority of instances, be completely clarified by their adoption.

4. The provisions of the rule proposed herein are substantially as outlined in the staff report on this subject relative to the Natural Gas Investigation in Docket No. G-580, entitled "Section 1 (b) of the Natural Gas Act with reference to Production and Gathering," which was submitted for comment to natural-gas companies and other interested parties under date of March 6, 1947, with replies requested as of April 1, 1947.

5. The Commission proposes to adopt and issue the rule as a new section of Part 03—Substantive Rules, General Policy and Interpretations, of Subchapter A, General Rules, Chapter I of Title 18 of the Code of Federal Regulations, such new section to read as follows:

§ 03.79 *Production, gathering, and transportation; defined and distinguished.* (a) The Commission is of the opinion that the exemption contained in section 1 (b) of the Natural Gas Act, to the effect that the provisions of the act shall not apply to the "production or gathering" of natural gas, was intended by Congress to exempt from the

jurisdiction of the Commission all activities in producing and gathering natural gas—including sales made at arm's length—by those who only produce, gather or process natural gas exclusive of its transportation and subsequent sales in interstate commerce.

(b) To clarify further this determination and conclusion, the Commission adopts the following definitions:

(1) "Production" means the extraction of natural gas from wells or reservoirs and the recovery of residue gas from natural gas or casinghead (oil-well) gas by the removal of natural gasoline, propane, butane, or other hydrocarbons, and includes the arm's length sale of such natural or residue gas by the producer to a gatherer or transporter.

(2) "Gathering" means the collecting of natural gas from wells of the gatherer or of other producers, its movement to central points by means of pipe lines and other facilities used in connection therewith, its processing and compression as a part of gathering, and includes the arm's length sale and delivery of such natural gas by the gatherer, prior to the beginning of transportation in interstate commerce within the meaning of the act.

(3) As distinguished from gathering, "transportation" means the movement of natural gas after its gathering, through pipe lines and related facilities transmitting natural gas in interstate commerce to the point or points of local distribution for ultimate public consumption, or, after the completion of gathering, to the point or points at which such gas is sold in interstate commerce for resale.

6. Interested persons are given until July 7, 1947, to submit written statements or briefs setting forth their comments, views, and suggestions with respect to this proposed rule.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-5309; Filed, June 4, 1947;
8:53 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 8998]

ALLIANZ UND STUTTGARTER VEREIN VERSICHERUNGS A. G.

In re: Portion of a bank account owned by Allianz und Stuttgarter Verein Versicherungs Aktiengesellschaft.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Allianz und Stuttgarter Verein Versicherungs Aktiengesellschaft, the No. 110—5

last known address of which is Berlin, Germany, is a corporation organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany).

2. That the property described as follows: That certain debt or other obligation of The Chase National Bank of the City of New York, 18 Pine Street, New York, New York, in the amount of \$5,375.31, constituting a portion of an account entitled Louis H. Pink, Superintendent of Insurance of the State of New York, as Liquidator in trust for the creditors, et al. of the Pilot Reinsurance Company of New York, together with any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or de-

liverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Allianz und Stuttgarter Verein Versicherungs Aktiengesellschaft, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the prop-

NOTICES

erty described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5348; Filed, June 4, 1947;
8:46 a. m.]

[Vesting Order 9004]

ILSE ENDRES ET AL.

In re: Bank accounts owned by Ilse Endres and others.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That each individual, whose name is set forth in Exhibit A, attached hereto and by reference made a part hereof, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to each individual, whose name is set forth in Exhibit A, by The First National Bank of Chicago, Dearborn, Monroe and Clark Streets, Chicago, Illinois, arising out of the savings account, described in the manner set forth in Exhibit A, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

EXHIBIT A

Names of owners and titles of accounts	Account No.	OAP file No.
Ilse Endres.....	1,351,553	F-28-25340-E-1.
Julius Endres.....	1,351,554	F-28-25254-E-1.
Johann Endres.....	1,351,553	F-28-25255-E-1.
Gretchen Endres.....	1,351,555	F-28-25256-E-1.
Marie Schuldenzucker.....	1,351,552	F-28-25973-E-1.
Wally Hiltl.....	1,351,556	F-28-27203-E-1.

[F. R. Doc. 47-5349; Filed, June 4, 1947;
8:46 a. m.]

