FEDERAL REGISTER

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TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

[Amdt. 3]

PART 518—FRUITS AND BERRIES, DRIED AND PROCESSED

SUBPART—RAISIN EXPORT PAYMENT PROGRAM TMX 95A

FINAL DATES

NOTE: Two previous unnumbered amendments to this program were made by press release, but were not published in the FEDERAL REGISTER.

Section 518.403 (h) is hereby revised to read as follows:

(h) *Final dates.* (1) The final date for entering into a sales contract shall be 12 o'clock midnight, August 25, 1953;

(2) The final date for filing an application shall be 12 o'clock midnight, August 29, 1953: *Provided,* That such final date for filing shall not be later than the second day (exclusive of Saturdays, Sundays and holidays) prior to date of export (paragraph (a) of this section)

(3) The final date of export shall be 12 o'clock midnight, August 31, 1953;

(4) The final date for filing claims under this section shall be 12 o'clock midnight, September 30, 1953;

Provided, That, upon written request of the exporter stating substantial reasons therefor, the Secretary may, if he deems it desirable, grant an extension of time for any of the respective final dates specified in this paragraph.

Effective date. This amendment shall become effective on August 11, 1953.

(Sec. 32, 49 Stat. 774, as amended; 7 U. S. C. Sup. 612c)

Dated this 5th day of August 1953.

[SEAL] FLOYD F. HEDLUND,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 53-6986; Filed, Aug. 7, 1953; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Peach Order 1]

PART 950—PEACHES GROWN IN UTAH

REGULATION BY GRADES AND SIZES

§ 950.303 *Peach Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 50 (7 CFR Part 950) regulating the handling of peaches grown in the State of Utah, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of such peaches, as hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than August 9, 1953. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop and adequate information thereon was not available to the Administrative Committee until August 1, 1953, recommendation as to the need for, and the extent of, regulation of shipments of such peaches was made at the meeting of said committee on August 1,

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FEDERAL REGISTER

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CFR SUPPLEMENTS

(For use during 1953)

The following Supplement is now available:

Title 14: Parts 1–399 (Revised Book) ($6.00)

Previously announced: Title 3 ($1.75); Titles 4–5 ($0.55); Title 6 ($1.50); Title 7: Parts 1–209 ($1.75), Parts 210–899 ($2.25), Part 900–end (Revised Book) ($6.00); Title 8 (Revised Book) ($1.75); Title 9 ($0.40); Titles 10–13 ($0.40); Title 14: Part 400–end (Revised Book) ($3.75); Title 15 ($0.75); Title 16 ($0.65); Title 17 ($0.35); Title 18 ($0.35); Title 19 ($0.45); Title 20 ($0.60); Title 21 ($1.25); Titles 22–23 ($0.65); Title 24 ($0.65); Title 25 ($0.40); Title 26: Parts 80–169 ($0.40), Parts 170–182 ($0.65), Parts 183–299 ($1.75); Title 26: Part 300–end, Title 27 ($0.60); Titles 28–29 ($1.00); Titles 30–31 ($0.65); Title 32: Parts 1–699 ($0.75), Part 700–end ($0.75); Title 33 ($0.70); Titles 35–37 ($0.55); Title 38 ($1.50); Title 39 ($1.00); Titles 40–42 ($0.45); Title 43 ($1.50); Titles 44–45 ($0.60); Title 46: Parts 1–145 (Revised Book) ($5.00), Part 146–end ($2.00); Titles 47–48 ($2.00); Title 49: Parts 1–70 ($0.50), Parts 71–90 ($0.45), Parts 91–164 ($0.40), Part 165–end ($0.55); Title 50 ($0.45)

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1953, after consideration of all information then available relative to the supply and demand conditions for such peaches, at which time the recommendation and supporting information was submitted to the Department, and made available to growers and handlers; necessary supplemental information was not available to the Department until August 5, 1953; shipments of the current crop of such peaches are expected to begin on or about August 10, 1953, and this section should be applicable to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this section will not require of handlers any preparation therefor which cannot be completed by the effective time of this section.

(b) *Order* (1) During the period beginning at 12:01 a. m., m. s. t., August 9, 1953, and ending at 12:01 a. m., m. s. t., October 16, 1953, no handler shall ship:

(i) Any peaches which do not grade at least U. S. No. 1,

(ii) Any early Elberta peaches which do not measure at least 1⅞ inches in diameter: *Provided,* That a handler may ship any lot of early Elberta peaches (*a*) if not more than 10 percent, by count, of the peaches in such lot are smaller than 1⅞ inches in diameter and if not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 1⅞ inches in diameter; or (*b*) if the peaches in such lot are shipped in peach boxes (inside dimensions 4½–5" x 11½" x 16⅛") and the peaches are of a size not smaller than a size that will pack, in accordance with the specifications of a standard pack, a count of 84 peaches in a peach box, except that the tolerance for variations incident to proper packing provided in such pack specifications, shall not permit a variation of more than 4 peaches in any such box; or

(iii) Any variety of peaches other than early Elberta peaches which do not measure at least 2 inches in diameter: *Provided,* That a handler may ship any lot of peaches (*a*) if not more than 10 percent, by count, of the peaches in such lot are smaller than 2 inches in diameter and if not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2 inches in diameter; or (*b*) if the peaches in such lot are shipped in peach boxes (inside dimensions 4½–5" x 11½" x 16⅛") and the peaches are of a size not smaller than a size that will pack, in accordance with the specifications of a standard pack, a count of 78 peaches in a peach box, except that the tolerance for variations incident to proper packing, provided in such pack specifications, shall not permit a variation of more than 4 peaches in any such box.

(2) *Definitions.* As used in this section, "peaches," "handler," and "ship" shall have the same meaning as when used in the aforesaid marketing agreement and order; "U. S. No. 1," "diameter," "count," and "standard pack" shall have the same meaning as when used in the United States Standards for Peaches (§ 51.312 of this chapter).

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

Done at Washington, D. C., this 6th day of August 1953.

[SEAL] FLOYD F. HEDLUND,
Acting Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-7005; Filed, Aug. 7, 1953; 9:07 a. m.]

[Lemon Reg. 497]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.604 *Lemon Regulation 497*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as provided in this section, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on August 5, 1953, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., August 9, 1953, and ending at 12:01 a. m., P. s. t., August 16, 1953, is hereby fixed as follows:

(i) District 1. Unlimited movement;

(ii) District 2: 425 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

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

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

Done at Washington, D. C., this 6th day of August 1953.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

DISTRICT NO. 2

[Storage date: Aug. 2, 1953]

[12:01 a. m. Aug. 9, 1953, to 12:01 a. m. Aug. 23, 1953]

Handler	*Prorate base (percent)*
Total	100.000
American Fruit Growers, Inc., Corona	.403
American Fruit Growers, Inc., Fullerton	.503
American Fruit Growers, Inc., Upland	.237
Consolidated Lemon Co.	1.225
Ventura Coastal Lemon Co.	1.200
Ventura Pacific Co.	2.252
Chula Vista Mutual Lemon Association	.616
Index Mutual Association	.335
La Verne Cooperative Citrus Association	2.702
Ventura County Orange & Lemon Association	2.600
Glendora Lemon Growers Association	1.733
La Verne Lemon Association	.834
La Habra Citrus Association	1.066
Yorba Linda Citrus Association	.933
Escondido Lemon Association	2.076
Cucamonga Mesa Growers	1.331
Etiwanda Citrus Fruit Association	.329
San Dimas Lemon Association	1.342
Upland Lemon Growers Association	7.537
Central Lemon Association	1.046
Irvine Citrus Association, The	1.070
Placentia Mutual Orange Association	.610

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Corona Citrus Association	0.266
Corona Foothill Lemon Co	3.302
Jameson Co	.935
Arlington Heights Citrus Co	.847
College Heights Orange & Lemon Association	4.041
Chula Vista Citrus Association, The	.996
Escondido Cooperative Citrus Association	.179
Fallbrook Citrus Association	1.557
Lemon Grove Citrus Association	.301
Carpinteria Lemon Association	1.989
Carpinteria Mutual Citrus Association	2.296
Goleta Lemon Association	4.483
Johnston Fruit Co	5.112
North Whittier Heights Citrus Association	.669
San Fernando Heights Lemon Association	.553
Sierra Madre-Lamanda Citrus Association	465
Briggs Lemon Association	2.713
Culbertson Lemon Association	1.231
Fillmore Lemon Association	1.282
Oxnard Citrus Association	4.706
Rancho Sespe	1.296
Santa Clara Lemon Association	3.904
Santa Paula Citrus Fruit Association	4.369
Saticoy Lemon Association	3.646
Seaboard Lemon Association	3.615
Somis Lemon Association	3.768
Ventura Citrus Association	1.454
Ventura County Citrus Association	404
Limoneira Co	2.888
Teague-McKevett Association	.916
East Whittier Citrus Association	475
Murphy Ranch Co	1.601
Dunning, Vera Hueck	.003
Far West Produce Distributors	.029
Huarte, Joseph D	.000
Paramount Citrus Association, Inc	.504
Santa Rosa Lemon Co	.162

[F. R. Doc. 53-7023; Filed, Aug. 7, 1953; 9:28 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.314 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958) regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the area committee for Area No. 1, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendation has been made available to producers and handlers in the production area.

(b) *Order* During the period August 10, 1953, through May 31, 1954, inclusive, no handler shall ship:

(1) Any potatoes of the round varieties (including, but not being limited to, Irish Cobblers, Katahdins, Kennebecs, Pontiacs, and Bliss Triumphs) grown in Area No. 1, unless such potatoes grade not less than U. S. No. 1, 2 inches minimum diameter, and are not more than 24 ounces maximum size;

(2) Any potatoes of the round varieties (including, but not being limited to, Irish Cobblers, Katahdins, Kennebecs, Pontiacs, and Bliss Triumphs) grown in Area No. 1 unless such potatoes grade U. S. No. 2, or better grade up to, but not including, the U. S. No. 1 grade, and are 2 inches minimum diameter; or

(3) Any potatoes of the long varieties (including, but not being limited to Russet Burbank and White Rose) grown in Area No. 1 unless such potatoes grade not less than U. S. No. 2, 4 ounces minimum size.

(4) During the months of September and October 1953, no handler shall ship potatoes of any variety grown in Area No. 1 unless such potatoes meet the requirements of subparagraphs (1) (2) and (3) of this paragraph and, in addition, are not more than "moderately skinned," as such term is defined in the U. S. Standards for Potatoes (§ 51.366 of this title) which means that not more than 10 percent of the potatoes in any lot have more than one-half of the skin missing or feathered.

(5) The U. S. grades and sizes used in this section shall have the same meanings (including the applicable tolerances) as are assigned such terms in the U. S. Standards for Potatoes (§ 51.366 of this title) and all other terms shall have the same meaning as when used in the marketing agreement and Order No. 58 (§§ 958.1 to 958.19)

(c) During the effective time of this section, the provisions of paragraph (a) of § 958.2 General Cull Regulation shall be suspended.

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

Done at Washington, D. C., this 5th day of August 1953.

[SEAL] FLOYD F HEDLUND,
Acting Director Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-6988; Filed, Aug. 7, 1953; 8:54 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 21 to Revision of May 10, 1949]

PART 550—FEDERAL AID TO PUBLIC AGENCIES FOR DEVELOPMENT OF PUBLIC AIRPORTS

INELIGIBLE PROJECT COSTS

This amendment adds a provision to Part 550 which makes ineligible as a project cost the cost of resealing bituminous pavements and the cost of replacing joint sealing compounds in rigid pavements. Its effect, therefore, is to prohibit the inclusion of any such resealing or joint sealing work in a project as an item of airport development by execution of a Grant Agreement or an amendment to a Grant Agreement subsequent to the effective date of this amendment. The provision, however, has no effect on the eligibility as a project cost of the cost of the original sealing of pavements or such sealing as is a necessary incident to the reconstruction or strengthening (by means of overlays) of existing pavements.

Acting pursuant to the authority vested in me by the Federal Airport Act, I hereby amend Part 550 of the regulations of the Civil Aeronautics Administration as follows:

Sections 550.4 (a) is hereby amended by adding a new subparagraph (9) as follows:

§ 550.4 *Projects costs*—(a) *Eligibility.* * * *

(9) The cost of resealing bituminous pavements, and the cost of replacing joint sealing compounds in rigid pavements.

(Secs. 1-15, 60 Stat. 170-178, as amended; 49 U. S. C. and Sup., 1101-1114)

This amendment shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] F B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53-6983; Filed, Aug. 7, 1953; 8:53 a. m.]

[Amdt. 60]

PART 608—DANGER AREAS

TONOPAH, NEVADA, ALTERATION

The danger area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

In § 608.36, the Tonopah, Nevada, area (D-271) published on July 16, 1949, in 14 F R. 4293, amended on October 31, 1951, in 16 F R. 11068, and on June 12, 1953, in 18 F R. 3364, is further amended

by changing the "Designated Altitudes" column to read: "Surface to unlimited".

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on August 7, 1953.

[SEAL] S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 53-6984; Filed, Aug. 7, 1953; 8:53 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53309]

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

WHEAT UNFIT FOR HUMAN CONSUMPTION: INFORMATION REGARDING WHO MAY FILE DECLARATIONS REGARDING IMPORTED WHEAT; PRODUCT FOR HUMAN CONSUMPTION DEFINED

AUGUST 4, 1953.

Inquiries have been received by the Bureau of Customs regarding who may make a declaration for purposes of § 10.106, as added to the Customs Regulations of 1943 by T. D. 53249. Information has also been requested as to whether certain wheat products are products for human consumption within the meaning of that section.

The declaration required by § 10.106 of the regulations may be made by the actual importer or by a nominal consignee having actual knowledge of the facts.

The use of wheat in the manufacture of a product for human consumption within the meaning of § 10.106 of the regulations includes use in the manufacture of ethyl alcohol, monosodium glutamate, edible flour, or edible starch.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 53-6979; Filed, Aug. 7, 1953; 8:51 a. m.]

[T. D. 53310]

PART 16—LIQUIDATION OF DUTIES

COUNTERVAILING DUTIES; REVOCATION OF CERTAIN ORDERS

T. D.'s 43634 (part), 44742 (part), 47502, 47594, 49122, 49909, and 50148 revoked and § 16.24 (a), Customs Regulations of 1943, amended.

The Bureau is in receipt of official information that no bounties or grants are being paid or bestowed within the meaning of section 303, Tariff Act of 1930 (19 U. S. C. 1303), upon the manufacture, production, or export of artificial silk articles from Great Britain or upon the manufacture, production, or export of silk and silk articles from Italy. Accordingly, T. D.'s 43634 and 44742, insofar as they relate to artificial silk articles, and T. D.'s 47502, 47594, 49909, and 50148 are hereby revoked.

The Bureau is satisfied that no bounty or grant, within the meaning of section 303 of the Tariff Act of 1930 (19 U. S. C. 1303) is now being paid or bestowed on butter exported from Lithuania. Accordingly, T. D. 49122, dated August 7, 1937, relating to countervailing duties on butter from Lithuania, is hereby revoked.

The table in § 16.24 (a), Customs Regulations of 1943, as amended, is hereby brought up to date and amended to read as follows:

Country	Commodity	Treasury Decision	Action
Australia	Sugar content of certain articles	39541	Declared rate.
		49157	New estimated rates.
		52923	Contingent suspension of rates
	Butter	42937	Bounties declared—rates.
		43067	New rates.
		48551	New estimated rate.
	Fortified wines	51476	Bounties declared—contingent rates.
Canada	Cheese; 93-94 score, from whole milk, cheddar, including "washed curd," types.	50093	Bounties declared—rates.
	Cheese, 93-94 score, blue-vein, of Roquefort type.	53182	Do.
Denmark	Butter	47896	Do.
		48734	Discontinued as to direct shipments.
Great Britain	Spirits	34466	Bounties declared—rates.
		34752	Descriptions.
		34982	No bounty on rum.
		35089	Proof gallons.
		35510	Alcoholic perfumery.
		35668	Orange bitters.
		47826-7	Quantity for computing duty.
		52555	Bounty on plain spirits terminated.
	Silk and silk articles	42895	Bounties declared—rates.
		43634	Bounties, additional articles.
		44742	New rates.
		47475	Do.
	Sugar	49355	Bounties declared—rates.
		50108	New rates.
		50127	Do.
Ireland	Spirits	47753	Bounties declared—rates.
		47826-7	Quantity for computing duty.
Uruguay	Wool tops	53257	Bounties declared—rates.

(R. S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U. S. C. 66, 1303, 1624)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: August 3, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6981; Filed, Aug. 7, 1953; 8:52 a. m.]

TITLE 18—CONSERVATION OF POWER

Chapter I—Federal Power Commission

[Docket No. R-127; Order No. 166]

PART 2—GENERAL POLICY AND INTERPRETATIONS

JURISDICTIONAL STATUS

In the matter of rescission of §§ 2.3 and 2.51 of the general rules and regulations under the Federal Power and Natural Gas Acts.

On June 26, 1945, the Commission approved the following conclusions concerning the jurisdictional status under the Federal Power and Natural Gas Acts of persons owning or operating specified facilities:

1. The ownership or operation of facilities for the transmission of electric energy from a point within a State to a foreign country makes one a "public utility" under the Federal Power Act, even though the portion of such facilities in this country is located wholly within such State. (18 CFR 2.3.)

2. The transportation of natural gas from or to a point within a State to or from a foreign country makes one a "natural gas company" under the Natural Gas Act, even though the portion of such transportation which takes place within the country is limited to such State. (18 CFR 2.51.)

The Commission finds: It is necessary and appropriate in the public interest and to carry out the provisions of the Federal Power and Natural Gas Acts that the above-quoted sections of the general rules and regulations be rescinded.

The Commission orders: §§ 2.3 and 2.51 of the general rules and regulations (18 CFR 2.3 and 2.51) embodying the above-quoted statements approved on June 26, 1945, be and the same are hereby rescinded effective as of the date of the issuance of this order.

Adopted: July 29, 1953.

Issued: August 4, 1953.

By the Commission.[1]

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-6969; Filed, Aug. 7, 1953; 8:49 a. m.]

TITLE 25—INDIANS

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

Subchapter P—Law and Order

PART 161—LAW AND ORDER ON INDIAN RESERVATIONS

MARRIAGE AND DIVORCE

Section 161.28C is repealed.

FRED G. AANDAHL,
Acting Secretary of the Interior.

AUGUST 3, 1953.

[F. R. Doc. 53-6947; Filed, Aug. 7, 1953; 8:45 a. m.]

[1] Commissioner Doty dissenting in opinion.

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6036; Regs. 111]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

CAPITAL GAINS TREATMENT OF CERTAIN TERMINATION PAYMENTS TO EMPLOYEES

On November 15, 1952, notice of proposed rule making regarding amendments to conform Regulations 111 (26 CFR, Part 29) to section 329 of the Revenue Act of 1951, approved October 20, 1951, relating to capital gains treatment of certain termination payments to employees, was published in the FEDERAL REGISTER (17 F R. 10465) After consideration of all relevant matter presented by interested persons regarding the rules proposed, the amendments to Regulations 111 set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding § 29.117–1 the following:

SEC. 329. RECEIPTS OF CERTAIN TERMINATION PAYMENTS BY EMPLOYEE (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Taxability to employee as capital gain.* Section 117 of the Internal Revenue Code is hereby amended by adding at the end thereof the following subsection:

(p) *Taxability to employee of termination payments.* Amounts received from the assignment or release by an employee, after more than twenty years' employment, of all his rights to receive, after termination of his employment and for a period of not less than five years (or for a period ending with his death), a percentage of future profits or receipts of his employer shall be considered an amount received from the sale or exchange of a capital asset held for more than six months, if such rights were included in the terms of the employment of such employee for not less than twelve years, and if the total of the amounts received for such assignment or release are received in one taxable year and after the termination of such employment.

(b) *Effective date.* The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1950.

PAR. 2. There is inserted immediately after § 29.117–13, as added by Treasury Decision 6022, approved June 19, 1953, the following new section:

§ 29.117–14 *Capital gains treatment of certain termination payments.* For taxable years beginning after December 31, 1950, certain amounts received by an employee pursuant to the assignment or release by the employee of all his rights to receive, after termination of his employment and for a period of not less than five years or for a period ending with his death, a percentage of future profits or receipts of his employer, that is, profits or receipts attributable to a period subsequent to termination of employment, shall, under the provisions of section 117 (p), be considered and treated as an amount received from the sale or exchange of a capital asset held for more than six months. The provisions of section 117 (p) shall have application to such payments only if the following conditions are met:

(a) The employee was employed by the employer, in whose future profits or receipts the employee has an interest, for a period of more than 20 years prior to the assignment or release by the employee of his rights in such future profits or receipts,

(b) The full rights of the employee to the percentage of the future profits or receipts of such employer, which rights are the subject of the assignment or release, were incorporated in the terms of the contract of employment between the employee and the employer for a period of at least 12 years,

(c) The assignment or release was made after the termination of the employee's employment with such employer,

(d) The assignment or release conveyed all the rights of the employee in the future profits or receipts of such employer and conveyed no other rights of the employee, and

(e) The total amount to which the employee became entitled pursuant to the assignment or release was received by the employee after the termination of his employment with such employer and in one taxable year of the employee.

It is immaterial whether the contract of employment is oral or written provided the prescribed conditions are met. The requirement that the assignment or release be made after the termination of the employee's employment contemplates a complete and bona fide termination of the relationship of employer and employee and not merely, for example, a termination of such relationship under the particular contract or contracts of employment pursuant to which the employee acquired his rights in the future profits or receipts of the employer. The contract need not expressly provide that the employee shall share in the future profits or receipts of the employer for a minimum period of five years. However, if the contract does not expressly so provide and the assignment or release is made prior to the expiration of five years following the termination of employment, the terms of the contract considered in conjunction with the facts in the particular situation must establish that the rights of the employee to a percentage of future profits or receipts, in all probability, will extend to a period of not less than five years from the date of termination of employment or for a period ending with his death. Section 117 (p) has application only to an assignment or release made by the employee who acquired the right to a percentage of future profits or receipts of the employer, and has no application to amounts received other than as payment for assignment or release of such right. Section 117 (p) has no effect upon the determination of the income tax of the employer making the payment to the employee.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: August 4, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6982; Filed, Aug. 7, 1953; 8:52 a. m.]