[Vesting Order 9012]

HENRY JANSEN

In re: Claim owned by Henry Jansen. F-28-280-C-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Henry Jansen, whose last known address is c/o American Express Co., Berlin, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: The claim of Henry Jansen against the State of New York and the Comptroller of the State of New York, arising by reason of the collection or receipt by said Comptroller, pursuant to the provisions of the Abandoned Property Law of the State of New York, of that sum of money previously on deposit with Central Savings Bank in the City of New York, 4th Avenue and 14th Street, New York, New York, in a savings account, account number 895,851, entitled Henry Jansen, and any and all rights to file with said Comptroller, demand and enforce the aforesaid claim,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5350; Filed, June 4, 1947;
8:46 a. m.]

[Vesting Order 9013]

KARL KAPHENGST

In re: Bank account owned by Karl Kaphengst, also known as Carl Kaphengst. F-28-23095-C-1, F-28-23095-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Kaphengst, also known as Carl Kaphengst, whose last known address is Hamburg 26, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation of Crocker First National Bank of San Francisco, One Montgomery Street, San Francisco 20, California, arising out of a Savings Account, Account Number 20742, entitled Tom F Chapman or I. F Chapman, Trustees for Carl Kaphengst, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Karl Kaphengst, also known as Carl Kaphengst, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5351; Filed, June 4, 1947;
8:47 a. m.]

[Vesting Order 9016]

BERTHA MENZ ET AL.

In re: Bank accounts owned by Bertha Menz and others.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That each individual, whose name is set forth in Exhibit A, attached hereto and by reference made a part hereof, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to each individual, whose name is set forth in Exhibit A, by The First National Bank of Chicago, Dearborn, Monroe and Clark Streets, Chicago, Illinois, arising out of the savings account, described in the manner set forth in Exhibit A, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the persons referred to in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

EXHIBIT A

Names of owners and titles of accounts	Account No.	OAP file No.
Bertha Menz.....	1,369,606	F-28-26360-E-1.
Emma Wildemann.....	1,369,609	F-28-26364-E-1.
Eleanora Blech.....	1,369,607	F-28-24915-E-1.
Alex Wildemann.....	1,362,293	F-28-26363-E-1.

[F. R. Doc. 47-5352; Filed, June 4, 1947; 8:47 a. m.]

[Vesting Order 9018]

MUNCHENER RUCKVERSICHERUNGS-GESELLSCHAFT

In re: Portion of a bank account owned by Munchener Ruckversicherungs-Gesellschaft.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Munchener Ruckversicherungs-Gesellschaft, the last known address of which is Munich, Germany, is a corporation organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany and is a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation of The Chase National Bank of the City of New York, 18 Pine Street, New York, New York, in the amount of \$1,670.00, constituting a portion of an account entitled Louis H. Pink, Superintendent of Insurance of the State of New York, as Liquidator in trust for the creditors, et al. of the Pilot Reinsurance Company of New York, together with any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Munchener Ruckversicherungs-Gesellschaft, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5353; Filed, June 4, 1947; 8:47 a. m.]

[Vesting Order 9020]

JOSEPHINE NISCH

In re: Claim owned by Josephine Nisch. F-28-22127-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Josephine Nisch, whose last known address is Holzstrasse 6, Saulgau, Wuerttemberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

-2. That the property described as follows: The claim of Josephine Nisch against the State of New York and the Comptroller of the State of New York, arising by reason of the collection or receipt by said Comptroller, pursuant to the provisions of the Abandoned Property Law of the State of New York, of that sum of money previously on deposit with The National City Bank of New York, New York, New York, in a compound interest account, account number 171479, entitled Josephine Nisch, maintained at the branch office of the aforesaid bank located at 17 East 42nd Street, New York, New York, and any and all rights to file with said Comptroller, demand, enforce and collect the aforesaid claim,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5354; Filed, June 4, 1947; 8:47 a. m.]

[Vesting Order 9021]

KANTARO NOMURA

In re: Bank account owned by Kantaro Nomura also known as Kentaro Nomura. F-39-5834-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kantaro Nomura, also known as Kentaro Nomura, whose last known

NOTICES

address is Japan, is a resident of Japan and a national of a designated enemy country (Japan),

2. That the property described as follows: That certain debt or other obligation of Rocky Ford National Bank, Rocky Ford, Colorado, arising out of a checking account, entitled Kentaro Takeda, as attorney-in-fact for Kantaro Nomura, a national of Japan, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Kantaro Nomura, also known as Kentaro Nomura, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-5355; Filed, June 4, 1947;
8:47 a. m.]

[Vesting Order 9023]

EMMA ROP

In re: Bank account owned by Emma Rop. F-28-23939-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emma Rop, whose last known address is Jesznitz, Kreis Guhen, Germany, is a resident of Germany, and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Emma Rop, by Mississippi Valley Trust Company, 225 North Broadway, St. Louis 2, Missouri, arising out of a current account, entitled Emma Rop, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-5356; Filed, June 4, 1947;
8:47 a. m.]

[Vesting Order 9025]

AUGUSTE SCHOLZ

In re: Bank account owned by Auguste Scholz. F-28-25948-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Auguste Scholz, whose last known address is Neustr 9 Lauban, Schlessien, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Auguste Scholz, by The Rock Island Bank and Trust Company, Rock Island, Illinois, arising out of a certificate of beneficial interest account, account number 13504, entitled Auguste Scholz, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-5357; Filed, June 4, 1947;
8:47 a. m.]

[Vesting Order 9027]

JOSEF SCHWAB

In re: Bank account owned by Josef Schwab. F-28-8695-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Josef Schwab, whose last known address is Sandberg No. 26 Unterfranken Va Rhon Bayern, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Josef Schwab, by The Cleveland Trust Company, Euclid Avenue and 9th Street, Cleveland, Ohio, arising out of a savings account, account number 29934, entitled Josef Schwab, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall

have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5358; Filed, June 4, 1947; 8:47 a. m.]

[Vesting Order 9031]

JOHANN TIMM

In re: Bank account owned by Johann Timm. F-28-25679-C-1, F-28-25679-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Timm, whose last known address is Krempel, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation of Crocker First National Bank of San Francisco, One Montgomery Street, San Francisco 20, California, arising out of a Savings Account, Account Number 20608, entitled I. F. Chapman or Tom F. Chapman, Trustees for Johann Timm, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Johann Timm, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director

[F. R. Doc. 47-5359; Filed, June 4, 1947; 8:48 a. m.]

[Return Order 17]

ALBERT H. STRONSTORFF

The Vested Property Claims Committee having considered the claims set forth below and having issued a Final Determination with respect thereto, which is incorporated by reference herein and filed herewith,¹ and no personal review of such Final Determination having been requested or undertaken.

It is ordered, That the claimed property, described below and in the Final Determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for conservatory expenses:

Claimant and Claim No., Notice of Intention to Return Published, and Property

Albert H. Stronstorff, 4181-A-443; April 23, 1947; All right, title, and interest in and to United States Letters Patent No. 2,134,494. This return shall not be deemed to include the rights of any licensees under said patent.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on May 29, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,
Director.

[F. R. Doc. 47-5360; Filed, June 4, 1947; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rate applicable under section 6 of the act have been issued to the firms hereinafter mentioned under section 14 of the act, Part 522 of the regulations issued thereunder (August 16, 1940, 5 F. R. 2862, and as amended June 25, 1942, 7 F. R. 4725), and the determinations, orders and/or regulations hereinafter mentioned. The names and addresses of the firms to which certificates were issued, industry, products, number of learners, learner occupations, wage rates, learning periods, and effective and expiration dates of the certificates are as follows:

Independent telephone learner regulations, July 17, 1944 (9 F. R. 7125) The special learner certificate(s) issued to the following company(ies) under the above regulations provide for the employment of learners in the occupation of commercial switchboard operator for a period not in excess of 480 hours at not less than 30 cents per hour for the first 320 hours and 35 cents per hour for the remaining 160 hours of the learning

period. The number of learners authorized to be employed depends on the number of operators in the exchange, i. e., one learner if the exchange employs 8 operators or less, two learners if the exchange employs from 9 to 18 operators, etc. See Regulations, Part 522, § 522.083.

Central Iowa Telephone Company, Toledo, Iowa; effective June 27, 1947, expiring June 26, 1948.

Central Iowa Telephone Company, Traer, Iowa; effective June 12, 1947, expiring June 11, 1948.

Mt. Pulaski Telephone and Electric Company, Mt. Pulaski, Illinois; effective May 25, 1947, expiring May 24, 1948.

The Oregon Farmers Mutual Telephone Co., Oregon, Missouri; effective May 27, 1947, expiring May 26, 1948.

Regulations, Part 522, Regulations Applicable to the Employment of Learners.