TITLE 46—SHIPPING

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

[Rev. Gen. Order 23, Supp. 1, Amdt. 1, WSA Function Series]

PART 310—MERCHANT MARINE TRAINING

SUBPART B—REGULATIONS FOR THE GOVERNMENT OF THE UNITED STATES MARITIME SERVICE

PHYSICAL EXAMINATIONS AND MEDICAL TREATMENT; DIRECT APPOINTMENT OF OFFICERS FROM MERCHANT MARINE

Paragraphs (b), (c) and (d) of § 310.18 *Physical examinations and medical treatment,* and paragraph (d) of § 310.31 *Direct appointment of officers from the merchant marine,* (General Order 23, Revised, as amended by Supplement 1), published in FEDERAL REGISTER issues of July 18, 1946 and July 30, 1946 (11 F R. 7810, 8166), are amended as follows:

1. In paragraph (b) of § 310.18 add a new subparagraph at the end thereof to read:

(4) When applying for direct appointment, in accordance with § 310.31, if not previously examined within the preceding twelve months.

2. In paragraph (c) of § 310.18 delete the last sentence thereof which reads as follows: "For four years thereafter additional waivers for the same disability will not be required for the performance of administrative or training duty or release therefrom, if the degree of such disability is not materially increased."

3. In paragraph (d) of § 310.18 delete "WSA" and insert in lieu thereof the words "Maritime Administration"

4. Paragraph (d) of § 310.31 *Direct appointment of officers from the merchant marine,* is amended by adding at the end of the first sentence thereof the words "pursuant to § 310.18.", so that paragraph (d) of § 310.31 as amended shall read:

(d) All applicants shall take a physical examination and meet the prescribed physical standards pursuant to § 310.18. Periodic examination may be prescribed.

(Sec. 216, 52 Stat. 965 as amended; 46 U. S. C. 1126)

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

Dated: July 31, 1953.

[SEAL] LOUIS S. ROTHSCHILD,
Maritime Administrator

[F. R. Doc. 53-6954; Filed, Aug. 7, 1953; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 4, 24]

NAVIGATION AND CUSTOMS FEES

NOTICE OF PROPOSED RULE MAKING

The Bureau of Customs has conducted a survey to determine fees and charges which should be imposed and collected to meet the intent of Congress expressed in Title V, Independent Offices Appropriation Act, 1952 (5 U. S. C. 140) hereinafter referred to as "the act," that certain services, authorities, licenses, and other things of value, as specified in the act, furnished, provided, granted, prepared, or issued by any Federal agency to or for any person, as defined in the act, be self-sustaining to the full extent possible.

Notice is hereby given that, pursuant to the authority contained in the act, it is proposed to amend §§ 4.98 and 24.12 of the Customs Regulations of 1943 (19 CFR 4.98, 24.12) to provide for the imposition and collection of the fees listed below. The regulations relating to the transactions affected are cited in the list, and such regulations would be amended to include an appropriate reference to §§ 4.98 or 24.12, should the latter sections be amended as proposed.

(1) For registering a house flag or funnel mark, or both, of a vessel, $25. (Sections 3.80 and 3.81 of the Customs Regulations of 1943 (19 CFR 3.80, 3.81))

(2) For recording a trade-mark, trade name, or copyright, $25. (Sections 11.15, 11.16, and 11.19 of the Customs Regulations of 1943 (19 CFR 11.15, 11.16, 11.19))

(3) For designating a common carrier as a carrier of customs bonded merchandise, $35. (Section 18.1 of the Customs Regulations of 1943 (19 CFR 18.1))

(4) For the establishment of a customs bonded warehouse, $50. (Section 19.2 of the Customs Regulations of 1943 (19 CFR 19.2)).

(5) For issuing a customs cartage or lighterage license, $35. (Section 21.1 of the Customs Regulations of 1943 (19 CFR 21.1))

(6) For issuing a customhouse broker's license, $100. (Sections 1–14, Treasury Department Circular 559 (31 CFR 11.1 to 11.14) as amended; Appendix XX, Customs Regulations of 1943) Customhouse broker's licenses were formerly issued by the Committee on Practice of the Treasury Department, and, when that Committee was replaced by the Director of Practice of the Treasury Department, authority to issue such licenses was conferred upon the Commissioner of Customs (31 CFR 14.1 to 14.5; 18 F. R. 225) The substance of Title 31, Code of Federal Regulations, §§ 11.1 to 11.14, with appropriate amendments, including a reference to § 24.12, if this fee is imposed, will be incorporated as a new part of the Customs Regulations of 1943 (Title 19, Chapter I of the Code of Federal Regulations) in due course.

This notice is published pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003). Data, views, or arguments with respect to the proposed fees may be addressed to the Commissioner of Customs, Washington 25, D. C., in writing. To assure consideration of such communications, they must be received in the Bureau of Customs not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER. No hearings will be held.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: August 3, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6978; Filed, Aug. 7, 1953; 8:51 a. m.]

[19 CFR Part 6]

[192-31.3]

ANCHORAGE INTERNATIONAL AIRPORT, ANCHORAGE, ALASKA

NOTICE OF PROPOSED DESIGNATION AS AN AIRPORT OF ENTRY

Notice is hereby given that, pursuant to authority contained in section 7 (b) of the Air Commerce Act of 1926, as amended (49 U. S. C. 177 (b)), it is proposed to designate Anchorage International Airport, Anchorage, Alaska, as an airport of entry for civil aircraft and for merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of said act (49 U. S. C. 179 (b)) and it is further proposed to amend the lists of airports of entry (international airports) in § 6.12, Customs Regulations of 1943 (19 CFR 6.12), by adding thereto the location and name of this airport.

This notice is published pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003). Data, views, or arguments with respect to the proposed designation of the above-mentioned airport as an airport of entry may be addressed to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., in writing. To assure consideration of such communications, they must be received in the Bureau of Customs not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: August 3, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-6980; Filed, Aug. 7, 1953; 8:53 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 909]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

SALABLE AND SURPLUS PERCENTAGES

Notice is hereby given that the Department is considering the issuance of the proposed administrative rule herein set forth pursuant to the provisions of Marketing Agreement No. 119 and Order No. 9, regulating the handling of almonds grown in California (7 CFR, 1952 Rev., Part 909), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Prior to the final issuance of such rule, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and which are received not later than the close of business on the tenth day after publication of this notice in the FEDERAL REGISTER, except that if the tenth day after publication should fall on a holiday, Saturday, or Sunday, such submission may be received by the Director not later than the close of business on the next following work day.

Pursuant to the provisions of the aforesaid agreement and order, the Almond Control Board, the administrative agency thereunder, has transmitted to the Secretary of Agriculture its estimates relating to production, handler carryover, trade demand for almonds, and its recommendation as to salable and surplus percentages to be established for the crop year beginning July 1, 1953.

The Almond Control Board's estimates and recommendation, as well as the estimates and recommendation of minority members of the Board, and other pertinent information have been considered in the Department. The following summary of the almond supply and demand situation, in terms of kernel weight, is based on such estimates and other available information: (1) Carryover by handlers on July 1, 1953, 8,900,000 pounds; (2) estimated California production in 1953, 42,000,000 pounds, based on a shell out ratio of kernels to inshell weight of 52.5 percent, which is the Board's estimate based on consideration of varietal composition of the 1953 crop; (3) desirable handler carryover on July 1, 1954, 6,000,000 pounds, which is the quantity recommended by the Board and compares with the 1942–52 average of 7,300,000 pounds, and 8,900,000 on July 1, 1953; (4) California almonds available to meet trade demand after allowance for a desirable carryover at the end of the crop year, 44,900,000 pounds (item

1 plus 2, minus item 3) (5) domestic trade demand for California almonds for the crop year beginning July 1, 1953, 38,500,000, which is the quantity obtained by subtracting prospective imports of 4,500,000 pounds from the average trade acquisitions of domestic and foreign almonds of 43,000,000 pounds for the five crop years ending in 1953; (6) surplus quantity of California almonds for the 1953–54 crop year, 6,400,000 pounds (item 4 minus item 5) (7) surplus percentage for California almonds during the crop year beginning July 1, 1953, 15 percent (percentage which item 6 is of item 2) (8) salable percentage, 85 percent (percentage which item 2 minus item 6 is of item 2)

On the basis of information available to the Department, it is hereby found and determined that the estimated average price of almonds to growers for the crop year beginning July 1, 1953 will not exceed the level of prices contemplated in section 2 (1) of the act.

On the basis of information now available to the Department, a salable percentage of 85 percent for California almonds during the crop year beginning July 1, 1953, would make sufficient almonds available to satisfy the estimated trade demand and provide an adequate quantity to be carried over by handlers at the end of the 1953–54 crop year.

Therefore, such proposed administrative rule is as follows:

§ 909.203 *Salable and surplus percentages for almonds during the crop year beginning July 1, 1953.* The salable and surplus percentages during the crop year beginning July 1, 1953, applicable to almonds, edible kernel weight basis, received by handlers for their own accounts, shall be 85 percent and 15 percent respectively.

Issued at Washington, D. C., this 6th day of August 1953.

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

[F. R. Doc. 53-7014; Filed, Aug. 7, 1953; 8:57 a. m.]

[7 CFR Part 913]

[Docket No. AO 23 A12]

GREATER KANSAS CITY MILK MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED, REGULATING HANDLING

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held at the Hotel Bellerive, 214 East Armour Boulevard, Kansas City, Missouri, beginning at 10:00 a. m., c. s. t., August 14, 1953, for the purpose of receiving evidence with respect to emergency and other economic conditions which relate to the handling of milk in the Greater Kansas City marketing area and to the proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the Order (No. 13) as amended, for the Greater Kansas City marketing area have been proposed as follows:

By the Pure Milk Producers Association of Greater Kansas City, Inc..

1. Add the following as § 913.10 (c)

(c) During any delivery period, if such plant is operated by a cooperative association, and 75 percent or more of the milk delivered during the month by producers who are members of such association is received at the pool plants of other handlers.

2. Amend § 913.51 (a) of Order No. 13 as amended: To provide that Class I differential for the delivery periods of September 1953, to March 1954, inclusive shall not be less than $1.90 per hundredweight.

By the Dairy Branch, Production and Marketing Administration:

3. Make such other changes as may be required to make the entire marketing agreement and order conform with the provisions of any amendments that may result from the hearing.

Copies of this notice of hearing and of the order, as amended, now in effect, may be procured from the Market Administrator, Room 202, 3808 Broadway Kansas City 2, Missouri, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: August 6, 1953, at Washington, D. C.

[SEAL] ROY W LENNARTSON,
Assistant Administrator

[F. R. Doc. 53-6998; Filed, Aug. 7, 1953; 8:56 a. m.]

[7 CFR Part 914]

[AO 245]

HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Los Angeles, California, beginning on April 27, 1953, after notice thereof published in the FEDERAL REGISTER (18 F. R. 1888) on a proposed marketing agreement and order regulating the handling of navel oranges grown in Arizona and designated part of California, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

On the basis of the evidence introduced at the hearing, and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 3, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F. R. Doc. 53-6072; 18 F. R. 4010)

Rulings on exceptions. Exceptions to the recommended decision were filed by California Citrus Producers Association, Inc. Each of such exceptions was carefully and fully considered, in conjunction with the evidence in the record, in arriving at the findings and conclusions set forth herein.

Exception was taken to the consideration of season average prices to producers for California-Arizona oranges shipped for fresh consumption during the 1951–52 and 1952–53 seasons. It was contended, in effect, that such data were relied upon for the finding that volume regulations would improve returns to producers. The use of such statistics in the recommended decision, however, was confined to demonstrating that prices received by producers for California-Arizona oranges had been low in relation to parity during recent seasons. It was also concluded, in part, from such statistics, that prices to producers during the 1952–53 season for California-Arizona navel oranges probably would be lower, in relation to parity, than the average of the 5 preceding seasons. Such conclusion formed the basis for establishing the eligibility of this commodity for a marketing agreement and order program under the provisions of the act.

Exception was taken, in effect, to the finding that the influence of shipments of competitive fresh oranges during the California-Arizona navel orange season upon prices of California-Arizona navel oranges is not as great as the influence of a like quantity of shipments of California-Arizona navel oranges. Such exception appears to be based on the premise that shipments of competitive oranges would nullify the effect of regulation of shipments of California-Arizona navel oranges. This would be the case if California-Arizona navel oranges and competing oranges were completely, or to a very great degree, substitutable in consuming markets. At the same time, however, the exception contends that California-Arizona navel oranges are inherently superior to Florida oranges and that market prices of California-Arizona navel oranges consistently should receive premiums above comparable market prices received for Florida oranges. The data relating to weekly average auction prices of California and Florida oranges during the 1951–52 and 1952–53 California-Arizona navel orange marketing season (presented in exhibit 37 by C. E. Schultz) indicate that the weekly average California orange price exceeded, with one exception, the weekly average Florida orange price in each of the 42 weeks re-

ported (2 seasons of 21 weeks) Moreover, weekly changes in such average prices of oranges from the respective areas were in the opposite direction (i. e., one average price increased while the other decreased, or vice versa) as many times as they were in the same direction (i. e., increased or decreased together) during the period shown. The existence of price premiums, revealed in exhibit 37 and elsewhere in the record, provides a basis for determining that there is a demand for California-Arizona navel oranges which can be distinguished from demands for other competitive oranges shipped in fresh form, as is pointed out in the recommended decision. Moreover, the implied contention that competitive fresh oranges are completely substitutable for California-Arizona navel oranges would imply identical market price movements for the respective oranges, which is not supported by the facts on the record.

Exception was taken to the finding in the recommended decision that the proposed marketing agreement and order should not contain a prohibition of volume regulation prior to the Christmas holiday period. It was contended that the proposed limitation of regulation was denied because no data were presented at the hearing which bore directly on this issue. Although additional data would have been helpful in this connection, the recommended decision pointed out that the weekly f. o. b. prices presented on the record did not establish a consistent pattern of seasonal behavior prior to the Christmas holidays. The record indicated that circumstances might be found to exist which would warrant regulation of shipments prior to the Christmas period. The purpose of the proposed marketing agreement and order is to provide the industry with authority to regulate shipments should conditions of available supplies and market demands so warrant. It does not appear consistent with the objectives of the act to preclude the committee from recommending, and the Secretary from issuing, volume regulation under such conditions.

Exceptions were taken to some of the other findings and conclusions contained in the recommended decision. To the extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied for the foregoing reasons and on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(2) The existence of the right to exercise Federal jurisdiction in this instance;

(3) The definition of the commodity and determination of the production area to be affected by the marketing agreement and order;

(4) The identity of the persons and transactions to be regulated;

(5) The specific terms and provisions which should be incorporated in the proposed marketing agreement and order, such as:

(a) The definitions of such terms as "Secretary," "act," "person," "fiscal year," "grower," "oranges available for current shipment," "tree crop," "early maturity oranges," "general maturity," "box," "central marketing organization," "carload," and "export";

(b) The establishment and maintenance of an administrative agency, to be known as the Navel Orange Administrative Committee (hereinafter referred to as the "committee") for conducting order operations, the powers and duties of such committee, and its manner of doing business;

(c) The incurring of expenses by the committee and the levying of assessments;

(d) The formulation and adoption of a marketing policy for each prorate district each season;

(e) The issuance of volume regulations;

(f) The issuance of size regulations, and the relaxation of such regulations in hardship cases;

(g) The issuance of grade and maturity regulations;

(h) The division of the production area into prorate districts;

(i) The specification of oranges not subject to regulation;

(j) The keeping of records and filing of reports by handlers;

(k) The requirement of compliance with all provisions of the marketing agreement and order and with regulations issued pursuant thereto; and

(l) Additional terms and conditions as set forth in §§ 914.81 through 914.90 and published in the FEDERAL REGISTER (18 F. R. 1888), on April 4, 1953, which are common to marketing agreements and orders, namely, right of the Secretary, effective time, termination, effect of termination or amendment, duration of immunities, agents, derogation, personal liability, and separability, and certain other terms and conditions as set forth in §§ 914.91 through 914.93, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only, namely, counterparts, additional parties, and order with marketing agreement.

Findings and conclusions. The findings and conclusions on the foregoing material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) It is concluded that a marketing agreement and order program is needed to regulate the handling of navel oranges grown in the production area to establish and maintain such orderly marketing conditions thereof as will tend to establish parity prices for such oranges.

The average price received by producers in California-Arizona for oranges shipped for fresh consumption during the 1950–51 marketing season was $2.23 per box, on tree, or 54 percent of the parity price for such oranges. During the 1951–52 season the comparable price received by producers was $2.41 per box, or 58 percent of the parity price for such oranges. During January, February, and March of the 1952–53 season, average prices received by producers, on tree, for California-Arizona oranges shipped for fresh consumption were $1.39, $1.42, and $1.52 per box, respectively. These prices were 35, 36, and 38 percent, respectively, of the parity prices for such oranges.

Prices received by producers for California-Arizona oranges have been low in relation to parity during recent seasons. Although prices to producers of navel oranges were relatively high during the early part of the 1952–53 season because of weather conditions which limited shipments, they were especially low later in the season. It is probable that the average price for the 1952–53 season for such oranges will be lower, in relation to parity, than the average of the five preceding seasons.

Navel oranges produced in California and Arizona are marketed primarily in fresh form. During the 5 seasons ending in 1951–52, 84 percent of the total production of California-Arizona navel and miscellaneous oranges was shipped to fresh markets, as compared with 62 percent of the California-Arizona Valencia oranges and 45 percent of the Florida orange and tangerine production so shipped. Navel oranges produced in California and Arizona possess certain characteristics which permit them to be identified readily by consumers. These characteristics include appearance, freedom from seeds, a relatively high acid content, and a peel readily separated from the fruit. They result in the principal consumer use of fresh California-Arizona navel oranges being that of eating out of hand or in salads, as compared with most fresh Florida oranges and California Valencia oranges being consumed for juice purposes.

California-Arizona navel oranges normally receive higher market prices than the average of all Florida oranges, which are shipped in heavy volumes throughout the navel orange marketing season. During the past 10 seasons, monthly auction prices of California-Arizona navel oranges averaged $1.32 per box above the comparable average prices of Florida oranges sold in the months of December through May, the principal marketing period for such navel oranges.

There is a demand for California-Arizona navel oranges which can be distinguished from demands for other competitive oranges shipped in fresh form. This is because of the characteristics of the navel orange, and is demonstrated by the differences in prices between California-Arizona navel oranges and Florida oranges.

There have been increases in the total supplies of all citrus fruits, both in fresh and processed form, sold during the period November through May, which is the marketing season for California-Arizona navel oranges. Although shipments of competitive fresh oranges during the California-Arizona navel orange season exert an influence upon prices of California-Arizona navel oranges, this influence is not as significant as the effect of a like quantity of shipments of California-Arizona navel oranges. Hence, the substantial effect of changes in quantities of California-Arizona navel oranges shipped upon prices for such oranges is not nullified by

changes in supplies of competitive oranges offered for sale.

During the California-Arizona navel orange shipping season, there are sharp fluctuations in the demand for such oranges. These oranges have been associated with the Christmas holiday season and, prior to Christmas there is a sharp increase in consumer demand for such oranges. Following Christmas, this demand drops rapidly and thereafter increases gradually until the end of the shipping season. From week to week, however, changes in prices received and quantities sold reveal fluctuations in demand caused by the factors affecting the level of demand for California-Arizona navel oranges.

The primary problem to which the proposed marketing agreement and order is addressed is that of correlating the quantity of oranges to be shipped each week with the changes in demand for such oranges. The question is whether the weekly shipments can be adjusted to changes in demand conditions more effectively when they are regulated by means of a marketing agreement and order program than when they are not so regulated. The marketing agreement and order is not proposed as a device to be used primarily for the purpose of reducing the total quantity of oranges shipped to fresh markets, except as a result of limitations of sizes so shipped. Rather, it is proposed as a device for adjusting the rate of shipping the available supplies so as to coordinate the flow of shipments with the market demands for such oranges, and thus to tend to achieve the declared policy of the act.

Oranges may be stored on the tree after reaching maturity. When the crop of oranges in a particular producing district has reached maturity, all the fruit is capable of being shipped. Producers, moreover, are anxious to harvest their fruit in order to avoid possible loss from frost or from drop or deterioration in grade. As a consequence, producers exert strong pressures upon handlers to ship their fruit. It is extremely difficult for operators of packinghouses to ignore such pressures and to ship such oranges in response to the then current demand.

The authority to regulate shipments each week under a marketing program provides a means to withstand such pressures to ship and thereby to adjust the quantity of fruit shipped to that required in marketing channels. In addition, the proposed marketing agreement and order makes readily available to handlers knowledge of the quantity which is to be shipped each week, as well as more accurate knowledge of the quantity of fruit available in and enroute to consumer markets. Moreover, receivers of California-Arizona navel oranges would be provided with a basis for maintaining their commercial operations in the light of information with respect to the rate at which supplies will be made available to them.

Such conditions do not exist in the absence of a marketing agreement and order, and the evidence indicates that there exists a tendency on the part of handlers, in the absence of some program providing restraint of shipments, to ship excessive quantities because of desires of producers to pick their fruit and thereby avoid losses through damage or deterioration in the groves. Moreover no individual handler or group of handlers successfully can increase the level of prices by reducing shipments because other handlers can nullify such action by increasing their shipments accordingly.

Therefore, it is concluded that a marketing agreement and order is needed to effectuate the declared policy of the act by establishing orderly marketing conditions for navel oranges grown in the production area through providing a means of limiting the quantity of such oranges that may be shipped each week to commercial fresh channels.

Market prices of California-Arizona navel oranges reveal the existence of price differentials, with the most preferred sizes receiving premiums and the less preferred sizes receiving discounts from the average. These differentials, when considered in relation to the quantities sold, provide an indication of market preferences for various sizes of such oranges.

Prices to producers and total returns could be augmented by only making available in trade channels the more preferred sizes of fruit. Such results could be obtained under the marketing agreement and order by limiting a portion or all of some of the discounted sizes of oranges. Size limitation would tend to increase consumer satisfaction and stimulate demand. Competition in the marketing of oranges is based to a considerable extent on price, and the offering of oranges of less desirable sizes at discounts tends to depress prices for better sizes.

Testimony indicated that shipments of sizes of oranges that do not receive prices covering the cash costs of harvesting and marketing often are made. Limitation of shipments of such sizes would not only improve the size composition of the oranges permitted to be shipped but also improve average returns to producers by preventing losses incurred through the shipment in fresh form of such sizes.

The objective to be followed under the marketing agreement and order is that of tailoring the supply of oranges available for sale in commercial fresh fruit trade channels in order to conform to the demand in these outlets. Such tailored supply should include the more preferred sizes of oranges, and the least desirable sizes should be diverted from fresh outlets. The marketing agreement and order is designed to effectuate the declared policy of the act by establishing orderly market conditions for navel oranges grown in the production area through limiting the quantity of navel oranges that may be shipped each week to commercial fresh outlets and also through limitation on the sizes of oranges shipped to such channels.

(2) Any handling of navel oranges in fresh fruit channels exerts an influence upon all other handling of such oranges in fresh fruit form. Sellers of navel oranges, as of other commodities, transact their business in a manner designed to achieve the highest return for the quantities of oranges they have available for sale. In effecting these transactions, the sellers survey all accessible markets in an endeavor to take advantage of the best opportunities to market the fruit. Markets within the State of California or within the State of Arizona provide opportunities to dispose of fresh navel oranges in the same fashion as do markets within other States, or within Canada. A sale of a particular quantity of navel oranges within a market in the State of California or in the State of Arizona exerts a direct influence upon all other sales of such oranges, as does a sale of navel oranges in a market within another State.

The pattern of the prices received for sales of oranges in markets located within the State of California and in markets located outside thereof indicates parallel movement on a weekly and on a monthly basis. This pattern of price behavior follows from the manner in which handlers transact their business in response to conditions of supply and demand, and indicates the interdependence or interplay of the price structure of such markets. Moreover, if prices in any particular market, whether it is situated within the State of California or the State of Arizona or any other State, rise above comparable prices in all other markets, supplies of oranges would be diverted to that market. Conversely, if prices were to fall in any particular market, supplies would be diverted away from that market. For example, relatively low prices in the States of California or Arizona would result in a greater quantity of Navel oranges shipped in interstate commerce. The converse of this is also the case. The diversion of carloads, while in transit, from an original destination to another destination is a common practice. The record shows that one large marketing organization customarily diverts one out of every two carloads of navel oranges shipped. Such diversions provide examples of handlers' responses to changes in demand conditions as between markets.

If shipments of oranges to markets outside the States of California and Arizona were regulated while at the same time shipments of oranges to markets within the States of California and Arizona were not so regulated, prices received by growers for sales in such markets would tend to be reduced to levels below those prevailing in markets in other States. Producers would have to receive higher prices for oranges marketed in interstate commerce as a result of such prices received in intrastate markets in order to establish the level of prices which it is the policy of Congress, as expressed in the act, to establish. Lower prices for intrastate shipments have a serious effect upon total returns as a large portion of the navel orange crop is marketed in fresh form in such intrastate markets. Nearly 20 percent of the total sales in fresh fruit channels of navel oranges grown in the States of California and Arizona is destined to markets within such States. In addition, the population in California and in Arizona has been increasing and is expected to continue to increase, and such percentage will increase accordingly.

Oranges sold in commercial markets, whether they are located within the State of California or the State of Arizona or in any other State, are prepared for shipment prior to packaging in exactly the same fashion. Some of the navel oranges sold in the State of California are not packed in a standard orange box and are sold as "loose" oranges. For those oranges which are sold as "packed" oranges, regardless of their ultimate destination, the preparation for market is identical. In most cases, the ultimate destination of the oranges is not known at the time of packaging and there is a commingling of the fruit ultimately destined for sale within the markets of the States of California and Arizona with that ultimately destined for sale in other States. In addition, oranges shipped to terminal markets within the production area often are diverted from such markets to markets outside of the production area. Usually it is not known at the time of shipment to terminal markets within the production area that such oranges will be reshipped in interstate fresh fruit channels. Oranges destined for markets within the States of California and Arizona are so inextricably intermingled with oranges destined for markets within other States that it would be extremely difficult effectively to regulate shipments to interstate markets only.

All handling within the State of California or within the State of Arizona of navel oranges grown in the production area directly burdens, obstructs, and affects interstate and foreign commerce in such oranges. It is found, therefore, that all handling of navel oranges grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(3) The term "oranges," as used in the marketing agreement and order, identifies the kind of orange referred to therein, as distinguished from all other kinds of oranges. The term "oranges" should be defined to mean those varieties of oranges which are commonly known as navel oranges. Such oranges are distinguished from other oranges in that they are seedless and possess a navel at the apex of the orange. Such oranges have a high color and are particularly suitable for eating out of hand as fresh fruit or for use as a dessert fruit. Although the Washington navel orange predominates, there are at least two other varieties of navel oranges—the Hobson and the Robertson—presently produced in California and Arizona. Navel oranges are commonly recognized and distinguished from other varietal groups of oranges, not only by producers and handlers in the area of production, but also by members of the distributive trade and by consumers. Should any new variety of seedless orange having a navel at its apex be grown in the production area, it is intended that such orange be subject to regulation under the marketing agreement and order.

The term "production area" should be incorporated in the marketing agreement and order as the means of specifying the area within which navel oranges must be produced before the handling thereof is subject to regulation. The definition of such term is such as to include the State of Arizona and that part of the State of California south of the 37th Parallel. Almost all of the navel oranges produced in the two States are grown in Arizona and south of the 37th Parallel in the State of California. The navel orange producing area north of the 37th Parallel in the State of California should not be included in the production area, because a large number of the producers located north of the 37th Parallel are not affiliated with packinghouses and market their own fruit. Consequently, they market their oranges differently than practically all producers in the proposed production area. It was shown that regulations contemplated in the marketing agreement and order could not be imposed feasibly, from an administrative standpoint, upon such small commercial operations. Moreover, the volume of oranges produced north of the 37th Parallel is of such relatively small size that its regulation would not significantly affect the level of commercial prices prevailing for oranges produced in Arizona and south of the 37th Parallel in the State of California.

Oranges produced in the various producing districts south of the 37th Parallel in the State of California and in the State of Arizona cannot readily be distinguished from each other, are marketed at approximately the same time, and compete with each other in the market place. Most of the oranges produced in the proposed production area are handled by large marketing organizations which market oranges grown throughout the production area. The grade, size, and container specifications, and packing and selling operations are similar and the freight rates from each of these producing districts to the primary eastern terminal markets are identical. Because of these facts, the exclusion of any part of the proposed production area would tend to make the operation of the proposed program ineffective. It is concluded that the production area, as defined, is the smallest regional production area found practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined to identify those persons who handle oranges in the manner described in the term "handle," because such persons are subject to the marketing agreement and order regulations.

The term "handle" should be defined to identify those activities which would make a person a handler, and thereby subject to regulation under the marketing agreement and order. Such activities with respect to navel oranges grown in the production area should include purchasing, selling, consigning, transporting, or shipping oranges. Each of the foregoing activities is a handling function in the current of commerce with respect to navel oranges grown in the production area and should be subject to regulation under the marketing agreement and order. In addition, the placing of oranges in the current of commerce in any other manner should also be subject to regulation thereunder. Moreover, the performance of any one or more of these activities should constitute handling irrespective of the ultimate destination or end use of the oranges. Handling for export markets, and for other specified markets or uses enumerated in § 914.67 of the proposed marketing agreement and order, is not subject to regulation, however, for the reasons set forth in issue 5 (i) of this decision.

The "handling" function must have occurred prior to every sale of such oranges at retail by a person in his capacity as a retailer. The handling of navel oranges grown in the production area commences immediately after such oranges are picked. Therefore, it is necessary to define handling as commencing after the separation of the orange from the tree so as to include all handling transactions and thereby include all handlers within the provisions of the marketing agreement and order. The term, however, should be limited by particular exceptions in order to make its applicability specific and to simplify the administration of the program.

With the exception of the processes specifically excluded in the definition of the term "handle," all activities from the time the orange is picked until it is offered for sale at retail, by a person in his capacity as a retailer, are included in the process of handling. However, the movement for hire by a carrier, common or otherwise, of oranges owned by another person should not constitute handling because such carrier has no proprietary interest in the fruit. Moreover, a common carrier is required, in providing service, to transport commodities at the request of the shipper.

The specific exceptions to the term "handle" should include the sale of oranges on the tree, because the handling process does not actually begin until the oranges have been separated from the tree. The transportation of oranges to a packinghouse, for the purpose of having such oranges prepared for market, also should not be included in the term "handle," because it is not necessary to regulate such transactions to accomplish the purposes of the marketing agreement and order. Nor should such preparation for market be included within the definition of the term "handle." The regulatory scheme proposed in this program should be applied at the stage when oranges begin their movement in commercial channels even though handling has occurred prior thereto. It is immaterial whether the oranges have been prepared for market at a packinghouse or whether they are sold or shipped in commercial channels immediately after picking. Practically all of the oranges are prepared at packinghouses for such movement, and it is after oranges are so prepared, when a packinghouse is utilized, that the regulation should be applied. The preparation of oranges for market includes, but is not limited to, cleansing and sorting of the fruit, as well as placing it in a container (if necessary) preparatory to offering it for sale or movement in commercial channels. Such preparation of

oranges for market, however, should not include the storage of oranges, because oranges often are sold and, subsequently, stored by the purchaser. Quite often it is the practice to store oranges in the packinghouse, or in nearby storages, before being offered for sale by the first handler. Thus, a third exemption—the storage of oranges within the area of production, under such rules and regulations as the committee may, with the approval of the Secretary, prescribe—should be provided in the marketing agreement and order. It is impracticable to set forth such rules in the marketing agreement and order, because conditions affecting storage practices are subject to rapid changes. The marketing agreement and order provisions should therefore authorize the committee, with the approval of the Secretary, to establish, and amend, such rules and regulations as are necessary to prescribe such exemption. A fourth exemption from the term "handle," excluding the sale of oranges at retail by a person in his capacity as such retailer, should be specified in order to set forth clearly the exclusion of such sales as required by the act. However, the incidental sale of a small quantity of oranges by a packinghouse to a consumer should not come within this exemption, because such sale is not by a retailer in his capacity as such retailer.

The act also prohibits the application of the proposed marketing agreement and order program to a producer of navel oranges grown in the production area in his capacity as a producer. Any person, however, who handles oranges, as such term is defined in the marketing agreement and order, should be subject to regulation as a handler thereunder as to such handling transactions.

The term "handle" should relate to transactions involving markets in the United States, Canada, and Alaska because such markets are considered by sellers of navel oranges grown in the production area to be, and are, one "domestic" market. Shipments to other—the export—markets are not proposed to be regulated under the marketing agreement and order because sales in those markets do not directly compete with, and are considered as diversions from, the "domestic" market. Moreover, Alaska should be included in the "domestic" market because it is supplied principally by shipments moving through northwest ports. Hence, its inclusion tends to assure compliance with the regulations of the program on the part of handlers shipping to northwest and Canadian markets.

The act permits regulation, on the basis of volume or size, or both, of all handling of navel oranges grown in the production area which is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. Since all handling of navel oranges grown in the production area is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that the handling of all such oranges, with the exceptions hereinbefore noted, should be subject to regulation under the marketing agreement and order.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the recommended marketing agreement and order. Those terms should be defined for the purpose of designating specifically their applicability, and establishing approximate limitations of their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative.

The definition of "person" follows the definition of that term as set forth in the act, and is intended to cover all possible legal entities.

The term "fiscal year" should be defined to identify a period within which the marketing of a given crop of oranges takes place. Navel oranges grown in the production area are marketed during the period beginning in November and ending in May or June. The period beginning on November 1 and ending on October 31 of the following year, both dates inclusive, is selected as the fiscal year, because it is the practice of organizations handling oranges to maintain their records on such a 12-month basis. The term of office of the initial committee members, however, should begin on October 1 of such year in order to permit the establishment of the administrative agency and the preparation of such reports and rules and regulations as are necessary to enable the operation of regulations during that fiscal year.

The term "grower" should be synonymous with "producer" and should be defined to mean any person who is engaged in the production of oranges for market and who has a proprietary interest therein. A definition of such term is necessary for such determinations as eligibility to vote for, and to serve as, a grower or alternate grower member of the committee, and for other reasons. The term should be limited to those who have an ownership interest in the oranges produced. It should not include laborers or others who perform work for a fee for hire in producing the oranges. Evidence at the hearing indicated that each business unit, such as a corporation, partnership, community property ownership, engaged in the production of oranges for market should, upon voting, be entitled to only one vote.

The term "oranges available for current shipment" should be defined to mean all oranges as measured by the total tree crop. Such quantity is utilized in determining the amount of oranges that may be shipped by an individual handler each week when volume regulation is in effect and thus provides the basis for the establishment of equity between handlers under such regulation. The testimony indicated that use of the total tree crop as a basis for this computation is the only practical and equitable means of measuring the availability of oranges for shipment. While it may be argued that the merchantable supplies of oranges should be used to determine the quantity of oranges available for current shipment, it was found to be impossible to measure accurately such merchantable supplies. For example, it is not possible to determine with precision the extent of frost damage in a particular grove; nor is it possible to forecast accurately the size composition of oranges on the tree in a particular grove. Therefore, the oranges available for current shipment should be measured by the total quantity of oranges on the tree.

The term "tree crop" should be defined to mean the total quantity of oranges on the trees as determined by the committee. This term provides the basis for the measurement of oranges available for current shipment. Since the oranges are stored on the trees, the term "tree crop" is appropriate. However, the measurement of the tree crop is determined finally by the number of boxes of oranges delivered to the packinghouse. Therefore, the tree crop as estimated by the committee should be calculated as an estimate of the number of boxes of oranges to be delivered to the packinghouse.

The term "early maturity oranges" should be defined to identify those oranges which have reached maturity in advance of "general maturity" in the same prorate district. Oranges in particular groves attain maturity at earlier dates than oranges in other groves because of variations in climatic conditions. Maturity should mean that stage of ripeness as measured by applicable State laws. The applicable State laws provide minimum color requirements and minimum sugar-acid ratios as criteria for maturity. Although there is a slight variation between the present maturity requirements of the State of California and the State of Arizona, the differences in the requirements are so slight as to be negligible, and will not adversely affect the use of these standards in the operation of the program. The provision of the marketing agreement and order relating to early maturity oranges provides for the issuance of allotments to handlers of such oranges in advance of the time that allotments are given to handlers of all oranges in the same prorate district, thereby providing a basis for equitable treatment of handlers of such early maturity oranges.

The term "general maturity" should be defined to identify the time at and after which the committee determines allotments shall be distributed to all handlers in a particular prorate district, because allotments are issued separately for each prorate district. The Committee should consider the maturity of the

fruit, as well as other factors, in making this determination.

The term "box" should be defined to identify the common unit of measurement of quantity of oranges in California and Arizona. This unit is identified in terms of cubic capacity, and the net weight of the fruit contained therein varies with the size of the oranges. The State of Arizona definition of a standard two-compartment orange box is the same as that found in the section of the Agricultural Code of California referred to in the marketing agreement and order. It is necessary to provide for the equivalent of a box in order to deal with oranges marketed in other types of containers on an equal basis. If section 828.83 of the Agricultural Code of California should be amended, it is intended that any such amended section apply to the definition of a standard two-compartment orange box in the marketing agreement and order.

The term "central marketing organization" should be defined to identify those organizations which market oranges for more than one handler in the production area. Such marketing organizations predominate in the selling of oranges produced in California and Arizona, and occupy important roles in the selection of members for the administrative agency under the marketing agreement and order.

The term "carload" should be defined to identify the unit of loading of oranges in railroad cars for shipment to fresh markets. Volume regulations are recommended and issued in terms of carloads of oranges for a particular prorate district.

The term "export" should be defined to mean those shipments of fresh oranges to foreign markets which are not regulated under the provisions of the marketing agreement and order. Shipments to markets within the continental United States, Canada, and Alaska are regulated within the provisions of the proposed program.

(b) It is necessary to establish an agency to act in administering the proposed marketing agreement and order under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Navel Orange Administrative Committee" or "Committee" is a proper identification of the agency and reflects the administrative character thereof. It should be composed of 11 members, of whom 6 should represent producers, 4 should represent handlers, and 1 should represent neither growers nor handlers. Such a committee would give adequate representation to the different segments of the industry and would not be unwieldy. The foregoing division of the members between producers and handlers would provide sufficient producer representation, together with handler representation, needed to provide adequate handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee and an opportunity for presentation of handling and marketing viewpoints and problems from the handlers' standpoint.

The term of office of members of the committee and of their respective alternates should be 2 years, except for the term of office of the initial members. Two years would permit the continuance in office of experienced members and alternates. It would also give producers and handlers an opportunity to recommend to the Secretary changes in their representatives at reasonable intervals. The first regular term of office should begin on October 1, 1953, to permit the committee to establish the necessary procedures and reports in order to operate during the 1953–54 marketing season. The term of office of the initial members should terminate on October 31, 1954, in order to correlate nomination proceedings under this program with those proceedings under other citrus marketing agreement and order programs in the area, and thus assure greater producer participation in such proceedings. Subsequent terms of office should begin on November 1 of each even-numbered year thereafter. Terms of office should continue until successors have been selected and qualified in order to provide continuity to the membership of the committee. The Secretary should select members of the committee and their alternates from nominations submitted to him as the result of a nomination procedure prescribed by him. The Secretary would have the benefit of the industry recommendations in respect to committee membership, and at least two persons should be nominated for each committee member and alternate position in order to provide the Secretary with a choice of the person to be selected.

Nomination for membership and representation on the committee should reflect the situation existing in the marketing of navel oranges grown in the production area. Marketing organizations predominate in the marketing of oranges grown in such area. There are 2 large cooperative marketing organizations in the production area, one of which handles in excess of one-half of the total tonnage of oranges. There is one central marketing organization which is not classified as a cooperative, and most of the independent shippers are members of an independent association. The central marketing organizations, both cooperative and independent, market oranges produced throughout the production area. The interests of these organizations, therefore, are closely identified with producer interests in each of the important producing regions. Furthermore, such organizations must consider marketing problems affecting the producing area as a whole. It is appropriate, therefore, in view of the institutional structure of the marketing function in the production area, to provide for nominations and producer and handler representation obtained through such marketing organizations. This procedure would tend to result in representation from all districts within a small committee and reflects the industry organization on the committee.

The marketing agreement and order should, therefore, prescribe a nomination and selection plan for committee members and their alternates which would provide representation on the committee as follows: (1) Three grower and 2 handler members to represent any cooperative marketing organization which handles more than 50 percent of the total volume of oranges during the fiscal year during which nominations for members are submitted; (2) one handler and 1 grower to represent all other cooperative marketing organizations; (3) two growers and 1 handler to represent all producers and handlers not affiliated with cooperative marketing organizations; and (4) the members so selected should meet and by a concurring vote of at least 6 members should select nominees for a neutral member and alternate member of the committee.

When voting for nominees, each grower should be entitled to cast one vote to assure an equal voice in such election. The votes of cooperative marketing organizations which did not handle more than one-half of the oranges handled during the year in which nominations are submitted, or the growers affiliated therewith, should be weighted by the tonnage handled during such fiscal year in order to reflect the relative magnitudes of such organizations in selecting nominees.

There was some controversy at the hearing with respect to the merits of the provision creating a so-called "neutral member." It was argued that an individual who had neither a producer nor handler interest would not have sufficient knowledge and background to contribute to the administration of the provisions of the marketing agreement and order. Past experience of the industry with a marketing agreement and order indicates that a committee of 11 members would be satisfactory, as would be the division of members between producers and handlers and representation as between marketing organizations. The provision for a member representing neither producers nor handlers appears reasonable in view of the composition of the institutional structure of the marketing phase of the industry. His activities on the committee should stress the responsibilities of the producer and handler representatives on the committee to reach decisions affecting the handling of oranges themselves rather than to resort to his participation to cast deciding votes.

An alternate member should be provided for each member. Provision for alternate members assures a full committee when it meets and would tend to insure that each group having representation on the committee would be fully represented at the committee meetings. Provision also should be made for a member to select an alternate other than his own alternate to serve in his stead, if the alternate member so designated was selected from the same group which was authorized to nominate the member. This permits full attendance at meetings without creating an undue burden on the members and alternate members selected.

Any person selected by the Secretary as a member or alternate member of the committee should indicate his willingness to serve as such by filing a written acceptance with the Secretary within 10

days after being notified of his selection. Provision should be made for the filling of any vacancies on the committee, or the selection by the Secretary where nominations are not conducted as prescribed, in order to provide for maintaining a full membership on such committee.

The committee should be given those specific powers which are set forth in section 8c (7) (C) of the act. Such powers are necessary to enable an administering agency of this character to function.

The committee's duties, as set forth in the marketing agreement and order, are necessary for the discharge of its responsibilities. The duties are generally similar to those specified for administrative agencies under other marketing programs of this character. It is intended that any activities undertaken by members of the committee will be confined to those which reasonably would be necessary for the committee to perform the duties specified in the program.

A quorum should consist of at least 6 members and any action of the committee should require at least 6 concurring votes. These requirements are necessary to prevent any action being taken without the concurrence of a majority of the committee. The committee should be permitted to vote by telephone, telegram, or other means in order to save the time of its members, to conserve its funds, and to permit rapid action in the case of emergency. Any votes cast in this fashion should be confirmed promptly in writing, to provide an accurate record of the votes so cast. All voting at an assembled meeting, however, should be cast in person.

The members of the committee and their respective alternates, when acting as members, should be reimbursed for expenses necessarily incurred by them in the performance of their duties. They should also receive compensation at a rate to be determined by the committee, which rate should not exceed $10 per day for each day devoted to the performance of their duties. Compensation and reimbursement are necessary to offset expenditures incurred because of service on the committee.

The marketing agreement and order should provide for an annual report of its operations to acquaint producers and handlers of the activities performed during the marketing season. This report should review regulatory operations for each prorate district because regulations are issued on such basis. It should be mailed to the Secretary and to each handler and grower of record in order to acquaint all interested parties with the policies and operations of the program during the previous marketing season. The report should be prepared and mailed prior to June 15, and a public meeting should be held prior to July 1, in order to review the season's activities as soon after their completion as reasonably possible. The report should deal with the influence of regulations upon the competitive position of California-Arizona navel oranges with other fresh and processed oranges, because an economically sound marketing program requires continuous review of its operations in the light of long-run economic changes. The annual report should be reviewed and discussed at an open meeting to provide interested handlers and producers an opportunity to clarify any questions they may have with respect to the policies of or operations under the program. Moreover, such a meeting would serve to acquaint the committee with the views or suggestions of interested handlers or producers concerning such matters.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal year for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the provisions of the marketing agreement and order, determine to be appropriate. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by an administrative agency such as the Navel Orange Administrative Committee, and requires that each marketing program of this nature contain provisions requiring handlers to pay pro rata the necessary expenses. Moreover, in order to assure the continuance of the committee, the payment of assessments may be required irrespective of whether particular provisions of the marketing agreement and order are suspended or become inoperative.