Puerto Rico Shoe and Leather Corporation, Ponce, Puerto Rico; thirty (30) learners in cutting, one hundred (100) learners in stitching, and seventy-five (75) learners in making at not less than 18¼ cents an hour when working on fabric and plastic shoes and 22½ cents an hour when working on leather shoes, for a learning period not to exceed 2,030 hours. This certificate is effective May 6, 1947 and expires May 5, 1948 and was issued to replace the certificate previously issued to the Puerto Rico Industrial Development Company, effective August 6, 1946.

The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of the applicable determinations, orders and/or regulations cited above. These certificates have been issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Regulations, Part 522.

Signed at Washington, D. C. this 23d day of May 1947.

ISABEL FERGUSON,
Authorized Representative
of the Administrator.

[F. R. Doc. 47-5295; Filed, June 4, 1947; 8:43 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

WLNH, LACONIA, N. H.¹

NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE

The Commission hereby gives notice that on May 23, 1947, there was filed with

¹Section 1.321, Part I, Rules of Practice and Procedure.

¹ Filed as part of the original document.

it an application (BAL-831) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of AM Station WLNH, Laconia, New Hampshire, from Northern Broadcasting Company to Northern Broadcasting Corporation. The proposal to assign the license arises out of a contract of May 8, 1947, pursuant to which the seller agrees to sell and the buyer agrees to buy the entire physical assets used in the operation of WLNH for the sum of \$6,339.28 plus the accounts receivable at their face value estimated to be \$4,000, making a total of \$10,339.28, which amount has been placed in escrow with the National Shawmut Bank of Boston. In addition Northern Broadcasting Corporation is purchasing the outstanding obligations of the assignor company from Charles S. Jenney of Brookline, Massachusetts, for the sum of \$34,660.72 which has been placed in escrow with said bank. The total amount of \$45,000 (less adjustments on accounts receivable, if any) is payable upon Federal Communications Commission consent to the assignment application. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on May 23, 1947, that starting on May 26, 1947, notice of the filing of the application would be inserted in a newspaper of general circulation at Laconia, N. H., in conformity with the above rule.

In accordance with the procedure set out in said rule, no action will be had upon the application for a period of 60 days from May 26, 1947, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. A. 310 (b))

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5297; Filed, June 4, 1947;
8:50 a. m.]

**FM AND TELEVISION ANTENNAS MOUNTED
ON STANDARD BROADCAST ANTENNAS
INFORMATION TO APPLICANTS FOR BROADCAST
FACILITIES**

APRIL 17, 1947.

* There is a growing amount of confusion among applicants for broadcast facilities which involve the use of standard broadcast antennas as supporting structures for FM and television antennas.

Commission rules governing FM and television broadcast stations require applicants to submit separate applications for a change of the standard broadcast antenna when a proposal involves plac-

ing an FM or television antenna on a standard broadcast tower. Generally, informal applications should be submitted entirely separate from the FM and television applications. In some cases where a substantial change of structure of a directional antenna system is involved, a formal application may be requested and required.

There are numerous applications on file involving combined AM and FM construction not apparent from either application. Some of these contain contradictory data with respect to the location of the tower, geographical coordinates, height and physical configuration. Applicants are asked to inspect all applications now on file for different classes of broadcast stations so as to ascertain that all are in agreement where combined construction is involved. As a suggestion: *Use the same drawing of the antenna in applications for all three services, including dimensions and geographical coordinates.*

The radiating system of the standard broadcast station includes all high frequency antennas supported thereby and their associated coupling equipment and should be included in the description and schematics of the standard broadcast construction permit, license, and antenna resistance measurement applications. The overall height includes high frequency antenna.

When a change in standard broadcast antenna is made due to the installation of an FM or television antenna, a request for the changes should be submitted on behalf of the standard broadcast station and authority can be granted to determine power by the indirect method and to operate with a temporary antenna where required. When erecting an FM antenna on an element of a directional antenna system, information should be furnished showing procedure to be used to eliminate the possibility of distorting the directional pattern and to insure protection to other stations.

Applications for license for any of the classes of broadcast stations should indicate provisions for other services on the same tower and should include data to show that there is no objectionable interaction between the several services.

After making changes in standard broadcast antenna systems, new antenna resistance measurements should be made and submitted on Form 306. Resistance should be measured with all high frequency adjuncts attached and connected in the normal operating condition.