Each handler should pay to the committee upon demand with respect to all oranges handled by him, as the first handler thereof, his pro rata share of such expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal year. Each handler's share of such expenses should be equal to the ratio between the total quantity of oranges handled by him as the first handler thereof during the applicable fiscal year and the total quantity of oranges so handled by all handlers during the same fiscal year. In this way, payment by handlers of assessments would be proportionate to the respective quantities of oranges handled by each handler. Also, assessments would be levied on the same oranges only once.

The committee should have authority to incur expenses during the period October 1 to November 1, 1953, to be paid from funds collected during the fiscal year beginning November 1, 1953, in order to be able to perform the activities necessary and prerequisite for operations during the initial fiscal year beginning November 1, 1953.

Handlers should be permitted to make advance payments of assessments and the committee should be permitted to borrow a limited sum of money in order to enable the committee to commence to function during the initial fiscal year and to continue such operations during succeeding fiscal years. This provision should be included because the committee will need funds to set up an office, employ and retain personnel, and incur such other expenses as would be necessary to administer the provisions of the program.

The Secretary should have the authority, at any time during a fiscal year, or thereafter, to increase the rate of assessment when necessary to obtain sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Since the act requires that administrative expenses shall be paid by all handlers pro rata, it is necessary that any increased rate apply retroactive against all oranges handled during the particular fiscal year.

If, at the end of any fiscal year, the assessments collected exceed the expenses incurred, each handler's share of such excess should be credited to him against the operations for the following fiscal year. If any handler makes a demand for payment thereof, refund should be made to him. The right of every handler to the return of his pro rata share of the excess funds would be recognized by providing for the payment of such share to him in case he requests it. However, good business practice requires that any such refund may be applied by the comittee first to any outstanding obligations due the committee from any person who has paid in excess of his pro rata share of expenses.

All assessment monies received by the committee should be used solely for the purposes, and accounted for in the manner, specified in the marketing agreement and order.

The Secretary should be authorized to require the committee, at any time, to account for all receipts and disbursements. Such authority would aid in assuring careful administration of assessment funds.

(d) The committee should formulate and adopt a marketing policy in advance of its recommendation for regulation for each prorate district during any particular season. The committee should give notice to all producers and handlers of meetings held for the purpose of formulating such marketing policy, and should transmit a report of the marketing policy to the Secretary and to each grower and handler who files a request for such report. The policy so established would serve to inform persons in the industry, in advance of the marketing of the crop in a particular prorate district, of the committee's plans for regulation and the basis therefor. Handlers and producers then could plan their operations in accordance therewith. The policy also would be useful to the committee in making specific recommendations to the Secretary of proposed volume and size regulations. The committee's marketing policy report would be helpful to the Secretary in determining whether regulations should be placed into effect.

In preparing its marketing policy report the committee should provide data showing (1) the available supplies of oranges in the prorate district; (2) the estimated utilization of such oranges in the alternative channels; (3) the schedule of estimated weekly quantities to be recommended to be shipped to fresh markets; (4) available supplies of competitive oranges, as well as other com-

petitive citrus commodities; and (5) the level and trend of consumer income, as well as other pertinent factors affecting market conditions of oranges, to assure the development of an economically sound and practical marketing policy.

The marketing policy statement should be revised if changes in the supply or demand conditions necessitate a marked change in the policy set forth by the committee at the beginning of the season for each prorate district. Any report of any such changed marketing policy should be submitted promptly by the committee to the Secretary and to each grower and handler requesting such report, along with the data considered by the committee in revising such statement.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for oranges grown in the production area as will tend to establish parity prices for such oranges. The regulation of the volume of weekly shipments of oranges provides a means of carrying out such policy.

The order should provide for the committee to recommend, and the Secretary to issue, regulations limiting the quantity of oranges which may be shipped during weekly periods from the production area whenever such regulations will effectuate the policy of the act. The marketing agreement and order should contain provisions relating to (1) the method of recommending and fixing the quantities so limited; (2) the calculation of shares of individual handlers of the quantities so limited under regulation; and (3) adjustments of such shares which may be made to provide flexibility of operations for handlers under regulation.

(1) The marketing agreement and order should provide that the committee may meet, and recommend to the Secretary, the total quantity of oranges which it considers advisable to be handled the next succeeding week in each prorate district. The committee should have authority to recommend that no oranges be handled in a particular prorate district during a specified period if the supplies of navel oranges, in relation to the demand therefor, so warrant. Such authority is necessary to enable the committee to recommend volume regulations to meet market demands and at the same time reasonably to apportion the quantities to be handled among prorate districts in accordance with the shipping periods of such districts. In arriving at its recommendations, the committee should obtain and consider complete information with respect to each significant factor affecting market conditions for oranges.

The marketing agreement and order should authorize the committee to recommend an increase in the quantity that the Secretary has fixed to be shipped during any week in the event market conditions warrant such increase. There should be no authorization for a decrease in any quantity fixed by the Secretary to be shipped during any given week, because handlers could not be expected to reduce their shipping schedules without reasonable and timely notice. Furthermore, inequities could result thereby if some handlers had shipped their total allotment prior to such reduction.

The Secretary should fix, or increase, the quantity of oranges which may be handled in any prorate district during a particular week whenever he finds from the recommendations and information submitted by the committee, or from other information, that to so limit the quantity of oranges shipped would tend to effectuate the declared policy of the act.

It was contended that regulation by volume should not be made effective until after the Christmas holiday shipments had been completed. The basis for this contention was that regulations under former Order No. 66, as amended, regulating the handling of all varieties of California-Arizona oranges had forced some handlers to relinquish firm orders for sales of oranges during such preholiday period. In answer to this contention, it was argued that all handlers are offered firm orders, and decline such orders because of the conditions attached thereto or the prices at which they are tendered.

No data were presented at the hearing which bore directly upon this issue, and the weekly f. o. b. prices presented on the record did not present a consistent pattern of seasonal behavior prior to the Christmas holidays. Since the program is designed to provide regulation of volumes of weekly shipments during periods when such regulation is necessary to accomplish the declared purposes of the act, such regulations should be recommended and established when conditions so warrant. It was not demonstrated that conditions prior to the Christmas holiday period never would warrant the establishment of such regulation of volumes shipped. Therefore, the proposed marketing agreement and order should not contain such a prohibition of such regulation. The committee should not be limited as to the period for which recommendations for regulation may be made, because it should have the opportunity to recommend limitation of available supplies to meet market requirements whenever such limitation would accomplish the policy of the act.

There was a proposal in the notice of hearing that recommendations for volume regulation be made only by the handler members of the committee. This proposal was withdrawn at the hearing, however, and no evidence was presented on this matter.

(2) The act requires, in effect, that a program of this nature should provide a method for allotting the total quantity of the regulated commodity which may be handled during a specified period so that such quantity may be equitably apportioned among all of the handlers thereof. Under the provisions of the proposed marketing agreement and order, this requirement means that each handler should be given the same opportunity to market oranges under volume regulation as each other handler in the same prorate district. The equality of opportunity to market oranges should exist among handlers within a particular prorate district, because the market opportunities vary as between prorate districts as the result of the different timing of maturity and shipping life of the oranges in each prorate district.

The act also requires that such equitable apportionment should be on the basis of the quantity of the regulated commodity which each handler has available for current shipment, or upon the quantity of such commodity shipped by each such handler in such prior period as the Secretary determines to be representative, or both. Under this program, an individual handler's equity or share of the limited quantity which may be shipped from a particular prorate district in any week should be based upon the quantity of oranges currently controlled by such handler. Testimony at the hearing indicated that the percentage of the oranges controlled and handled varies between handlers from year to year. Therefore, the determination of an individual handler's share on the basis of past performance, or a combination of past performance and current control, would not truly reflect the current status of each handler in relation to all others. Furthermore, the use of the quantity of oranges currently under control as a basis for determining individual handler's equities is practical under this program as it is possible to determine with precision the quantity of oranges currently controlled by each handler.

The equity of each handler in the total quantity which may be handled in a prorate district during any week should be expressed as his prorate base. A prorate base is the ratio between the total quantity of oranges available for current shipment of the particular handler and the total quantity of oranges available for current shipment of all such handlers in the particular prorate district. Thus each handler's share of the limited quantity which may be shipped from a given prorate district each week under volume regulation is the same percentage as his share of the total quantity of oranges available for current shipment in such prorate district.

The marketing agreement and order should provide that each handler, who has oranges available for current shipment, make application to the committee for a prorate base and for allotments, to assure an orderly basis for establishing equities. This application should contain the information set forth in the proposed marketing agreement and order. Such information is necessary to substantiate the quantity of oranges available for shipment by each handler, in order to insure that the determination of allotments to be issued to individual handlers is correct. Such application should include only such oranges as the handler has title to, or a bona fide contract to handle or purchase, because the right to handle should be contingent upon actual control over the marketing of such oranges.

There was considerable controversy with respect to the propriety of a program which has the effect of requiring individual producers to contract with handlers for the marketing of their crops in order that the handler obtain his allotment for the shipping of such oranges. However, it is not possible for

all producers fairly to participate in the benefits of a program designed to improve prices to producers by means of regulating the quantities of oranges shipped each week without, at the same time, relinquishing their option as to the timing of the sales of their individual crops. Moreover, the vast majority of producers of oranges grown in the production area customarily enters into contracts for the marketing of their crops prior to the beginning of the shipping season.

The marketing agreement and order should provide for adjusting the quantity of oranges under control of individual handlers as such handlers gain or lose control of the marketing of such oranges during the marketing season. Producers should be given the opportunity of transferring the marketing of their crops from one handler to another. A handler who thus has gained or lost control over the handling of oranges should have the amount of his oranges available for current shipment adjusted to reflect such change. The provisions of the marketing agreement and order, however, should be so drawn that a handler will not gain an unfair advantage by virtue of a producer transferring his marketing affiliations. For example, a handler may obtain more than his proportionate share of allotments if he is allowed to retain allotments, used in the handling of other producers' oranges, which were earned by the transferring producer's tree crop. As a consequence, the marketing agreement and order should provide that, if the committee determines that any handler who has lost control of oranges has not handled his share of such oranges, his remaining quantity of oranges available for current shipment correspondingly should be reduced over a period of time. This adjustment will place such handler in the relative position he would have occupied had he never controlled such portion of the oranges of the transferring producer. On the other hand, the provisions of the program should discourage widespread transfers by producers, because such transfers would make the operation of the program and the maintenance of equity among handlers difficult. Accordingly when a producer transfers the marketing of his crop to a new handler, such new handler's quantity of oranges available for current shipment should be increased by the amount of such producer's oranges at the time of transfer. Such new handler, however, should not receive such allotments as were earned by the transferring producer's oranges prior to the time of transfer.

The committee should be authorized to revise errors of estimates of the quantity of oranges available for shipment of each handler and to adjust accordingly such quantities of oranges available for shipment to offset any errors of estimate found to exist in order to insure that the equities of individual handlers are maintained. Such adjustments should increase or reduce, by such quantity and for such a period as is necessary and reasonable, the quantity of oranges available for shipment of the particular handler whose quantity has been estimated incorrectly so that the total allotments received by such handler will equal what his total allotments would have been had his quantity of oranges available for current shipment been correctly estimated. The individual handler should be required to report to the committee any change in his control of oranges in order to assist the committee in making adjustments and to simplify the administration of this provision.

The committee should compute each week during the marketing season, when volume regulation is likely to be recommended by the committee, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments, and should transmit a report of such information to the Secretary. The Secretary should, based upon the recommendations and reports of the committee, or from other available information, fix a prorate base for each such person, if volume regulation is issued. The Secretary should notify the committee of the prorate base fixed for each person and the committee, in turn, should notify each person of his prorate base.

Whenever the Secretary has fixed the total quantity of oranges that may be handled during any week from any prorate district, the allotments to each individual handler should be determined by multiplying the total quantity fixed by the Secretary to be handled by the prorate base of each handler. The committee should perform this operation and provide notice to each person of the allotment so computed for him. This procedure is needed to set forth clearly the manner in which the equities of handlers are calculated and in which each handler may be notified of his allotment under volume regulation.

The committee should give any central marketing organization, upon its request, the same notice with respect to prorate bases and allotments applicable to each handler for whom it markets oranges as is given to such handler. Such notice is a recognition of the institutional structure of the marketing of navel oranges and would facilitate such marketing.

The evidence indicated that the equities of handlers under regulation would not seriously be disrupted in seasons of minor damage from frost or wind or rain, because those handlers who suffered such damage would, since their equities are based on their respective tree crops, have the opportunity to ship a larger share of their merchantable crop than before their crops had been so damaged. However, in seasons of major freezes, such as occurred in 1937, 1949, and 1950, with heavy and varying degrees of damage affecting groves, it is not possible to maintain individual handler's equities determined on the basis of oranges available for current shipment. Therefore, volume regulation should not be undertaken in seasons when major freezes result in heavy and differing degrees of damage to groves.

(3) The marketing agreement and order should contain provisions authorizing adjustments in allotments issued or to be issued to individual handlers in order that rigidities imposed by the calculation of equities provided for in the program may be made workable in response to current changes in handlers' activities. Such adjustments should permit, not only overshipments, undershipments, and loans between individual handlers, but also authority for the committee to withhold allotments from all handlers and loan such allotments to particular handlers to offset conditions with respect to the marketing life and maturity of oranges controlled by such individual handlers.

The marketing agreement and order should provide that, during any week when volume regulation is in effect, any person may handle, in addition to his weekly allotment, a quantity of oranges equal to 10 percent of such allotment, or one carload, whichever is greater, with the proviso that the quantity of oranges so handled be deducted from his allotment for the next week and for succeeding weeks until repaid. This provision is necessary in order that handlers be permitted to conduct their business in an orderly fashion, and so that particular orders, or carlot quantities, may be fulfilled during any given week, even though the allotment issued does not equal such orders. The overshipments should be paid back in order that the total allotments issued to the particular handler not exceed his fair share of all such allotments. In addition, such overshipments should not be permitted during any week in which a handler's allotment has been reduced to offset a previous overshipment, where his total weekly allotment is required to repay an allotment loan, or where a handler has not received an allotment under the marketing agreement and order for such week. These limitations are necessary, because unrestricted overshipments would enable any or all handlers to handle quantities in excess of their weekly allotments in any particular week and thus tend to defeat the purposes of volume regulation for that week. It would be impractical and serve no useful purpose to require that an overshipment incurred, but not repaid during a given marketing season, be repaid in the following season. Therefore, the requirement to repay an overshipment should not be carried over to the following marketing season.

The marketing agreement and order should contain a provision permitting any handler who handled a quantity of oranges less than his allotment of oranges during a particular week to handle for the next week only an additional quantity of oranges equal to such undershipment. This provision is necessary, because at times weather or other conditions do not permit handlers to ship their allotments and they should be permitted to offset such reduction in shipments by handling them in a subsequent period.

The limitation of handling of undershipments for the next week only, and the requirement for immediate repayment of overshipments of allotment, are necessary to enable the committee to anticipate the quantity of oranges which may be handled as a result of prior undershipments or which may not be

handled as a result of prior overshipments in recommending the volume to be shipped under regulation for a particular week.

Provision should be made for the lending and borrowing of allotments between persons within the same prorate district. Such loans are needed to enable handlers to operate efficiently by offsetting difficulties encountered as a result of the supply of labor, rate of harvest, and other factors affecting the rate of harvesting and packing of oranges. Loans should be confined within the same prorate district, because equities are established and maintained on a prorate district basis. Allotment loans should be confined to handlers to whom allotments have been issued, because the rights to handle and the maintenance of equities exist on the basis of allotments issued under the program.

Loans of short life allotments should be made only to handlers to whom short life allotments have been issued, and the repayment thereof should be made only with short life allotments, because short life allotments may be used only in the handling of short life oranges. In fact, short life allotments are allotments loaned to handlers of oranges of short life by all other handlers in the same prorate district. Early maturity loans, however, may be repaid with general maturity allotments because their due date may be subsequent to the reaching of general maturity in the prorate district.

Transactions with respect to allotment loans should include a date for the repayment of such loans to the lender only during the then current marketing season and should be confirmed by the committee within 48 hours to assure that there will be no abuses of the loan provision and in order to simplify the operations of this provision.

Allotment loans should be used only during the week for which such allotment was issued, because the allotment represents the right to ship during the week for which it is issued. No allotment which has been loaned should again be loaned by the borrower, or the lender after repayment thereof, because such a practice is not necessary to provide flexibility of operation under the program and would lead to confusion. Such requirements are necessary in order that the allotment lending transactions be consummated in such a fashion as not to disturb the equities of individual handlers as a result thereof. If the borrower has insufficient allotment to repay such loan on the due date, he should repay it as soon as possible. The committee should be authorized to reduce a borrower's weekly allotment for the week when repayment is required by the amount of the loan and credit the lender's allotment accordingly. This authority is necessary to assure that all loans are repaid. However, for the reasons stated above, loans made in a given season should not be required to be repaid from allotments issued during the following season.

The committee should be authorized to facilitate loans of allotments in order to assist individual handlers in obtaining allotment loans. Transactions consummated by the committee should be confirmed immediately by written memorandum addressed to the parties concerned in order clearly to reflect the loan agreement made and to notify the parties.

The marketing agreement and order should provide that each handler who first handles oranges, transported by means other than rail shipment, should, at the time of handling, issue to the person receiving the shipment an assignment of allotment certificate covering each quantity of oranges so handled. This provision is necessary to assist in the enforcement of compliance with the regulatory provisions of the program. In connection with shipments by rail, shipping manifests are made available by the rail carriers. This is not true with regard to truck shipments, and the assignment of allotment certificates permit a ready check on such shipments by the committee. Such certificates would aid in identifying and tracing shipments of oranges. The assignment of such allotment certificates should be made in the manner and on forms prescribed by the committee so that information needed in connection with such enforcement can be ascertained.

The marketing agreement and order should provide that, during any week in which a person has the right to handle a quantity of oranges in addition to the quantity represented by his allotment, and such person handles a quantity of oranges less than the total quantity which such person may handle during the week, the amount of oranges handled should first apply to such person's weekly allotment. This provision is necessary because, if the quantity handled were first applied to the additional quantity, such as that which might be made available by previous undershipments, or loan repayments, handlers could carry forward or pyramid the unused portion of their allotments and thus defeat the purpose of the program by shipping greatly in excess of their allotments in a particular week.

The marketing agreement and order should contain provision for the issuance of early maturity allotments and short life allotments, to increase further the flexibility of allocations under the program. These allotments are needed to adapt the allotment procedure to unique situations encountered by handlers of oranges which mature earlier than most oranges or which have a shorter period during which they may be shipped than most oranges in the same prorate district. There was considerable controversy with respect to the operations of the early maturity and short life provisions of the proposal. Such provisions are designed to mitigate the rigidity of the program requirements as to handlers confronted with such unique situations while maintaining equity between all handlers. These problems should be considered separately and calculations of the respective allotments should be undertaken separately, because they are unrelated as to their nature and cause.

The marketing agreement and order should provide that the committee may, prior to the reaching of general maturity, issue early maturity allotments to handlers for the handling of early maturity oranges. Such a provision is necessary because otherwise the shipment of a few oranges from a district which is just beginning to ship would require the issuance of a large quantity of allotments to enable the few handlers who have available oranges meeting maturity requirements to receive sufficient allotments to handle such oranges. Therefore, it is reasonable to issue early maturity allotments for such purposes to only those handlers in the particular prorate district possessing oranges meeting shipping qualifications.

Early maturity allotments would be issued to handlers in two types of situations. The first type of situation exists when handlers desire to ship oranges prior to general maturity when there are no other, or a very limited amount of, shipments of navel oranges being made. This occurs at the start of the season when certain handlers have oranges capable of being shipped and there are no other navel oranges shipped in volume from the production area. No conclusive evidence was presented as to why shipments of such early maturity oranges should not be allowed except where the total quantity of oranges to be handled was in excess of that which consumers would purchase at prices reasonably consistent with the objectives of the act. Such would hardly be the case at the beginning of the shipping season for the production area. Therefore, the interpretation of the word "may" in the marketing agreement and order with respect to whether any early maturity allotments should be issued to handlers should be interpreted as meaning "shall" when there are no, or a relatively small quantity of, navel oranges being handled in the production area.

The second type of situation is where there are substantial shipments of oranges from other prorate districts being limited and thereby maintaining prices at levels higher than in the absence of such limitation. In this situation, early maturity allotments should be issued so as to permit an orderly overlapping of shipments between the two or more prorate districts. Therefore, the committee in this instance should use its judgment as to the amount of early maturity oranges permitted to be shipped and should, under such circumstances, administer the provision on a permissive basis, interpreting the "may" literally.

Handlers controlling early maturity oranges should apply to the committee for such allotments and furnish the committee with information necessary to describe such early maturity oranges in order to enable the committee properly to administer this provision.

Total early maturity allotments approved by the committee in a particular prorate district should be distributed to each handler who qualifies therefor in the ratio that each such handler's request for such allotment is to the total of such requests of all such qualified handlers. Distribution on the basis of quantity requested is utilized because there are no tangible criteria available with which to measure the quantity of

early maturity oranges available. The marketing agreement and order should contain a proviso, however, that such granting of early maturity allotments should not permit a particular handler to handle more than his share of the total quantity estimated in the utilization schedule contained in the marketing policy to be handled by all handlers in the same prorate district. The proviso in this section is necessary to prevent a particular handler from receiving more than his equitable share of the total quantity to be handled in his prorate district as a result of this provision.

The marketing agreement and order should provide that, upon the reaching of general maturity, the early maturity allotments issued to a particular handler should be offset or repaid by reducing such handler's quantity of oranges available for current shipment by the quantity of early maturity allotments issued to him, plus his share of the oranges estimated in the utilization schedule contained in the marketing policy to be used for by-products or elimination in the particular prorate district in relation to the early maturity allotments issued to him. The initial utilization schedule contained in the marketing policy should be used for such computations because revisions of such utilization schedule, if made, probably would result in such minor adjustments as would make a modification of such computations in response thereto impractical and of little value.

The procedure for the offset of early maturity allotments issued will result in the particular handler receiving total allotment slightly in excess of his proportionate share of the allotments issued to all handlers in the particular prorate district. Were such handler's quantity of oranges available for current shipment reduced, upon the reaching of general maturity, by his proportionate share of exports estimated to be shipped from the prorate district, as well as products and elimination, his share of allotments for the season would be equal to that of all other handlers. It seems reasonable, however, to provide this slight advantage to the handler of early maturity oranges, because there is normally an advantage in the marketing of oranges accruing to handlers who ship fruit ahead of other handlers in a particular district.

There was some controversy concerning the method of offsetting or repaying early maturity allotments. It was contended that such offset should be accomplished by means of permitting the individual handler to continue to handle, upon the reaching of general maturity, at a rate based upon his total tree crop until his total allotments under early maturity and general maturity were equal to his share of the total allotments estimated to be issued to all handlers in the prorate district, whereupon such handler should be prohibited from further handling. The difference between the two methods of offsetting early maturity allotments is not great, and each method should result in the same quantity of total early maturity, plus general maturity, allotments being issued to the same handler during the marketing season. The method of offsetting early maturity allotments contained in the notice of hearing possesses the advantages of a well-defined method of offsetting early maturity allotments, together with permitting continuous handling on the part of a handler who possesses fruit capable of being held for a long period of time, as well as early maturity fruit. Moreover, under the suggested alternative method of offsetting early maturity allotments, it is possible for a handler to attain his share of the total allotments for the prorate district and be prohibited from further handling even though he still has oranges remaining available to ship. Under such circumstances, such handler could not handle the oranges until open movement was permitted at the termination of the shipping season for such prorate district. Accordingly, the method of offset as set forth in the proposed marketing agreement and order should be utilized.

The committee should adopt rules and regulations, with the approval of the Secretary, to establish detailed procedures for issuing and allocating early maturity allotments. It is impractical to provide such rules in the marketing agreement and order, because of the flexibility that may be required to administer properly this provision. All early maturity allotments should be computed on a prorate district basis, because equities to individual handlers under the program are established on such a basis.

Because of climatic conditions in several producing localities, oranges are produced which do not possess the keeping quality of other oranges produced in the same prorate district. The shipping life of such oranges, therefore, is shorter than the shipping life of other oranges in the same district. To require handlers of such oranges to market their oranges at the same rate as other handlers would result in a greater loss to such handlers than to other handlers, because the oranges shipped during the latter part of the shipping season would not be capable of being shipped to consuming markets in good condition. It would not be equitable, therefore, to require such handlers to ship such oranges at the same rate as all other handlers, and the marketing agreement and order should contain provisions permitting a more rapid rate of movement of such oranges. These provisions should permit the issuance of "short life" allotments to handlers of such fruit.

The testimony revealed that oranges which do not possess the same shipping life as other oranges produced in the same district do not always exist in clearly delineated regions. As a consequence, this problem is one which, for the production area as a whole, cannot be met on the basis of isolated areas to be given special treatment. Moreover, there are handlers shipping oranges of both short and normal life, and some of these handlers customarily intermingle their short life and normal life oranges in their operations and thus handle their total supply of oranges without undue difficulty. Therefore, the difficulties experienced by a handler in handling his short life oranges, together with his other oranges, provides the basis for determining his need for accelerated movement of his short life oranges.

The marketing agreement and order should provide that the committee shall withhold from the allotments of all handlers, on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers of short life oranges to handle, during the normal marketing period of such short life oranges, as large a proportion of oranges as the average which will be handled by all handlers in the same prorate district. A handler of short life oranges is a handler who is unable to handle, during the normal marketing period of the oranges grown in the prorate district, as large a proportion of oranges as the average which will be handled by all handlers in the same prorate district. The committee should determine the extent to which each such short life handler needs short life allotments, and allocate such allotments to each such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of his short life oranges. After a handler of short life oranges has received sufficient short life allotments to make the total allotments issued to him equal proportionately to the average allotment to be issued to all handlers in the same prorate district, the allotments that would have been due to such handler of short life oranges in the absence of accelerated movement should thereafter be allocated to handlers from whom the allotments were withheld. This procedure should be carried out in such a fashion that equities resulting from such computations will be maintained for all handlers in each prorate district. The mechanics of the issuance and pay back of short life allotments under the former orange order, i. e., Order No. 66, as amended, proved satisfactory and should serve as a basis for operation of the short life provision under the proposed marketing agreement and order.

Handlers desirous of receiving short life allotments should apply for such allotments on the basis of forms and in the light of procedures formulated by the committee, with the approval of the Secretary, governing the issuance of short life allotments, in order that a regular and orderly procedure may be adopted to carry out these provisions of the program.

(f) There is a tendency for handlers to ship in fresh fruit channels small sizes if they are available for shipment even when greater returns would have been received had they been diverted to other channels. The marketing agreement and order should contain provisions authorizing the recommendation by the committee, and the issuance by the Secretary, of regulations limiting the sizes to be shipped to markets, thereby improving returns to producers. Such regulations would improve marketing conditions, because the limitation of discounted sizes shipped to consuming markets would improve the size composition of the remaining quantity of oranges shipped to consuming markets, thereby

improving the average quality, as measured by market preference for sizes, of all shipments. In addition, it would prevent shipments of oranges of sizes so heavily discounted that they do not pay the direct costs of harvesting and marketing such oranges. The discounted sizes also tend to depress prices received for adjacent sizes.

The testimony revealed that the nature of consumer demand for oranges by sizes in Canada differs from that in the United States and, therefore, the marketing agreement and order should authorize regulation by sizes differently for oranges shipped to markets in Canada than for oranges shipped to markets in the United States.

The demand for particular sizes of oranges varies depending upon the composition of sizes of oranges shipped to fresh markets, not only from the production area, but from other areas in competition with navel oranges. Therefore, the marketing agreement and order should authorize the recommendation of limitation of oranges by sizes, and the fixing of such limitations by the Secretary, during any period for which it is determined that the supply and demand conditions for sizes of oranges warrants such regulation. Such period may be an entire marketing season or any part thereof.

The nature of the demand for sizes of oranges is such, at times, that only a certain quantity of a particular size category of oranges is desired by the various consuming markets. Therefore, the committee should have the authority to recommend, and the Secretary to fix, limitations of a portion of a particular size or sizes or all of a particular size or sizes of oranges that may be shipped to consuming markets. It may be found, for example, that to restrict entirely a particular size would eliminate the shipment of some oranges of that size which, if shipped, would result in higher average prices and, therefore, effectuate the declared purpose of the act.

Recommendations for regulation by size, and issuance of such size regulations, should be made on a prorate district basis, because the composition of sizes of oranges grown in the respective prorate districts usually varies. Therefore, to require the issuance of uniform size regulations for the production area as a whole might result in a substantial limitation in one prorate district with little or no limitation in another. In recommending size regulation to the Secretary, the committee should give careful consideration to each principal factor affecting market conditions, including market prices, availability and composition of supplies, and other related factors, in order to assure that the recommendation is arrived at on a sound economic basis.

Regulation by size should not be dependent upon volume regulation, because each of these types of regulation seeks to attain orderly marketing conditions by a different method. The committee should be authorized to recommend, and the Secretary to issue, regulations limiting a portion or all of a particular size or sizes even though volume regulation is not in effect.

The marketing agreement and order should contain provisions authorizing the committee to issue exemption certificates to any producer who furnishes evidence satisfactory to the committee that, because of a size regulation in effect, he will be prevented from having as large a proportion of his crop of oranges handled as the average proportion which may be handled by all other producers in the same prorate district. Such certificate should permit the shipment of an appropriate quantity of oranges which fail to meet the size requirement of the regulations then in effect so as to enable such producer to have handled as large a proportion of his oranges as the proportion that may be handled for all other producers in the prorate district. Evidence at the hearing indicated that the sizes of the oranges grown in the production area were not capable of being altered by cultural practices. Hence, the size composition of the crop of oranges of a producer is the result of conditions beyond his control. This exemption provision is designed to afford relief to producers from the imposition of inequities which may accrue from size regulation.

The provisions of the marketing agreement and order relating to the issuance of exemption certificates should specify that exemption certificates do not constitute an exemption from regulations limiting the volume of shipments of oranges. Exemption certificates are issued to producers to permit them to ship an equitable portion of their oranges when they otherwise would suffer undue hardship under the effective size regulation. Such oranges, however, should be subject to any limitations on the volume of shipments of oranges the same as the oranges of other producers.

Provision should be made for the transfer of exemption certificates from a producer to the handler of such producer's oranges, because producers customarily do not pack and ship their own oranges. The committee should adopt procedural rules to govern the issuance of exemption certificates. Such rules are necessary in order that all producers may be informed with respect to the requirements for, and the procedure for, the issuance of exemption certificates. It is impractical to set forth detailed rules in the marketing agreement and order, because to do so would destroy the flexibility which is needed to reflect variations in conditions affecting the production of oranges.

There was a proposal in the notice of hearing that the provisions of the marketing agreement and order should not become effective until the 1953 crop marketing season had been completed. This proposal was withdrawn at the hearing, however, and testimony was not presented in its support.

(g) Regulation of shipments by grade and maturity were proposed as issues in the notice of hearing. Testimony was not offered in support of such proposals, however, and accordingly they should not be included in the proposed marketing agreement and order.

The record indicates that objective standards of maturity, more rigorous than those contained in the standardization laws of the States of California and of Arizona, have not yet been developed, although attempts have been made to do so. Hence, regulation by maturity would serve no purpose until such objective standards have been developed. Evidence with respect to regulation by grade revealed that practically all shipments of navel oranges complied with grades that probably would be permitted to be shipped under such a regulation. This is because the composition of navel oranges normally consists of a high percentage of the preferred grades. Moreover, processing outlets, to which prohibited grades of navel oranges would be diverted, have provided unremunerative returns. Hence, regulation by grade was not supported as an effective means of improving producer returns under present conditions.

(h) There are differences between various producing regions in the production area as to the time of maturity of the oranges produced therein and the length of the period during which such oranges may be shipped in prime condition. These differences are caused by differences in climatic conditions, with soil conditions and cultural practices exercising little, if any, influence upon maturity and keeping life.

In order to assure the maintenance of equities as between individual handlers, the production area should be separated into prorate districts, with the individual producing regions possessing similar marketing periods grouped into the same prorate district. The number of prorate districts should be reduced to a minimum in order to assure that the administration of the provisions of the marketing agreement and order reasonably may be carried out. Marketing periods and the times of the reaching of maturity of oranges produced in the same prorate district are much more uniform than such factors between prorate districts. Furthermore, the variations of times of maturity and length of shipping periods among individual handlers in a particular prorate district are treated readily by use of the adjustment provisions of the marketing agreement and order, particularly those relating to early maturity and short life.

The evidence at the hearing revealed that oranges produced in Central California—that part of the State between the 35th and 37th Parallels—possessed for the most part common characteristics with respect to maturity and periods of marketing. Shipments of navel oranges produced in Central California normally begin during the second or third week in November, reach a peak prior to Christmas, and decline gradually until mid-February or March. There was controversy, however, with respect to whether the Edison area should be included with the remainder of Central California in the same prorate district.

Similarly, the maturity and marketing periods of oranges produced in Southern California—that part of the State south of the 35th Parallel, exclusive of the desert valley area—are roughly comparable. Shipments from this area normally start with a few cars in December, increase gradually until late February

or early March, maintain heavy volumes until early in May, and usually terminate early in June.

The desert valleys of California and the State of Arizona produce navel oranges which reach maturity early in November and are at their prime in December. Shipments of these oranges are completed in January.

The operation of volume or size regulation by prorate districts on the basis of the three districts as outlined above appeared satisfactory under former Order, No. 66, as amended, regulating the handling of all oranges grown in California and Arizona, with the exception of the Edison region in Central California.

In order to permit the movement of oranges from each section during their normal marketing period and during the time that the fruit is in the best shipping condition, it is necessary to establish the separate prorate districts, identified as Districts 1, 2, 3, and 4 in the marketing agreement and order.

The evidence reveals that oranges produced in the Edison area mature sooner than, and that their normal shipping season terminates prior to, that of the producing areas in District 1. It is a region characterized by completely early maturity, as well as short life, oranges, as compared with the oranges produced in District 1. A substantial portion of the oranges produced in the Edison region may be shipped prior to the period when most oranges produced in District 1 attain maturity.

Handlers of oranges produced in the Edison area requested relief from the provisions of the program, although they appeared to favor the existence of regulations of shipments of oranges produced in other districts. However, it does not appear reasonable to exclude the Edison region from the production area, because some shipments from that district are in competition with oranges shipped from other prorate districts and enjoy the advantages of being shipped to a market in which prices are maintained by virtue of limitation of shipments from the other prorate districts during the latter part of the Edison shipping season. Moreover, some of the oranges produced in the Edison area are handled in other prorate districts. Accordingly, the Edison region should be included in the production area.

The proponents contended that the special treatment provisions of the program, particularly early maturity and short life, would provide the basis for enabling handlers of oranges in the Edison area to share equally opportunities to market oranges with all other handlers in District 1 and that, therefore, the Edison area should be included in District 1. Handlers of oranges grown in the Edison area contended that, by virtue of their time of marketing, they would not receive such equal treatment, because they would not be in a position to share with handlers of other oranges grown in District 1 in the benefits of an open movement at the end of limitations of weekly shipments from District 1.

Handlers from the Edison area contended that their position was unique in that normally an extremely small percentage of the oranges produced in this area was diverted to by-products and elimination. If the Edison region were to be included in District 1, handlers of the oranges produced in the Edison area would be compelled to divert the same percentage of such oranges to by-products and elimination as that so diverted of all oranges produced in District 1. The percentage of oranges produced in District 1 which normally is diverted to by-products and elimination greatly exceeds the percentage of oranges produced in the Edison area which normally is so diverted. Since the primary policy of operation under volume regulation is not to eliminate fruit from being shipped to fresh commercial channels, but rather to ship all merchantable fruit in a manner so as to correlate changes in the rate of shipment with changes in demand, needless diversion should not be compelled. Moreover, producers in the Edison area enjoy market advantages with respect to the time of maturity of their oranges not enjoyed by producers in any other district as a whole.

The characteristics with respect to maturity and shipping season of fruit produced in the Edison region appear to be so unique that the utilization pattern of such fruit should not necessarily be the same as that for oranges produced in District 1. Equitable treatment of handlers in the Edison area warrants elimination of the fruit from that area being dictated by conditions of the market and nature of the fruit produced in the area, rather than by the average elimination warranted by such conditions for all handlers in District 1. Accordingly, the Edison producing area should be established in a separate prorate district, identified as District 4, and located in that portion of Kern County, California, south of the Kern River.

(i) The marketing agreement and order should provide for the exemption from its provisions of such handling of oranges which it is not necessary to regulate in order to effectuate the declared purposes of the act. Such exempted handling should be stated explicitly in the marketing agreement and order so that handlers will have knowledge of such handling as is not subject to the provisions of the program. Furthermore, such exempted handling should relate to handling by the first handler, because to exempt subsequent handling would permit the establishment of methods of circumventing the provisions of the marketing agreement and order which it would not be possible reasonably to prevent. A second or third handler, for example, is required to procure regulated oranges, even though such handler uses them for one of the exempted purposes specified in the provisions of the program. Only the first handler should come within the provisions of this section when utilizing oranges for such exempted purposes.

Oranges which are handled for consumption by charitable institutions or for distribution to relief agencies should not be regulated under the program, because such handling of oranges does not affect the commercial markets to which shipments of oranges are regulated under the marketing agreement and order. The handling of oranges for commercial processing into products, including juice, should be exempted from the provisions of this program, because processed products are either exempt under the provisions of the act or do not exert an important influence upon sales of fresh navel oranges. Processed products, such as peeled products, pectin, citric acid, and orange oil clearly enter commercial channels different from fresh fruit channels and do not compete directly with fresh oranges. Oranges for canning and freezing are exempted from regulation by the provisions of the act. Juice prepared from navel oranges for commercial sale is more significantly competitive with sales of processed oranges than with sales of fresh navel oranges, as the navel orange is primarily an eating orange. Commercial processing means processing for sale at the wholesale level and, therefore, the handling of oranges for sale to commercial juice extractors who will sell such extracted juice to outlets for resale to distributors or consumers should be considered exempt from the provisions of the marketing agreement and order. Since handlers, who are subject to regulation under the program, would have no direct knowledge of the ultimate use of oranges sold to establishments which are not commercial processors, this exemption should not apply to oranges sold to hotels, restaurants, and similar outlets where juice may be extracted from the oranges and sold direct to consumers.

The handling of oranges for sale in export channels should not be regulated under the program, because, as indicated heretofore, sales in export channels do not compete directly with sales in domestic commercial channels. The handling of oranges for shipment by parcel post or by express should be exempt, because such shipments, due to the relatively high transportation charges incurred, usually are shipped as gift packages to consumers. Thus parcel post or express shipments of oranges are relatively small in magnitude, and do not affect significantly conditions in regular commercial channels.

Provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of certain small quantities, or types of shipments, of oranges which it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the committee to exempt such handling which is found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments should be exempted from regulation and the period during which such exemptions should be in effect. The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. It is impractical to set forth specific quantities or types of shipments to be exempted in the marketing agreement and order, be-

cause to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of oranges in the production area.

The committee should prescribe, with the approval of the Secretary, rules necessary to prevent oranges handled for any of the exempted purposes from entering into regulated channels of trade and thereby tending to defeat the objective of the program.

(j) Handlers should be required to submit certain reports to the committee so that it will have available information necessary for administering the program. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden.

Each handler should be required to file with the committee each week information with respect to the total quantities of all oranges disposed of by him during the previous week, segregated into the quantities for manufacture into by-products, for export, to persons on relief, parcel post, or express, and otherwise disposed of. The quantities diverted to other than regulated channels should show the destination of each such diversion, because such reports are needed to ascertain whether the regulatory measures of the marketing agreement and order are being properly complied with. In addition, such information is of value for use in appraising the marketing picture and in recommending future regulations.

Handlers should be required to furnish to the committee data indicating the sizes of oranges shipped to commercial channels each day of shipment during the marketing season. This information is necessary to ascertain whether the size regulations issued pursuant to the program are being properly complied with. Prompt reporting of such information is necessary for the efficient administration of size regulations. In the event the size regulation is not in effect, such information is necessary to determine whether or not size regulation should be recommended by the committee to the Secretary.

Upon the request of the committee, approved by the Secretary, handlers should furnish such other reports and information as the committee needs to perform its functions under the marketing agreement and order. It is impossible to anticipate every type of report, or kind of information, which the committee may need in administering the program, but it should have the authority to obtain such reports and information if needed. Reports furnished to the committee should be submitted in such manner and upon such forms as may be designated by the committee. It is impractical to specify such reporting procedures in the marketing agreement and order, because changing conditions may warrant changes in the forms or methods of reporting to the committee.

(k) Except as provided in the marketing agreement and order, no handler should be permitted to handle navel oranges grown in the production area, the handling of which is prohibited pursuant to the marketing agreement and order, and no handler should be permitted to handle such oranges except in conformity with the marketing agreement and order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry measured by the proportion of oranges handled by him, would be demoralizing to other handlers and would tend to impair operation of the program.

(1) The provisions of §§ 914.81 through 914.90, as hereinafter set forth, are, except as indicated below with respect to § 914.83 (c) provisions similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 914.91 through 914.93, as hereinafter set forth, are also included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and are necessary to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and order, identified by both section number and heading, are as follows: § 914.81 *Right of the Secretary;* § 914.82 *Effective time;* § 914.83 *Termination;* § 914.84 *Proceedings after termination;* § 914.85 *Effect of termination or amendment;* § 914.86 *Duration of immunities;* § 914.87 *Agents;* § 914.88 *Derogation;* § 914.89 *Personal liability;* and § 914.90 *Separability.*

Those provisions which are applicable to the proposed marketing agreement only, identified by both section number and heading, are as follows: § 914.91 *Counterparts;* § 914.92 *Additional parties;* and § 914.93 *Order with marketing agreement.*

In addition to the basis for termination of the marketing agreement and order contained in § 914.83 (a) (b) and (d) thereof, termination of the program should be required at the end of any fiscal year, whenever the Secretary finds that continuation of the marketing agreement and order is not favored by producers, provided sufficient notice is given prior to the end of the fiscal year. The act contains special provisions with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits. The record indicates that successful operation of this program so as to effectuate the purposes of the act requires the same degree of producer support as that required for the issuance of the program. Accordingly, continuance of the marketing agreement and order after issuance thereof should be determined by the same percentage of producer approval as is required for the initiation of the marketing agreement and order.

In connection with such determination, it was proposed in the Notice of Hearing that the Secretary shall cause a referendum to be held each year to determine whether producers favor continuance of the program. There was testimony at the hearing that the Secretary should conduct during the 1954–55 fiscal year and prior to September 15, 1955, and prior to September 15 of each odd-numbered year thereafter, a referendum to ascertain whether continuance of the marketing agreement and order is desired by producers. Such a procedure would contribute to the effectiveness of the program, because it would provide producers with a regular opportunity to express approval of the operations of the program, and thereby compel awareness of producer interest in the administration of the provisions of the program by the committee.

As heretofore stated, the seasonal average price to producers of navel oranges grown in the production area for the 1952 crop of such oranges has not as yet been determined, but the record shows that it will be considerably below parity. It is anticipated that the seasonal average price to producers for the 1953 crop of navel oranges grown in the production area will not exceed the prescribed parity level.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to navel oranges grown in the production area by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to producers thereof at a level that will give such oranges a purchasing power with respect to parity prices and protect the interests of consumers by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumer demand; and (b) by authorizing no action which has for its purpose the maintenance of prices to the producers of such oranges above the level which it is declared in the act to be the policy to establish;

(2) Such marketing agreement and order regulates the handling of navel oranges grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

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

(4) The marketing agreement and order prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and

marketing of navel oranges covered thereby; and

(5) All handling of navel oranges, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Order[1] *Regulating the Handling of Navel Oranges Grown in Arizona and Designated Part of California*

Sec.
914.0 Findings and determinations.

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[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

AUTHORITY: §§ 914.0 to 914.90 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 914.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) and the rules of practice and procedure, as amended, effective thereunder (7 CFR Part 900) a public hearing was held at Los Angeles, California, beginning on April 27, 1953, upon a proposed marketing agreement and a proposed marketing order regulating the handling of navel oranges grown in Arizona and designated part of California. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

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

(2) The said order regulates the handling of navel oranges grown in the designated production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a hearing has been held;

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

(4) The said order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of navel oranges covered thereby; and

(5) All handling of navel oranges, as defined herein, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order relative to handling. It is, therefore, ordered that, on and after the effective date hereof, the handling of navel oranges grown in Arizona and designated part of California shall be in conformity to, and in compliance with, the terms and conditions of said order; and the terms and conditions of said order are as follows:

DEFINITIONS

§ 914.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture of the United States.