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5298; Filed, June 4, 1947;
8:50 a. m.]

**STENOGRAPHIC REPORTS OF FCC HEARINGS
AVAILABILITY OF CHEAPER TRANSCRIPTS TO
INTERESTED PUBLIC**

MAY 21, 1947.

In inviting bids from stenographic reporting companies for reporting its hearings during the next fiscal year, the Fed-

eral Communications Commission is placing special emphasis upon the importance of lowering the cost of transcripts to the industry and other interested parties as much as possible.

It is endeavoring to accomplish this by foregoing the bonus which the stenographic reporting companies have paid the Government in the past for the exclusive privilege of doing this work, and by specifying that the cost to the public will be one of the important factors in award of the contract. These private firms depend upon transcript sales for their income. That the return from such sales must be considerable is indicated by the bonus which they have in the past offered for stenographic reporting contracts. In the case of the Federal Communications Commission, a bonus of \$15,000 was paid for the privilege of reporting Commission hearings in Washington during the present fiscal year. The Commission is hopeful that the saving to interested parties resulting from these new bid specifications will be substantial.

Because of the tremendous growth of broadcasting and the continuing evolution of radio in its application to other services, an unprecedented number of hearings on the part of the Commission are required. Some important hearings continue a week or more, and run into thousands of pages of transcript. At the rate charged in the past by reporting companies, the price of the complete text becomes particularly burdensome on small groups or individuals with limited resources who may be concerned. It was this condition that prompted revision of the Commission's bid specifications to emphasize the importance of lowering transcript prices as much as possible.

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5299; Filed, June 4, 1947;
8:50 a. m.]

**BOULDER CITY BROADCASTING CO., BOULDER
CITY, NEV.**

**NOTICE CONCERNING PROPOSED TRANSFER OF
CONTROL¹**

The Commission hereby gives notice that on May 15, 1947, there was filed with it an application (File No. BTC-552) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Boulder City Broadcasting Company, Boulder City, Nevada, permittee of AM Station KELN, Ely, Nevada, and licensee of AM Station KBNE and Relay Station KBNE, Boulder City, Nevada, from J. C. Manix, Don Ashbaugh, C. C. Applegate, P. S. Webb and C. A. Savage to Edward J. Jansen, Melvin O. Larson and Truman B. Hinkle. The proposal to transfer control arises out of a contract of April 1, 1947, pursuant to which above indicated transferors agreed to sell all of their 300 shares of the \$100 par value common voting stock of the

¹ Section 1.321, Part I, Rules of Practice and Procedure.

licensee to the purchasers for \$30,000. Purchasers are to deliver to sellers their individual promissory notes bearing 5% interest per annum payable in 24 equal monthly installments, the first payment to be due one year from date of approval of the transfer by the Commission. Under the plan the licensee company proposes to issue to the same purchasers of the outstanding stock an additional 300 shares at par to provide \$30,000 for working capital.

Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321, applicants advised the Commission on May 23 that starting on May 28, 1947, notice concerning the application would be published in a newspaper of general circulation, both at Boulder City and Ely, Nevada.

In accordance with the procedure set out in said rule, no action will be had upon the application for a period of 60 days from May 28, 1947, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above-described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. A. 310 (b))

[SEAL] FEDERAL COMMUNICATIONS
COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-5343; Filed, June 4, 1947;
8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-585, 796, 889]

ALABAMA-TENNESSEE NATURAL GAS CO.
ET AL.

ORDER SEVERING PROCEEDINGS AND POSTPONING DATE OF HEARING

In the matters of Alabama-Tennessee Natural Gas Company, Docket No. G-585; Southern Natural Gas Company, Docket No. G-796; East Tennessee Natural Gas Company, Docket No. G-889.

It appearing to the Commission that:

(a) On October 9, 1944, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing it to construct and operate approximately 66 miles of 10¾ inch O. D. natural-gas transmission pipeline originating at a point of connection to be made with the 24-inch pipeline of Tennessee Gas and Transmission Company near Enville, Tennessee, and extending southeasterly across the Tennessee-Alabama state line to the plant of the Reynolds Metal Company at Lusterhill, near Muscle Shoals, Alabama; together with facilities to permit the delivery of natural gas from such pipeline to the National Utilities Company for resale at Florence, Sheffield, and Tusculumbia, Alabama, and to the Tennessee Valley Authority at Muscle Shoals.