§ 914.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

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

§ 914.4 *Production area.* "Production area" means the State of Arizona and that part of the State of California south of the 37th Parallel.

§ 914.5 *Oranges.* "Oranges" means those oranges belonging to the genus Citrus, species sinensis (Linnaeus) Osbeck, and characterized by being seedless and having a navel at the apex, commonly known as navels, and which are grown in the production area.

§ 914.6 *Fiscal year* "Fiscal year" means the twelve-month period ending October 31 of each year.

§ 914.7 *Committee.* "Committee" means the Navel Orange Administrative Committee established pursuant to § 914.20.

§ 914.8 *Grower and producer.* "Grower" and "producer" are synonymous and mean any person who produces oranges for market.

§ 914.9 *Handler* "Handler" means any person who handles oranges.

§ 914.10 *Handle.* "Handle" means to buy, sell, consign, transport, or ship oranges (except as a common or contract carrier of oranges owned by another person) or in any other way to place oranges in the current of commerce, between the State of California and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of Arizona. The term "handle" does not include (a) the sale of oranges on the tree; (b) the transportation of oranges to a packinghouse for the purpose of having such oranges prepared for market and such preparation for market; (c) the storage of oranges within the production area under such rules and regulations as the committee, with the approval of the Secretary may prescribe; or (d) the sale of oranges at retail by a person in his capacity as such retailer.

§ 914.11 *Oranges available for current shipment.* "Oranges available for current shipment" means all oranges as measured by the total tree crop.

§ 914.12 *Tree crop.* "Tree crop" means the total quantity of oranges on the trees as determined by the committee.

§ 914.13 *Early maturity oranges.* "Early maturity oranges" means any oranges that have reached maturity, as measured by applicable State laws, in

advance of general maturity in the same prorate district.

§ 914.14 *General maturity.* "General maturity" shall have been reached in any prorate district at such time as the committee determines that allotment shall be distributed to all handlers in such prorate district.

§ 914.15 *Box.* "Box" means a standard two-compartment orange box, as defined in section 828.83 of the Agricultural Code of California, of a capacity of approximately 77 pounds of oranges, or the equivalent thereof.

§ 914.16 *Central marketing organization.* "Central marketing organization" means any organization which markets oranges for more than one handler pursuant to a written contract between such organization and each such handler.

§ 914.17 *Carload.* "Carload" means a quantity of oranges equivalent to 462 packed boxes of oranges.

§ 914.18 *Export.* "Export" means shipments of oranges to points outside the continental United States, Canada, and Alaska.

ADMINISTRATIVE BODY

§ 914.20 *Establishment and membership.* There is hereby established a Navel Orange Administrative Committee consisting of eleven members; for each of whom there shall be an alternate member who shall be nominated and selected in the same manner and who shall have the same qualifications as the member for whom each is an alternate. Six of the members and their respective alternates shall be growers who shall not be handlers, or employees of handlers, or employees of central marketing organizations. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and an alternate of such member shall be nominated as provided in paragraph (f) of § 914.22. The six members of the committee who shall be growers and who shall not be handlers, or employees of handlers, or employees of central marketing organizations are hereinafter referred to as "grower" members of the committee and the four members who shall be handlers, or employees of handlers, or employees of central marketing organizations are hereinafter referred to as "handler" members of the committee.

§ 914.21 *Term of office.* The term of office of each initial member and alternate member of the committee shall begin on October 1, 1953, and shall terminate on October 31, 1954. The term of office of each subsequent member and alternate member of the committee shall be for a period of two years, and such terms shall begin on November 1 of each even-numbered year: *Provided,* That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified.

§ 914.22 *Nominations.* (a) The time and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of oranges during the fiscal year in which nominations for members and alternate members of the committee are submitted shall nominate not less than six growers for three grower members; not less than six growers for three alternate grower members; not less than four handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for two handler members; and not less than four handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for two alternate handler members of the committee.

(c) All cooperative marketing organizations which market oranges and which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate not less than two growers for one grower member; not less than two growers for one alternate grower member; not less than two handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for one handler member; and not less than two handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for one alternate handler member of the committee.

(d) All growers who are not affiliated with a cooperative marketing organization which markets oranges shall nominate not less than four growers for two grower members; not less than four growers for two alternate grower members; not less than two handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for one handler member; and not less than two handlers, or employees of handlers, or employees of central marketing organizations, or any combination thereof, for one alternate handler member of the committee.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of himself, his agents, subsidiaries, affiliates, and representatives. The votes of cooperative marketing organizations voting pursuant to paragraph (c) of this section shall be weighted in accordance with the volume of oranges handled during the fiscal year in which such nominations are made.

(f) The members of the committee selected by the Secretary pursuant to § 914.23 shall meet on a date designated by the Secretary and, by a concurring vote of at least six members, shall nominate two persons for a member and two persons for an alternate member of the committee, which persons shall not be growers or handlers, or employees, agents, or representatives of a grower or handler (other than a charitable or educational institution which is a grower or handler) or of a central marketing organization.

§ 914.23 *Selection.* From the nominations made pursuant to § 914.22 (b) the Secretary shall select three grower members of the committee and an alternate to each of such grower members; also two handler members of the committee and an alternate to each of such handler members. From the nominations made pursuant to § 914.22 (c) the Secretary shall select one grower member of the committee and an alternate to such grower member; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 914.22 (d) the Secretary shall select two grower members of the committee and an alternate to each of such grower members; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 914.22 (f) the Secretary shall select one member of the committee and an alternate to such member.

§ 914.24 *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 914.22 (a) the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 914.23.

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

§ 914.26 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor to the unexpired term of such member or alternate member of the committee shall be selected by the Secretary from nominations made in the manner specified in § 914.22. If the names of nominees to fill any such vacancy are not made available to the Secretary within fifteen days after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 914.23.

§ 914.27 *Alternate members.* An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member: *Provided,* That a member may designate an alternate member other than his own alternate member to serve in the place and stead of such member, if the alternate member so designated was selected from the same group which was authorized to nominate the member. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

§ 914.28 *Powers.* The committee shall have the following powers:

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

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

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

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

§ 914.29 *Duties.* The committee shall have the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a monthly statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a certified public accountant at least once each fiscal year, and at such other times as the Secretary may request;

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

(h) To provide an adequate system for determining the total quantity of oranges available for current shipment, and to make such determinations, including determinations by grade, size, and maturity conditions, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(i) To investigate the growing, handling, and marketing conditions with respect to oranges, and to assemble data in connection therewith;

(j) To submit to the Secretary such available information, including verified reports, as he may request;

(k) To notify producers and handlers of meetings of the committee to consider recommendations for regulation;

(l) To consult with such representatives of growers or groups of growers as may be deemed necessary and to pay the travel expenses incurred by such representatives in attending committee meetings at the request of the committee: *Provided,* That the committee shall not pay the travel expenses of more than three such representatives in connection with any one meeting of the committee; and

(m) To investigate compliance with the provisions of this part.

§ 914.30 *Procedure.* (a) A majority of the committee shall constitute a quorum and any action of the committee shall require at least six concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication; and any votes so cast shall be confirmed promptly in writing: *Provided,* That if an assembled meeting is held, all votes shall be cast in person.

§ 914.31 *Expenses and compensation.* The members of the committee, and their respective alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $10 per day or portion thereof spent in performing such duties.

§ 914.32 *Annual review and meeting.* The committee shall, prior to June 15 of each fiscal year, prepare and mail an annual report to the Secretary and to each handler and grower of record. This annual report shall contain at least: (a) A complete review, by prorate districts, of the regulatory operations during the fiscal year, as conducted under the marketing policy established pursuant to § 914.50 (a) (b) an appraisal of the effect of such regulatory operations upon the competitive status of the navel orange industry; (c) recommendations for changes in the program; and (d) notice of the time and place of an open meeting, to be held prior to July 1, to review the whole record of the operations of this part.

EXPENSES AND ASSESSMENTS

§ 914.40 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds may be necessary to enable the committee to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year: *Provided,* That expenses incurred by the committee prior to November 1, 1953, shall be paid from funds collected under the provisions of § 914.41 during the fiscal year beginning November 1, 1953.

§ 914.41 *Assessments.* (a) Each person who first handles oranges shall, with respect to the oranges so handled by him, pay to the committee, upon demand, such person's pro rata share of the expenses which the Secretary finds are necessary during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of such oranges handled by him as the first handler thereof during the applicable fiscal year, and the total quantity of such oranges so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all oranges handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance, and may borrow money in any amount not to exceed 10 percent of the estimated expenses set forth in its budget for the then current fiscal year.

(c) The committee may, with the approval of the Secretary, maintain a suit in its own name, or in the names of its members, to enforce the payment of assessments levied under this section.

§ 914.42 *Accounting.* (a) If, at the end of a fiscal year, the assessments collected are in excess of the expenses incurred, each person entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year. Any handler may demand payment of such a refund, and the refund shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

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

REGULATION

§ 914.50 *Marketing policy.* (a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers. The committee shall give notice to growers by publica-

tion of notice of such meetings in such newspapers as they deem appropriate and shall advise all handlers by mail of such meetings.

(c) The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 914.51 *Recommendations for volume regulation.* (a) The committee may recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district. If, for any reason, the committee recommends the issuance of volume regulation but fails to recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district, reports representing the respective views of the committee members with respect to its failure to act shall be submitted promptly to the Secretary.

(b) In making its recommendations, the committee shall give due consideration to the following factors: (1) Market prices for oranges, including market prices by grades and sizes; (2) supply of oranges on track at, and enroute to, the principal markets; (3) supply, maturity, and condition of oranges in the area of production, including the grade and size composition thereof; (4) market prices and supplies of citrus fruits from California, Arizona, and competitive producing areas, and supplies of other competitive fruits; (5) trend and level in consumer income; and (6) other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 914.52, has fixed the quantity of oranges which may be handled, the committee may, if such action is deemed advisable, recommend to the Secretary that such quantity be increased for such week. Any such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary.

§ 914.52 *Issuance of volume regulation.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled in each prorate district during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity. The quantity so fixed may be increased by the Secretary at any time during such week.

§ 914.53 *Prorate bases.* (a) Each person who has oranges available for current shipment shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this part.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least (1) the name and address of the producer or duly authorized agent, if any, for each grove or portion thereof, the fruit of which is included in the quantity of oranges available for current shipment by the applicant; (2) an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein; and (3) an estimate of the total quantity of oranges available for current shipment by the applicant in terms of a unit of measure designated by the committee.

(c) Such application shall include only such oranges available for current shipment which the applicant controls (1) by a bona fide written contract giving the applicant authority to handle such oranges, or (2) by having legal title or possession thereof, or (3) by having executed a bona fide written agreement to purchase such oranges. If an applicant controls oranges pursuant to subparagraph (1) or (3) of this paragraph, he shall submit a copy of each type of such contract to the committee, together with a statement that no other types of contracts are used, and shall maintain a file of all original contracts evidencing such control which shall be subject to examination by the committee.

(d) If the quantity of oranges available for current shipment by any person is increased or decreased by the acquisition or loss of the control required by paragraph (c) of this section, such person shall submit promptly a report thereon to the committee upon forms made available by it, which report shall be verified in such manner as the committee may require.

(e) If any person gains or loses control of oranges as required by paragraph (c) of this section, there shall be a corresponding increase or decrease in the quantity of oranges available for current shipment by such person. If it is determined by the committee that any person who has lost control of oranges as required by paragraph (c) of this section has handled a quantity of such oranges less than the quantity that could have been handled under the allotments issued thereon, the quantity of oranges available for current shipment by such person shall be adjusted by deducting therefrom, over such period as may be determined by the committee, a quantity of oranges equivalent to the quantity upon which allotments were issued but which were not utilized thereon.

(f) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted such report a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of oranges available for current shipment than that to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, or inaccuracy.

(g) Each week during the marketing season the committee shall compute the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments in each prorate district, and shall transmit a report thereon to the Secretary. Such report shall constitute the basis for a recommendation by the committee for a prorate base for each such person. Such computations and reports shall be prepared and submitted prior to the time when the recommended prorate bases are to become applicable.

(h) Upon the basis of the recommendations and reports of the committee, or from other available information, the Secretary shall fix a prorate base for each person who is entitled thereto in each prorate district. Such prorate base shall represent the ratio between the total quantity of oranges available for current shipment in each such district by each person and the total quantity of oranges available for current shipments in each such district by all such persons. The Secretary shall notify the committee of the prorate base fixed for each person and the committee shall notify each such person of the prorate base fixed for him.

§ 914.54 *Allotments.* Whenever the Secretary has fixed the quantity of oranges which may be handled during any week in a prorate district, and has fixed prorate bases for persons entitled thereto, the committee shall calculate the quantity of oranges which may be handled by each such person during such week. The said quantity shall be the allotment of each such person and shall be in an amount equivalent to the product of the prorate base for each such person in each such prorate district and the total quantity of oranges grown in each such prorate district and fixed by the Secretary as the total quantity of oranges which may be handled during such week. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this part.

§ 914.55 *Overshipments.* During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person when not required to reduce the quantity of oranges which he may handle during such week, as provided in this section, or whose total allotment is not required for the repayment of an allotment loan, may handle in addition to his allotment an amount of such oranges equivalent to 10 percent of his allotment, or 462 packed boxes of oranges or the equivalent thereof, whichever is greater. The quantity of oranges so handled in excess of each such person's allotment (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from each such person's allotment for the next week. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the re-

maining quantity shall be deducted from succeeding weekly allotments issued to each such person until such excess has been entirely offset: *Provided,* That no overshipment incurred during one season shall be deducted from allotments issued during the following season. The provisions of this section shall not apply to any person who, during any week, has not received an allotment under this subpart for such week.

§ 914.56 *Undershipments.* If any person handles during any week a quantity of oranges, covered by a regulation issued pursuant to § 914.52, in an amount less than his allotment of oranges for such week, he may handle, in addition to his allotment for the next week only, a quantity of such oranges equivalent to such undershipment.

§ 914.57 *Allotment loans.* (a) A person to whom allotments have been issued, whether under the provisions of early maturity short life, or general maturity, may lend such allotments to other persons within the same prorate district to whom allotments have also been issued: *Provided,* That allotments issued under the short life provisions of this subpart may be loaned only to other persons to whom such allotments have also been issued. Such loans shall be confirmed to the committee by both parties thereto within 48 hours after any such agreement has been entered into, and such agreements shall include a date for the repayment of such allotments to the lender during the then current marketing season. If, on the date of repayment specified in the loan agreement, the borrower has insufficient allotment to repay such loan, he shall repay such loan as soon after the repayment date as he has allotments available to him for that purpose: *Provided,* That no loans made during one season shall be required to be repaid from allotments issued during the following season.

(b) The committee may act on behalf of persons desiring to arrange allotment loans. In each case, the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to a confirmation of the loan agreement to the committee.

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section, for use only during the week for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the week in which the repayment is made.

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after the repayment thereof.

§ 914.58 *Assignment of allotment certificates.* In connection with all handling of oranges other than shipments by rail car, each handler who first handles oranges shall at the time of handling issue to the consignee thereof, or his agent, an assignment of allotment certificate covering each quantity of oranges so handled. Such assignment of the allotment certificate shall be on such forms and shall be issued in such manner as prescribed by the committee and shall contain such information as the committee may require.

§ 914.59 *Priority of allotments.* During any week in which a person receives an allotment, and has the right to handle a quantity of oranges in addition to the quantity represented by his allotment, by reason of (a) an undershipment of an allotment, pursuant to § 914.56; or (b) the repayment of a loaned allotment, pursuant to § 914.57; or (c) a borrowed allotment, pursuant to § 914.57, and such person handles a quantity of oranges which is less than the total quantity of such oranges which such person may handle during such week, the amount of such oranges handled shall first apply to such person's current weekly allotment (or to that portion which is not used pursuant to § 914.55 or § 914.57) The remainder, if any shall be applied in the following order: second, to any undershipment of allotments, pursuant to § 914.56, third, to any allotment repaid to him, pursuant to § 914.57; fourth, to any allotment borrowed, pursuant to § 914.57.

§ 914.60 *Early maturity allotments.* Notwithstanding the provisions of § 914.54 the committee may, prior to the reaching of general maturity, issue special allotments for the handling of oranges of early maturity. Handlers controlling oranges of early maturity may apply to the committee for such allotments on forms prescribed by the committee and shall furnish to the committee such information as it may require. On the basis of all available information and after consideration of all of the factors enumerated in § 914.51 (b) the committee shall determine the extent to which early maturity allotment shall be granted. Total early maturity allotments approved by the committee for each prorate district shall be distributed to all handlers who qualify therefor in proportion to the quantity requested by each handler in his application: *Provided, however* That early maturity allotments issued to any handler prior to the reaching of general maturity shall not permit the handling of a larger share of the oranges available for current shipment controlled by such handler than the share of oranges available for current shipment in the prorate district estimated to be allotted to all handlers in the utilization schedule established by the committee at the beginning of the season. Early maturity allotments may be loaned only to handlers to whom early maturity allotments have been granted. Upon the reaching of general maturity, allotments issued for early maturity oranges shall be offset or repaid by reducing the oranges available for current shipment of each handler who has received early maturity allotments by the quantity of oranges for which early maturity allotments were issued to him, plus his proportionate share of the quantity of oranges that will be used for by-products or elimination in his prorate district. Such proportionate share shall be based upon the utilization schedule established by the committee at the beginning of the season. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Allotments withheld, issued, and allocated, and averages computed hereunder shall be on a prorate district basis.

§ 914.61 *Short life allotments.* Notwithstanding the provisions of § 914.54 the committee shall withhold from the allotment of handlers on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers controlling oranges of short life to handle during the normal marketing period of such short life oranges as large a proportion of oranges as the average which will be handled by all handlers. Handlers controlling oranges of short life may apply for such withheld allotment, and such application shall be made on forms supplied by the committee and shall be accompanied by information necessary to permit the committee to determine the validity of such applicant's claim to allotment. The committee shall determine, on the basis of all available information, the extent to which a handler needs allotment under the provisions of this section and pursuant to such determination shall allocate such allotment to such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of his short life oranges. Such determination and allotment issued pursuant thereto shall not permit a handler to receive more allotment proportionately than the average allotment to be issued to all handlers of oranges. After a handler of short life oranges has received allotment sufficient to make the total allotment issued to him equal proportionately to the average allotment to be issued to all handlers of oranges, allotment thereafter due such handler of short life oranges shall be allocated to handlers from whom allotment has been withheld. Short life allotments may be used only in the handling of short life oranges. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Allotments withheld, issued, and allocated, and averages computed under this part shall be on a prorate district basis.

§ 914.62 *Information to central marketing organizations.* The committee shall give any central marketing organization, upon its request, the same notice with respect to prorate bases and allotments applicable to each handler for whom it markets oranges as is given to such handler.

§ 914.63 *Recommendations for size regulation.* (a) Whenever the committee finds that the supply and demand conditions for sizes of oranges make it advisable to regulate the handling of sizes of oranges during any period, it shall recommend to the Secretary the sizes of oranges grown in each prorate district which it deems advisable to be handled during said period. Any such recommendation may include a proposal that the handling of oranges shipped to Canada shall be subject to size regula-

tion different from the proposed size regulation applicable to the handling of other shipments of oranges. The committee shall promptly submit such findings and recommendations, together with supporting information, to the Secretary.

(b) In making its recommendations the committee shall give due consideration to the factors referred to in § 914.51 (b)

§ 914.64 *Issuance of size regulation.* Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of oranges by sizes would tend to effectuate the declared policy of the act, he shall fix the sizes of oranges grown in each such prorate district which may be handled during the specified period. Any such regulation may provide that the handling of oranges shipped to Canada shall be subject to size regulation different from the size regulation applicable to the handling of other shipments of oranges. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers.

§ 914.65 *Exemptions from size regulation.* In the event oranges are regulated pursuant to § 914.64, the committee shall issue one or more exemption certificates to any producer who furnishes evidence satisfactory to the committee that he will be prevented by reason of such regulation from having as large a proportion of oranges handled as the average proportion of oranges which may be handled by all other producers in the same prorate district. Such exemption certificate shall permit the respective producer to whom the certificate is issued to handle or have handled a percentage of his oranges equal to the percentage determined as aforesaid. Shipments of oranges under exemption certificates issued pursuant to this section shall be subject to and limited by such regulations as may be effective under § 914.52 at the time of the respective shipment. The committee shall adopt, with the approval of the Secretary, procedural rules by which such exemption certificates will be issued to producers. Such exemption certificates may be transferred to handlers when accompanied by oranges covered by such certificates.

§ 914.66 *Prorate districts.* For purposes of administration of this part and in recognition of the fact that there are general differences in maturity and keeping quality of oranges between certain geographical sections of the production area, the production area shall be divided in four prorate districts as follows:

(a) District 1 shall include that portion of the State of California between the 35th Parallel and the 37th Parallel, but shall exclude that portion of Kern County situated south of the Kern River.

(b) District 2 shall include that portion of the State of California which is south of the 35th Parallel, but shall exclude Imperial County and that portion of Riverside County, California, situated south and east of White Water, California.

(c) District 3 shall include the State of Arizona, Imperial County, California, and that portion of Riverside County, California, situated south and east of White Water, California.

(d) District 4 shall include that portion of Kern County, California, situated south of the Kern River.

§ 914.67 *Oranges not subject to regulation.* Except as otherwise provided in this section nothing contained in this subpart shall be construed to authorize any limitation of the right of any person to handle oranges (a) for consumption by charitable institutions or for distribution by relief agencies; (b) for commercial processing into products, including juice; (c) for export; (d) for shipment by parcel post or by express; or (e) in such minimum quantities or type of shipments as the committee may, with the approval of the Secretary, prescribe. No assessment shall be levied pursuant to § 914.41 on oranges disposed of for the purposes specified in this section. The committee shall prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as it may deem necessary to prevent oranges shipped under the provisions of this section from entering into commercial channels of trade contrary to or in violation of this subpart.

REPORTS

§ 914.70 *Weekly report.* On or before such day of each week as may be designated by the committee, each handler shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to the total of all oranges disposed of by each such handler during the immediately preceding week: (a) The total quantity handled; (b) the total quantity disposed of for manufacture into by-products, showing the identity of each by-products processor involved and the quantity of each; (c) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (d) the total quantity shipped for disposition to persons on relief, including quantity donated for charitable purposes, and shipments by parcel post or express, showing the destination and quantity of each such shipment; and (e) the total quantity disposed of otherwise, showing manner and quantity of each such disposition.

§ 914.71 *Manifest report.* Each handler shall furnish to the committee information regarding the size of oranges in each standard packed box or its equivalent handled by such handler whether such shipments were destined to points in the United States and Alaska or to Canada and shall mail or deliver such information to said committee or its duly authorized representative within 24 hours after shipment is made in such manner as the committee shall prescribe and upon forms prepared by it.

§ 914.72 *Other reports.* Upon request of the committee, made with the approval of the Secretary, every person subject to regulation under this part shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as will enable the committee to perform its duties under this part.

MISCELLANEOUS PROVISIONS

§ 914.80 *Compliance.* Except as provided in this part, no person shall handle oranges during any week in which a regulation issued by the Secretary pursuant to § 914.52 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this part and the regulations issued under this part.

§ 914.81 *Right of the Secretary.* The members of the committee (including successors and alternates) and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary. If the committee, for any reason, fails to perform its duties or exercise its powers under this part, the Secretary may designate another agency to perform such duties and exercise such powers.

§ 914.82 *Effective time.* The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 914.83.

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

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

(c) (1) The Secretary shall terminate the provisions of this part at the end of any fiscal year, whenever he finds that continuance is not favored by producers; but such termination shall be effected only if announced on or before October 15 of the then current fiscal year.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representative pe-

riod, determined by the Secretary, have been engaged, within the production area, in the production of navel oranges for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of navel oranges produced within the production area for market), shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of navel oranges produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(3) The Secretary shall, during the 1954–55 fiscal year and prior to September 15, 1955, conduct a referendum to ascertain whether continuance of this part is favored by the producers. The Secretary shall conduct such a referendum prior to September 15 of each odd-numbered year thereafter.

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

§ 914.84 *Proceedings after termination.* (a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and (3) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

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

§ 914.85 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

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

§ 914.87 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 914.88 *Derogation.* Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 914.89 *Personal liability.* No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

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

Order Directing That a Referendum Be Conducted; Designation of Referendum Agents to Conduct the Referendum, and Determination of Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) it is hereby directed that a referendum be conducted among the producers who, during the period November 1, 1952, through July 15, 1953 (which period is hereby determined to be a representative period for the purpose of such referendum) were engaged, in the State of Arizona and that part of the State of California south of the 37th Parallel, in the production of navel oranges for market to ascertain whether such producers approve or favor the issuance of an order regulating the handling of navel oranges grown in the aforesaid production area, which order is annexed to this decision. M. T. Coogan and Warren C. Noland, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 1005, 1031 South Broadway, Los Angeles 15, California, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and Its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F R. 5176) except that for the purpose of this referendum:

Paragraphs (c) (1) and (6) shall read as follows:

(1) Conduct the referendum in the manner herein prescribed, by giving an opportunity to producers, who, during the period November 1, 1952, through July 15, 1953 (which period is determined to be a representative period for the purpose of said referendum), have been engaged, within the specified production area, in the production for market of navel oranges, to cast their ballots relative to the issuance of such order.

(6) In the event such agents determine that ballots may be cast by mail, cause all the material specified in paragraph (c) (5) hereof to be mailed to each such cooperative association and each such producer whose name and address is known.

Copies of the aforesaid annexed order, the aforesaid referendum procedure (15 F R. 5176) and of this order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington, D. C., and at the Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 1005, 1031 South Broadway, Los Angeles 15, California.

Ballots to be cast in the referendum, and other necessary forms and instructions may be obtained from the aforesaid referendum agents, or from any appointee hereunder.

Marketing agreement and order Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Navel Oranges Grown in Arizona and Designated Part of California" and "Order Regulating the Handling of Navel Oranges Grown in Arizona and Designated Part of California" which have been decided on as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid amended rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders, have been met.

It is hereby ordered, That all of this decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the said annexed order which will be published with this decision.

Done at Washington, D. C., this 5th day of August 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-6990; Filed, Aug. 7, 1953; 8:55 a. m.]

[7 CFR Part 953]

[Docket No. AO-144-A4]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

DECISION WITH RESPECT TO PROPOSED AMENDMENT TO AMENDED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Los Angeles, California, on May 1, 1953, after notice thereof published in the FEDERAL REGISTER (18 F. R. 2084) on a proposed amendment to Marketing Agreement No. 94, as amended, and Order No. 53, as amended (7 CFR Part 953) hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of lemons grown in California and Arizona, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

On the basis of the evidence introduced at the hearing, and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 3, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F R. Doc. 53-6070; 18 F. R. 4030) No exception to said recommended decision was filed.

Material issues. The material issue presented on the record of the hearing was concerned with amending the marketing agreement and order to include in District 3 that portion of San Bernardino County, California, east of the 115th Meridian, which is presently included in District 2.

Findings and conclusions. The findings and conclusions on the aforesaid issue, all of which are based upon the evidence introduced at the hearing and the record thereof, are as follows:

There are substantial differences between the existing lemon-producing areas of District 2 and District 3. Summers are very warm and dry in District 3. The lemon trees in District 3 bloom and set fruit during a relatively short period each year, and the lemons are harvested within the period October through December. The lemons grown in District 3 generally are not suitable for storage and are marketed as soon as possible after picking.

The climate in the principal lemon-producing areas of District 2 is characterized by cool summers and relatively high humidity. The lemon trees in this district generally bloom and set fruit throughout the year and the lemons are harvested throughout the year also, with the heaviest production and harvesting occurring during the period December 1 to July 1. The majority of the lemons grown in District 2 have excellent keeping qualities and may be stored for as long as five or six months for marketing during the summer when demand is heaviest.

Because of the differences in the producing and marketing of the lemons grown in different parts of the area covered by the marketing agreement and order, districts were established and provision was made for regulation by districts so as to facilitate the establishment of limitation on the shipment of lemons which would give due recognition to such differences. At the time the boundaries of District 2 and District 3 were established, there were no lemons grown in that portion of San Bernardino County, California, which is east of the 115th Meridian. Hence, all of San Bernardino County was placed within District 2 even though the climatic conditions and, thus, the characteristics of any lemons grown in the eastern portion of such county would be similar to those of District 3.

In April 1952, lemon trees were planted on approximately 50 acres in eastern San Bernardino County near the Colorado River, and it is possible that additional plantings may be made in this area. There will be some production of lemons from the acreage so planted during the 1953-54 season. Since such lemons are being grown under climatic conditions similar to those in District 3 and will have the same characteristics with respect to time of bloom, harvesting, and marketing as the lemons grown in such district, the marketing agreement and order should be amended as hereinafter set forth. Such amendment would result in the regulation of the marketing of lemons produced from such planted acreage so as to give proper recognition to the production and marketing characteristics of such lemons.

That part of San Bernardino County, California, which is east of the 115th Meridian would not be contiguous with the remainder of District 3 in California if the proposed amendment set forth in the Notice of Hearing were to be made effective, because there is a portion of Riverside County which is north of the San Gorgonio Pass but east of the 115th Meridian which would remain in District 2. The testimony indicates that it was intended to include in District 3 any lemons which may be planted in the approximate vicinity of the Colorado River because of the climatic conditions which prevail in that general region. The part of Riverside County in question borders the Colorado River, and any lemons which may be planted in such area would have the production and marketing characteristics of lemons planted east of the 115th Meridian in San Bernardino County, and, consequently, of lemons produced in District 3. Therefore, the producer of any lemons which may be planted in such area would receive more equitable treatment if such area were included in District 3.

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

(b) The marketing agreement, as hereby proposed to be amended, and the order, as hereby proposed to be amended, regulate the handling of lemons grown in the States of California and Arizona in the same manner as, and are applicable to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(c) The marketing agreement, as hereby proposed to be amended, and the order, as hereby proposed to be amended, prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of lemons covered thereby; and

(d) The marketing agreement, as hereby proposed to be amended, and the order, as hereby proposed to be amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act.

Effective March 15, 1953, the parity price for lemons grown in California and Arizona was $3.87 per box on the tree. On the basis of information now available the seasonal average price for lemons grown in California and Arizona probably will not exceed the parity level for the 1953-54 season.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Marketing Agreement, as Amended, Regulating the Handling of Lemons Grown in California and Arizona" and "Order Amending the Order, as Amended, Regulating the Handling of Lemons Grown in California and Arizona" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Determination of representative period. The period beginning November 1, 1951, and ending October 31, 1952, is hereby determined to be a representative period for ascertaining whether the issuance of the order amending the order, as amended, regulating the handling of lemons grown in California and Arizona, is approved or favored by producers who, during such period, have been engaged in the production of lemons within such area.

It is hereby ordered, That all of this decision except the attached agreement amending the marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement amending the marketing agreement, as amended, are identical with those contained in the attached order amending the order, as amended, which will be published with this decision.

This decision filed at Washington, D. C., this 5th day of August 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture

Order[1] *Amending the Order, as Amended, Regulating the Handling of Lemons Grown in California and Arizona*

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

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Los Angeles, California, on May 1, 1953, upon a proposed amendment to Marketing Agreement No. 94, as amended, and Order No. 53, as amended (7 CFR Part 953) regulating the handling of lemons grown in California and Arizona. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order, as amended, and as hereby further amended, regulates the handling of lemons grown in California and Arizona in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The said order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of the lemons covered thereby; and

(4) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of lemons grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

Delete paragraph (b) of § 953.64 *Districts* and substitute therefor the following:

(b) "District 2" shall include that part of the State of California which is south of a line drawn due east and west through the Tehachapi Mountains, but shall exclude Imperial County, California, that part of Riverside County, California, situated south and east of San Gorgonio Pass, that part of Riverside County, California, situated north of San Gorgonio Pass but east of the 115th Meridian, and that part of San Bernardino County, California, situated east of the 115th Meridian.

[F. R. Doc. 53-6955; Filed, Aug. 7, 1953; 8:47 a. m.]

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

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES OF PRUNE ADMINISTRATIVE COMMITTEE FOR 1953-54 CROP YEAR AND FIXING RATE OF ASSESSMENT FOR SUCH YEAR

Notice is hereby given that the Secretary of Agriculture is considering a proposed rule to approve a budget of expenses for the Prune Administrative Committee for the 1953-54 crop year, and fix a rate of assessment for such year, as hereinafter set forth, which were recommended by said committee in accordance with the provisions of Marketing Agreement No. 110, as amended, and Order No. 93, as amended (7 CFR, 1952 Rev., Part 993) regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Consideration will be given to any data, views, or arguments pertaining thereto which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the eighth day after the date of the publication of this notice in the FEDERAL REGISTER, except that, if said eighth day after publication should fall on a legal holiday, Saturday, or Sunday, such submission will be received by the Director not later than the close of business on the next following business day.

The proposed rule is as follows:

§ 993.304 *Budget of expenses of the Prune Administrative Committee and rate of assessment for the 1953-54 crop year*—(a) *Budget of expenses.* Expenses in the amount of $84,483 are reasonable and are likely to be incurred by the Prune Administrative Committee for its maintenance and functioning for the crop year beginning August 1, 1953, and ending July 31, 1954.

(b) *Rate of assessment.* Each handler shall pay to the Prune Administrative Commitee in accordance with provisions of § 993.50 (e) of the marketing agreement, as amended, and order, as amended, an assessment of 63 cents for each ton of prunes received by him as the first handler thereof during the crop year beginning August 1, 1953, and ending July 31, 1954, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

Issued at Washington, D. C. this 5th day of August 1953.

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

[F. R. Doc. 53-6989; Filed, Aug. 7, 1953; 8:55 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 10604]

RADIO BROADCAST SERVICES

STANDARD BROADCAST STATIONS

In the matter of amendment of Part 3, Radio Broadcast Services of the Commission's rules and regulations and the Standards of Good Engineering Practice Concerning Standard Broadcast Stations; Docket No. 10604.

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

2. The present map entitled "Ground Conductivity in the United States and Canada" designated as Figure 3 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations, was prepared in 1938 upon the basis of the relatively limited amount of groundwave field intensity data available at that time. This data was correlated with soil type maps published by the Department of Agriculture to provide ground conductivity values for all parts of the United States and for parts of Canada. However, it is now known that the conductivity values depicted on the map are grossly in error in some areas such as the San Joaquin Valley in California and the Texas and Louisiana gulf coast regions. Other features of the map such as scale, clearness, geographic detail and conductivity units are in need of improvement.

3. It is proposed to delete the existing ground conductivity map contained in the standards and substitute a new map to depict more accurately ground conductivity values[1] and to effect other improvements. The map proposed is entitled "Estimated Effective Ground Conductivity in the United States" (Figures M3 and R3)[2] and was prepared by the Commission's engineering staff with the assistance of the National Bureau of Standards on the basis of ground wave field intensity data filed with the Com-

[1] The proposed unit of conductivity is the millimho per meter (mmho/m) in the Giorgi (MKS) system where 1 millimho per meter $=1\times10^{-14}$ e. m. u.

[2] "M3" and "R3" are contractions of "Master 3" and "Replica 3", respectively.

mission or taken by the Commission itself.[3]

4. It is proposed to make this map available in two forms. The master map (Figure M3) to be used in calculations of broadcast station coverage and interference situations in which location of conductivity contours is a factor, has as a base the United States Albers equal area projection map (scale 1/2,500,000 published by the United States Department of the Interior, Geological Survey) and contains an overlay of conductivity contours. Because of its large size Figure M3 will be published as an individual document. It is expected that master maps with printed overlays will be available for purchase from the Superintendent of Documents at a price of $2.00 each. For convenience in handling and for ready reference, a replica of the map (Figure R3) will be made part of the Standards of Good Engineering Practice. The original of Figure M3 is on display in Room 7500 of the New Post Office Building, Washington 25, D. C. Copies of Figure R3 may be obtained from the Commission upon request.

5. It is also necessary to revise the text of the standards with respect to the use of the ground conductivity map and to other suggested sources of ground conductivity information. Sections 1 and 2 provide for use of the ground conductivity map where groundwave field intensity measurements are unavailable. But section 4 sets out the values of conductivity and inductivity for various soil types and provides for use of such values in transmitter site selection when field intensity measurements are unavailable. It is proposed to eliminate the conflict by the deletion of Table B in section 4 and all references thereto, and by the provision in section 4 for the use of the proposed conductivity map. Changes are also proposed in section 2 with respect to this map.

6. Footnote 13 in section 1 presently provides, "The Commission will not authorize operation on a proposed assignment for the purpose of making measurements." This footnote has been misleading and confusing in view of the fact that section 4 of the Standards urges the making of field intensity surveys to assist in the selection of transmitter sites. Indeed, we have in the past authorized the use of test transmitters on standard broadcast frequencies to make such surveys. It is therefore felt that adequate provision for and governing such authorizations should be made in our rules and regulations. Accordingly, we propose to delete footnote 13 of section 1 and add a new § 3.36 to Part 3 of the rules. This new section specifies the procedures and conditions attending special field test authorizations to be issued by the Commission.

7. Authority for the adoption of the proposed amendments set forth below is contained in sections 4 (i) 303 (f) and 303 (r) of the Communications Act of 1934, as amended.

8. Any interested party who is of the opinion that the proposed amendments should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before September 10, 1953, a written statement or brief setting forth comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 10 days from the last date for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action on this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or argument will be given.

9. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: July 29, 1953.

Released: August 3, 1953.

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

I. It is proposed to add a new section to Part 3, Radio Broadcast Services, as follows:

§ 3.36 *Special field test authorization*

(a) Upon a showing that a need exists, a special test authorization to operate a portable or regularly authorized transmitter may be issued to persons desiring to make field intensity surveys to determine values of soil conductivity, or other factors influencing radio wave propagation, in particular areas or paths for the period necessary to conduct the survey. Such authorizations may be granted upon the following conditions:

(1) No objectionable interference will result to the operation of other authorized radio services.

(2) The carrier will be unmodulated except for half-hourly voice identification.

(3) The power input to the antenna, determined by the direct method of power measurement in accordance with Commission Standards of Good Engineering Practice Concerning Standard Broadcast Stations, shall not exceed authorized test power.

(4) The test equipment shall not be permanently installed, unless such installation has been separately authorized. Mobile units shall not be deemed permanent installations.

(5) The equipment must be operated by or under the personal direction of either a licensed radiotelephone first-class or second-class operator.

(6) A report, under oath, containing the measurements, their analysis and other results of the survey shall be filed with the Commission within sixty (60) days from the termination of the test authorization. The measurements taken shall be sufficiently complete, in accordance with section 2 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations, so as to permit a determination of the unattenuated field at 1 mile in pertinent directions.

(7) The power input to the antenna shall be logged at half-hour intervals and at any time that such power is changed. Such log notations together with the antenna resistance measurements shall be submitted to the Commission with the required report.

(8) Operation shall conform to the requirements of Subpart G of this part.

(b) The test equipment, installation and operation thereof need not comply with the requirements of Commission rules and standards except as specified in this section: *Provided, however* That the equipment, installation and operation shall be consistent with good engineering principles and practices.

(c) No authorization shall be issued unless the applicant for such authorization is determined to be legally qualified. Requests for authorizations to operate a transmitter under this section shall be made in writing, signed by the applicant under oath or affirmation (with no special form provided, however), and shall set forth the following information:

(1) Purpose, duration and need for the survey.

(2) Frequency, power and time of operation.

(3) A brief description of the test antenna system and its estimated effective field and its proposed location.

(4) In the case of a directional test antenna, an estimate of the maximum fields expected to be radiated in the direction of pertinent broadcast stations.

(5) In the case of a person who is not a licensee or permittee of this Commission the information required by section II of FCC Form 301.

(d) The authorization may be modified or terminated if in the judgment of the Commission such action will promote the public interest, convenience or necessity.

II. It is proposed to amend Annex 1 of section 1 of the Standards of Good Engineering Practice Concerning Standard Broadcast Stations to read as follows:

ANNEX 1

Groundwave signals

A. Interference that may be caused by a proposed assignment or an existing assignment during day time should be determined, when possible, by measurements on the frequency involved or on another frequency over the same terrain and by means of the curves in Appendix I entitled "Ground Wave Field Intensity versus Distance."

B. In determining interference based upon field intensity measurements, it is necessary to do the following:

First, establish the outer boundary of the protected service area of the desired station in the direction of the station that may cause interference to it. Second, at this boundary, measure the interfering signal from the undesired station. The ratio of the desired to the undesired signal given in Table V should be applied to the measured signals and if the re-

[3] The map has as its prototype one published by the Commission's Technical Research Division as T. R. R. Report No. 2.1.4 dated February 1953. However, some revisions have been made in the Rocky Mountain area.

quired ratio is observed, no objectionable interference is foreseen. When measurements of both the desired and undesired stations are made in one area to determine the point where objectionable interference from groundwave signals occur or to establish other pertinent contours, several measurements of each station shall be made within a few miles of this point or contour. The effective field of the antennas in the pertinent directions of the stations must be established and all measurements must be made in accordance with section 2 (Field Intensity Measurements in Allocation)

C. In all cases where measurements taken in accordance with the requirements are not available, the groundwave intensity must be determined by means of the pertinent map of ground conductivity and the groundwave curves of field intensity versus distance. The conductivity of a given terrain may be determined by measurements of any broadcast signal traversing the terrain involved. Figures M3 [13] and R3 show the conductivity throughout the United States by general areas of reasonably uniform conductivity. When it is clear that only one conductivity value is involved, Figure R3, which is a replica of Figure M3 and contained in these standards, may be used; in all other situations Figure M3 must be employed. It is recognized that in areas of limited size or over a particular path, the conductivity may vary widely from the values given; therefore, these maps are to be used only when accurate and acceptable measurements have not been made. Figure 4 is a map of ground conductivity in Canada prepared by the Canadian Department of Transport. It is to be noted that at some locations there are differences in conductivity on either side of the border, which cannot be explained by geophysical cleavages. Pending adjustment of the maps for such inconsistencies, all variations at the border will be treated as real.

D. An example of determining interference by the curves in Appendix 1 follows:

It is desired to find whether objectionable interference exists between a 5 kw Class III station on 990 kc and a 1 kw Class III station on 1000 kc, the stations being separated by 130 miles; both stations use nondirectional antennas [14] having such height as to produce an effective field for 1 kw of 175 mv/m.[15] The conductivity at each station and of the intervening terrain is determined as 6 mmhos/m. The protection to Class III stations during daytime is to the 500 uv/m contour. The distance to the 500 uv/m groundwave contour of the 1 kw station is determined by the use of the appropriate curve in Appendix 1–Graph 12. Since the curve is plotted for 100 uv/m at a mile, to find the distance to the 500 uv/m contour of the 1 kw station, it is necessary to determine the distance to the 285 uv/m contour $\left(\frac{100\times500}{175}\right)=285$. From the appropriate curve, the estimated radius of the service area for the desired station is found to be 39.5 miles. Subtracting this distance from the distance between the two stations, leaves 90.5 miles for the interfering signal to travel. From the above curve it is found that the signal from the 5 kw station at this distance would be 158 uv/m. Since a one to one ratio applies for stations separated by 10 kc, the undesired signal at that point can have a value up to 500 uv/m without objectionable interference. If the undesired signal had been found to be greater than 500 uv/m, then objectionable interference would exist. For other channel separations, the appropriate ratio of desired to undesired signal should be used.

E. Where a signal traverses a path over which different conductivities exist, the distance to a particular groundwave field intensity contour shall be determined by the use of the equivalent distance method. Reasonably accurate results may be expected in determining field intensities at a distance from the antenna by application of the equivalent distance method when the unattenuated field of the antenna, the various ground conductivities and the location of discontinuities are known. This method considers a wave to be propagated across a given conductivity according to the curve for a homogeneous earth of that conductivity. When the wave crosses from a region of one conductivity into a region of a second conductivity, the equivalent distance of the receiving point from the transmitter changes abruptly but the field intensity does not. From a point just inside the second region the transmitter appears to be at that distance where, on the curve for a homogeneous earth of the second conducity, the field intensity equals the value that occurred just across the boundary in the first region. Thus the equivalent distance from the receiving point to the transmitter may be either greater or less than the actual distance. An imaginary transmitter is considered to exist at that equivalent distance. This technique is not intended to be used as a means of evaluating unattenuated field or ground conductivity by the analysis of measured data. The method to be employed for such determinations is set out in section 2 of these standards.