(b) Proceedings upon the application of Alabama-Tennessee at Docket No. G-

585 have been deferred until the present time upon the request of that applicant, and because of its failure to furnish requested information in support of such application.

(c) In accordance with a request filed on May 14, 1947, by Alabama-Tennessee Natural Gas Company, the Commission by order of May 16, 1947, consolidated the proceedings upon the application of that company with the proceedings upon the applications at Docket Nos. G-796 and G-889 for the purpose of hearing thereon which commenced May 26, 1947.

(d) At said hearing on May 26, 1947, counsel for Alabama-Tennessee orally requested the Presiding Examiner to grant a postponement of the hearing upon the application of that company to permit the preparation of exhibits and other data in support of an amendment to said application, and also requested leave to file such amendment.

(e) Said proposed amendment, as generally stated by counsel, contemplates a major change in the project as set forth in the application heretofore filed by Alabama-Tennessee, and contemplates the sale of natural gas at communities in Mississippi and Alabama additional to those heretofore proposed to be served.

The Commission orders that:

(A) The hearing upon the application of Alabama-Tennessee Natural Gas Company at Docket No. G-585 be and it hereby is postponed to a date and place to be fixed by further order of the Commission.

(B) The proceedings upon said application of Alabama-Tennessee at Docket No. G-585 be and they are hereby severed for all purposes from the proceedings upon the applications filed at Docket Nos. G-796 and G-889 by Southern Natural Gas Company and East Tennessee Natural Gas Company, respectively.

(C) The postponement of the hearing at Docket No. G-585 upon request of Alabama-Tennessee is without prejudice to any action which the Commission has heretofore taken or may hereafter take upon the said applications filed at Docket Nos. G-796 and G-889.

Date of issuance: June 2, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-5294; Filed, June 4, 1947;
8:48 a. m.]

[Docket No. G-880]

TEXAS EASTERN TRANSMISSION CORP.

ORDER FIXING DATE OF HEARING

Upon consideration of (a) the application filed March 26, 1947, by Texas Eastern Transmission Corporation (Applicant) a Delaware corporation having its principal office in Houston, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the acquisition of the "Big Inch" and "Little Big Inch" pipelines (Big Inch Lines) the construction of certain additional gas transmission lines, compres-

sor stations and appurtenant gas transmission facilities as fully described in such application, public notice thereof having been published in the FEDERAL REGISTER on April 22, 1947 (12 F. R. 2584-85) and (b) the application for a temporary certificate of public convenience and necessity filed on March 18, 1947, and order issuing a temporary certificate on March 21, 1947, for the temporary operation of such Big Inch Lines for the period of May 1, 1947, to November 30, 1947, as well as the construction of certain compressor facilities, all as particularly set forth in such application on file with the Commission and open to public inspection;

The Commission orders that:

(A) 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, as amended, and the Commission's rules of practice and procedure (effective September 11, 1946) a hearing be held commencing on the 7th day of July 1947, at 10:00 a. m. (e. d. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such applications, and other pleadings filed herein.

(B) Interested State commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure (effective September 11, 1946)

Date of issuance: May 29, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-5293; Filed, June 4, 1947;
8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 748]

UNLOADING OF REFRIGERATORS AT SACRAMENTO, CALIF.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of May A. D. 1947.

It appearing, that car Milw 718165 containing refrigerators at Sacramento, California, on the Southern Pacific Company, shipped by Federal Manufacturing Company, Waukesha, Wisconsin, has been on hand for an unreasonable length of time and that the delay in unloading said car is impeding its use; in the opinion of the Commission an emergency exists requiring immediate action. It is ordered, that:

(a) *Refrigerators at Sacramento, California, be unloaded.* The Southern Pacific Company, its agents or employees, shall unload immediately, car Milw 718165, loaded with refrigerators, now on hand at Sacramento, California, consigned to shipper's order, notify California Refrigerator Supply Company.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or

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collect or receive any demurrage or storage charges, for the detention under load of any car specified in paragraph (a) of this order, for the detention period commencing at 7:00 a. m., July 1, 1947, and continuing until the actual unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations, or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify V. C. Clinger, Director, Bureau of Service, Interstate Commerce

Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, that this order shall become effective immediately; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that

notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 911, 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission, Division 3.

[SEAL]

W P BARTEL,
Secretary.

[F. R. Doc. 47-5306; Filed, June 4, 1947;
8:52 a. m.]