F An example of the use of the equivalent distance method follows:

It is desired to determine the distance to the 0.5 mv/m and 0.025 mv/m contours of a station on a frequency of 1000 kc with an unattenuated field of 100 mv/m at one mile being radiated over a path having a conductivity of 10 mmhos/m for a distance 15 miles, 5 mmhos/m for the next 20 miles and 15 mmhos/m thereafter. By the use of the appropriate curves in Appendix 1—Graph 12, it is seen that at a distance of 15 miles on the curve for 10 mmhos/m the field is 3.45 mv/m. The equivalent distance to this field intensity for a conductivity of 5 mmhos/m is 11 miles. Continuing on the propagation curve for the second conductivity, the 0.5 mv/m contour is encountered at a distance of 27.9 miles from the imaginary transmitter. Since the imaginary transmitter was 4 miles nearer (15–11 miles) to the 0.5 mv/m contour, the distance from the contour to the actual transmitter is 31.9 miles (27.9+4 miles). The distance to the 0.025 contour is determined by continuing on the propagation curve for the second conductivity to a distance of 31 miles (11+20 miles), at which point the field is read to be 0.39 mv/m. At this point the conductivity changes to 15 mmhos/m and from the curve relating to that conductivity, the equivalent distance is determined to be 58 miles—27 miles more distant than would obtain had a conductivity of 5 mmhos/m prevailed. Using the curve representing the conductivity of 15 mmhos/m the 0.025 mv/m contour is determined to be at an equivalent distance of 172 miles. Since the imaginary transmitter was considered to be 4 miles closer at the first boundary and 27 miles farther at the second boundary, the net effect is to consider the imaginary transmitter 23 miles (27−4 miles) more distant than the actual transmitter; thus the actual distance to the 0.025 mv/m contour is determined to be 149 miles (172−23 miles).

III. It is proposed to amend section 4 of these standards by deleting Table B and the paragraph which begins "Table B indicates the values of inductivity and conductivity-* * * " and substitute the following:

Figures M3 and R3 indicate effective conductivity values in the United States and are to be used for determining the extent of broadcast station coverage when adequate field intensity measurements over the path in question are not available. Since the values specified are only for general areas and since conductivity values over particular paths may vary widely from those shown, caution must be exercised in using the maps for selection of a satisfactory transmitter site. Where the submission of field intensity measurements is deemed necessary or advisable, the Commission, in its discretion, may require an applicant for new or changed broadcast facilities to submit such data in support of its application.

IV It is proposed to delete Figure 3 [1] and substitute therefor Figure R3.[2]

[F R. Doc. 53-6930; Filed, Aug. 7, 1953; 8:53 a. m.]

[13] Figure M3 was derived by indicating ground conductivity values in the United States on the United States Albers equal area projection map (based on standard parallels 29½ and 45½°. North American datum; scale 1/2,500,000). The map may be obtained from the Superintendent of Documents, Washington, D. C.

[14] See Annex II in case of use of directional antennas.

[15] In all cases the effective field should be established from the dimensions of the radiating system.

[1] Copies may be obtained from the Federal Communications Commission.

[2] Filed as part of the original document.

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 141, 201, 260]

[Docket No. R-126]

TREATMENT OF FEDERAL INCOME TAXES AS AFFECTED BY ACCELERATED AMORTIZATION

NOTICE OF EXTENSIONS OF TIME

JULY 30, 1953.

In the matter of amendment of Uniform System of Accounts prescribed for public utilities and licensees and natural gas companies and of Annual Reports, Forms Nos. 1 and 2, to provide for accounting and reporting of provision for future income taxes resulting from accelerated amortization.

Upon consideration of the request of Edison Electric Institute, filed July 23, 1953, for extensions of the time for oral argument and for the submission of data, views, and comments, as provided

in the notice of proposed rule making and fixing date for oral argument, dated June 16, 1953, in the above-entitled matter;

Notice is hereby given of extensions of time, provided in said notice, as follows:

The time for oral argument, prescribed in paragraph (A) be and it is hereby extended to October 16, 1953, at the same time and place;

The time for submission of data, views and comments, prescribed in paragraph (B) be and it is hereby extended to October 1, 1953;

The time for notifying the Secretary of intention to participate in the oral argument, together with the amount of time desired, prescribed in paragraph (C), be and it is hereby extended to October 6, 1953.

Paragraphs (A) (B) and (C) of the said notice are amended accordingly.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6963; Filed, Aug. 7, 1953; 8:49 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Farm Credit Administration

BONDS AND COUPONS OF INDIVIDUAL FEDERAL LAND BANKS

NOTICE OF CHANGE IN PLACE FOR PAYMENT

AUGUST 5, 1953.

On and after September 1, 1953, any bond issued by a Federal land bank individually, all of which have been called for payment, and any matured coupon issued with such a bond, will be paid on presentation to any Federal land bank. Heretofore such bonds and coupons have also been payable on presentation to any Federal reserve bank or the Treasurer of the United States. On and after the above date this service by the reserve banks and the Treasurer of the United States will be discontinued. It will, however, be continued for consolidated Federal farm loan bonds and coupons issued by the twelve Federal land banks.

[SEAL] C. R. ARNOLD, *Governor*

[F. R. Doc. 53-6987; Filed, Aug. 7, 1953; 8:54 a. m.]

Rural Electrification Administration

[Administrative Order T-309]

CALIFORNIA

LOAN ANNOUNCEMENT

JUNE 29, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Dos Palos Telephone Co., Inc., California 511-B	$461,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-6956; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-310]

LOUISIANA

LOAN ANNOUNCEMENT

JUNE 29, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Avoyelles Telephone Co., Inc., Louisiana 505-B	$350,000

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6957; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-311]

KANSAS

LOAN ANNOUNCEMENT

JUNE 29, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
The Craw-Kan Telephone Cooperative Association, Inc., Kansas 548-A	[1] 01,317,000

[1] Simultaneous allocation and loan.

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6958; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-312]

WISCONSIN

LOAN ANNOUNCEMENT

JULY 1, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Osceola Farmers Mutual Telephone Co., Wisconsin 522-B	$119,000

[SEAL] WIL. C. WISE, *Acting Administrator*

[F. R. Doc. 53-6959; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-313]

WISCONSIN

LOAN ANNOUNCEMENT

JULY 1, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Marquette-Adams Telephone Cooperative, Inc., Wisconsin 597-B	$138,000

[SEAL] WIL. C. WISE, *Acting Administrator.*

[F. R. Doc. 53-6960; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-314]

INDIANA

LOAN ANNOUNCEMENT

JULY 22, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Daviess-Martin County Rural Telephone Corp., Indiana 516-B	$326,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-6961; Filed, Aug. 7, 1953; 8:48 a. m.]

[Administrative Order T-315]

ALLOCATION OF FUNDS FOR LOANS

JULY 22, 1953.

I hereby amend:

(a) Administrative Order No. T-41, dated May 4, 1951, by rescinding the loan of $303,000 therein made for "North Side Telephone Company—Missouri 509-A."

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-6962; Filed, Aug. 7, 1953; 8:49 a. m.]

[Administrative Order T-316]

KENTUCKY

LOAN ANNOUNCEMENT

JULY 28, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Mason County Telephone Co., Kentucky 510-B	$212,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-6963; Filed, Aug. 7, 1953; 8:49 a. m.]

[Administrative Order T-317]

SOUTH CAROLINA

LOAN ANNOUNCEMENT

JULY 28, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Sand Hills Rural Telephone Cooperative, Inc., South Carolina 522-A	$1,189,000

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6964; Filed, Aug. 7, 1953; 8:49 a. m.]

[Administrative Order T-318]

SOUTH DAKOTA

LOAN ANNOUNCEMENT

JULY 28, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
McCook Cooperative Telephone Co., South Dakota 517-A	[1] $477,000

[1] Simultaneous allocation and loan.

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6965; Filed, Aug. 7, 1953; 8:49 a. m.]

[Administrative Order T-319]

TEXAS

LOAN ANNOUNCEMENT

JULY 28, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Southwest Texas Telephone Cooperative, Inc., Texas 561-B	$70,000

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6966; Filed, Aug. 7, 1953; 8:49 a. m.]

[Administrative Order T-320]

VIRGINIA

LOAN ANNOUNCEMENT

JULY 28, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Citizens Mutual Telephone Co., Virginia 503-A	[1] $463,000

[1] Simultaneous allocation and loan.

[SEAL] ANCHER NELSEN, *Administrator*

[F. R. Doc. 53-6967; Filed, Aug. 7, 1953; 8:49 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF ATLANTIC CONFERENCE ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

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

(1) Agreement No. 7840-21 between the Member Lines of the Atlantic Conference, modifies the provision of the basic agreement of said Conference (No. 7840) providing that agents, responsible clerks of General Agents and their wives and dependent children may be granted a 75 percent reduction in fare, by adding a clause providing that in connection with the annual convention of the American Society of Travel Agents to be held in Rome, Italy, from October 26 to 30, 1953; the 75 percent reduction may be granted, eastbound and westbound, to (a) the accompanying husband of a qualified female agent or of a qualified female responsible clerk, provided such clerk or agent is registered for attendance at said convention, and (b) to a salaried employee of the American Society of travel Agents traveling to attend said convention and to an accompanying husband or wife of such an employee. Under such clause departure from Europe on the westbound voyage must take place on or before December 31, 1953, after which date said clause becomes void.

(2) Agreement No. 7913 between Panama Canal Company (Panama Line) and Grace Line Inc., covers the transportation of cargo under through bills of lading from Port-au-Prince, Haiti, to Pacific Coast ports of the United States and Canada, with transshipment at Cristobal, C. Z.

(3) Agreement No. 7918 between Stockholms Rederiaktiebolag Svea and Rederiaktiebolaget Fredrika and Eckert Steamship Corp., provides for the operation of a joint service (with limited passenger accommodations) under the trade name "Eckert Line" in the trade between Canadian and United States Atlantic and United States Gulf ports and the ports of Spain, Portugal, North Africa and the Western Mediterranean.

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

Dated: August 4, 1953.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 53-6953; Filed, Aug. 7, 1953; 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 6196]

SABENA, BELGIAN AIRLINES

NOTICE OF HEARING

In the matter of the application of Societe Anonyme Belge D' Exploitation De La Navigation Aerienne (SABENA) under section 402 of the Civil Aeronautics Act of 1938, as amended, for amendment of its foreign air carrier permit which authorizes foreign air transportation of persons, property and mail between the terminal points, Brussels, Belgium and New York, N. Y. via the intermediate points Shannon, Eire, and Gander, Newfoundland so as to correct the name of the applicant and add Manchester, England as an intermediate point to the permit.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding is assigned to be held on August 10, 1953, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street, South of Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., August 4, 1953.

[SEAL] FRANCIS W BROWN, *Chief Examiner*

[F. R. Doc. 53-6985; Filed, Aug. 7, 1953; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1702]

JERSEY CENTRAL POWER & LIGHT CO.

NOTICE OF SUPPLEMENTAL APPLICATION

AUGUST 4, 1953.

Take notice that New Jersey Natural Gas Company (Applicant) a New Jersey corporation having its principal place of business at 601 Bangs Avenue, Asbury Park, New Jersey, filed, on July 24, 1953, a supplement to its application filed on September 12, 1952 (17 F. R. 8367) for amendment of the Commission's order of September 20, 1951, issuing a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act. In its application filed on September 12, 1952, Applicant requests that the proceeding in Docket No. G-1702 be reopened for the purpose of amending the order therein by substituting the name of Applicant for that of Jersey Central Power & Light Company.

Applicant, in its supplemental application, requests, additionally, authority to change the route and length of the lateral pipe line previously authorized from 1.6 miles in length to 4.7 miles in length. Applicant estimates the cost of the line now proposed at $127,300 instead of the cost of $63,349 previously estimated and proposes to accomplish the financing by a short term loan.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 24th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6970; Filed, Aug. 7, 1953; 8:50 a. m.]

[Docket No. G-2090]

CHICAGO DISTRICT PIPELINE CO.

NOTICE OF APPLICATION TO MODIFY

AUGUST 4, 1953.

Take notice that Chicago District Pipeline Company (Applicant) an Illinois corporation having its principal place of business at Joliet, Illinois, on July 15, 1953, filed an application requesting modification of the Commission's Opinion No. 248 and accompanying order issued in the above-entitled matter on April 16, 1953.

The application recites that in the original application filed herein on November 18, 1952, Applicant proposed, and the Commission authorized by its order, the abandonment of Applicant's 0.3 mile overhead pipeline across the Des Plaines River, the construction of a 24-inch submerged pipeline in lieu thereof, and, from the point of crossing, the construction of approximately 31.2 miles of 30-inch pipeline.

Applicant states that subsequent to the issuance of the Commission's order of April 16, 1953, it discovered that the construction of the 30-inch pipeline along the route authorized would require that it be laid through abandoned quarries now being filled with refuse, through low lands which will also be filled to a height of 15-feet above the present level, and through certain industrial properties which it is urged would involve Applicant in lengthy purchase and possible exchange negotiations. As a result of the foregoing conditions, Applicant conducted an investigation in order to find an alternative route for said 30-inch pipeline, or at least a part thereof.

Applicant submits that it would be in the public interest and its interest to postpone indefinitely its plan to abandon the 0.3 mile of 20-inch overhead pipeline across the Des Plaines River, crossing the river at another point, and to reroute its 30-inch line for a short distance. Applicant requests, therefore, that said order herein should be modified (1) so as to cancel the authorization to abandon the 0.3 mile of 20-inch pipeline crossing, and (2) so as to authorize Applicant to construct the 30-inch pipeline as follows:

(1) A section of 30-inch pipeline to be constructed from a point of connection with the 36-inch pipeline authorized in the aforesaid order near the east bank of the Des Plaines River in Section 12, southwesterly along the east bank of the Des Plaines River to a point near Hodgkins, Illinois, in Section 22, Township 38 North, Range 12 East of the Third Principal Meridian, Cook County, Illinois, approximately 3.750 miles;

(2) A 24-inch submerged pipeline to be constructed across the Des Plaines River, approximately .134 mile;

(3) A section of 30-inch pipeline to be constructed from a point of connection with said 24-inch river crossing near the west bank of the Des Plaines River in Cook County, Illinois, northwesterly to the route authorized in the aforesaid Order and southwesterly to the junction of Applicant's Crawford and Calumet pipelines in Will County, Illinois, approximately 28.026 miles.

The estimated cost of construction as the result of the modification proposed by Application will be $2,941,000, as compared to the estimated cost of the facilities initially authorized of $2,950,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10) on or before the 24th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6971; Filed, Aug. 7, 1953; 8:50 a. m.]

[Docket No. G-2213]

MICHIGAN-WISCONSIN PIPE LINE CO.

NOTICE OF APPLICATION

AUGUST 4, 1953.

Take notice that Michigan-Wisconsin Pipe Line Company (Applicant), a Delaware corporation, having its principal place of business at 500 Griswold Street, Detroit, Michigan, filed on July 15, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of a spare 1600 horsepower compressor unit at its Compressor Station No. 5, located in the State of Kansas. The application recites that the spare compressor unit herein referred to be installed at Station No. 5 will not increase the designed capacity of Applicant's system, the only purpose of the spare unit being to assure continuity of Applicant's present service.

The estimated cost of the compressor unit approximates $267,506, and will be financed from Applicant's funds now on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 24th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6972; Filed, Aug. 7, 1953; 8:50 a. m.]

[Docket No. G-2215]

EL PASO NATURAL GAS CO.

NOTICE OF APPLICATION

AUGUST 4, 1953.

Take notice that El Paso Natural Gas Company (Applicant) a Delaware corporation having its principal place of business in the Bassett Tower, El Paso, Texas, filed, on July 21, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities and the sale of natural gas for resale as hereinafter described.

Applicant proposes to construct and operate a mainline tap on its existing 24-inch San Juan pipeline, a 1¼-inch pipeline approximately 1.75 miles in length and connected to the proposed mainline tap, and high pressure regulators at the terminus of the proposed pipeline. All proposed facilities would be located in Coconino County, Arizona, and the gas proposed to be transported would be sold to Southern Union Gas Company for resale to the Fort Valley Experimental Station, a division of the Department of Agriculture Forest Service. Applicant estimates the cost of the facilities at $10,583, and annual sales at 1200 Mcf.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 24th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6973; Filed, Aug. 7, 1953; 8:50 a. m.]

[Docket No. G-2216]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF APPLICATION

AUGUST 4, 1953.

Take notice that on July 23, 1953, Montana-Dakota Utilities Co. (Applicant) a Delaware corporation, address, Minneapolis, Minnesota, filed an application for an order pursuant to section 7 (b) of the Natural Gas Act authorizing and approving abandonment of further service on and after August 14, 1953, to the Williston-Wyoming Associates (Williston-Wyoming) for the transportation of natural gas, or authorizing such abandonment without further order of the Commission when Williston-Wyoming is in noncompliance with the terms and conditions contained in paragraph 5, General Terms and Conditions of Applicant's FPC Gas Tariff.[1]

Applicant has entered into service agreements dated May 6, 1949, September 15, 1950, and December 11, 1950 with Mondakota Gas Company relating to the transportation and delivery of natural gas. On or about August 30, 1952, Williston-Wyoming assumed the obligations with respect to shipment of natural gas under the terms and conditions set forth in said service agreements and since has been and now is the shipper of natural gas under said service agreements.

In its application filed on July 23, 1953, Applicant alleges, inter alia, that under said paragraph 5 of the General Terms and Conditions of said service agreement, Williston-Wyoming is obligated to make and maintain credit arrangements satisfactory to Applicant or post surety bond as provided therein; that heretofore Williston-Wyoming has posted corporate surety bond dated August 13, 1952, in the sum of $14,500 with Massachusetts Bonding and Insurance Company as surety, to comply with said paragraph 5; that said Massachusetts Bonding and Insurance Company has advised Applicant that at the expiration of 60 days from the date of notice dated June 12, 1953, said bond will be cancelled; that Applicant has called upon Williston-Wyoming to comply with said paragraph 5 by establishing credit or posting a new bond in lieu thereof, but has received no reply since June 22, 1953 when Applicant's letter containing such request was delivered to Williston-Wyoming. Applicant further states that heretofore, Williston-Wyoming has failed to make payments incurred for shipping of natural gas on time and as required by Applicant's FPC Gas Tariff.

Applicant now requests authorization to abandon service to Williston-Wyoming for transportation and delivery of natural gas for the account of Williston-Wyoming to Eastern Clay Products Company, Belle Fourche, American Colloid Company, Belle Fourche, and State Cement Plant, Rapid City, all in South Dakota, providing Williston-Wyoming does not establish satisfactory credit or post a new corporate surety bond in lieu thereof on or before August 14, 1953.

Answers to said application on behalf of Williston-Wyoming or any other interested person, protests, or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 17th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6974; Filed, Aug. 7, 1953; 8:50 a. m.]

[1] Section 5, General Terms and Conditions, reads as follows: *"Establishment of credit.* Before the commencement of service and before the Company shall be required to install any facilities for the receipt of gas from or delivery of gas to a Shipper the Shipper shall make and shall thereafter maintain credit arrangements satisfactory to the Company; provided, however, that the Shipper at its option may post corporate surety bond equal to $10 per mcf of maximum day capacity to be transported, which bond shall secure payment of Shipper's obligations to the Company."

[Docket No. G-2218]

FREDERICK GAS CO., INC.

NOTICE OF APPLICATION

AUGUST 4, 1953.

Take notice that Frederick Gas Company, Inc. (Applicant) a Maryland corporation, having its principal place of business at 55 East Patrick Street, Frederick, Maryland, filed on July 23, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to sell gas to the Washington Gas Light Company of Maryland, Inc., or Washington Gas Light Company, for resale to customers along that portion of the gas pipe line of the Applicant located in Montgomery County, Maryland.

The application recites that alternative buyers are named because Applicant is informed that Washington Gas Light Company of Maryland, Inc., will be liquidated and its assets and operations taken over by Washington Gas Light Company in the near future.

The gas required to serve potential customers along the pipe line of Applicant will be supplied to Applicant by Transcontinental Gas Pipe Line Corporation, which Corporation is presently obligated to make a maximum delivery of 675 Mcf natural gas per day to Applicant.

The estimated peak-day requirements of potential customers along Applicant's pipeline during the 1953-54 season approximates 20 Mcf per day, or 3 percent of the natural gas available to the Applicant.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 24th day of August 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6975; Filed, Aug. 7, 1953; 8:51 a. m.]

[Project No. 2005]

OAKDALE AND SOUTH SAN JOAQUIN IRRIGATION DISTRICTS

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE

AUGUST 4, 1953.

Public notice is hereby given that Oakdale Irrigation District, of Oakdale, California, and South San Joaquin Irrigation District, of Manteca, California, have made application for amendment of their license for Project No. 2005, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791-825r), located on Middle Fork of Stanislaus River in Tuolumne County, California, affecting lands of the United States within Stanislaus National Forest, to include under the license Beardsley Afterbay Dam, comprising a rock-filled timber crib dam with overflow crest at elevation 3,135 feet, located about 4,700 feet downstream from the Beardsley Powerhouse; a reservoir created by the dam and having a surface area of 26 acres and a capacity of 272 acre-feet; and a 72-inch steel conduit through the dam controlled by a 72-inch sluice gate.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before September 21, 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6976; Filed, Aug. 7, 1953; 8:51 a. m.]

[Project No. 2130]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF APPLICATION FOR LICENSE

AUGUST 4, 1953.

Public notice is hereby given that Pacific Gas and Electric Company of San Francisco, California, has made application for license for Project No. 2130 pursuant to the provisions of the Federal Power Act (16 U. S. C. 791-825r), comprising the existing Spring Gap and Stanislaus developments now under major license as Project No. 1318 and the existing Melones development under minor-part license as Project No. 708; the licensed developments being more specifically described as comprising: (1) Spring Gap, consisting of Strawberry Dam, a rock-fill structure about 135 feet high above stream bed, across South Fork Stanislaus River, forming Strawberry Reservoir with a storage capacity of about 18,300 acre-feet; a tunnel about 727 feet long; Philadelphia Ditch, starting at a small masonry dam, about four miles downstream from Strawberry Dam, consisting of about 4.7 miles of ditch and flume, diverting water from South Fork Stanislaus River to the head of Spring Gap powerhouse penstock; a penstock about 7,249 feet long; Spring Gap Powerhouse, on Middle Fork Stanislaus River, housing one 9,500 horsepower, impulse wheel direct-connected to one

7,500-kva generator, transformers, switch gears, and miscellaneous equipment; a 110,000-volt single-circuit pole line about 11 miles long from the powerhouse to a point near Stanislaus powerhouse; and other facilities; (2) Stanislaus, consisting of a relief dam of rock-fill structure about 140 feet high above stream bed, across Relief Creek, a tributary of the Middle Fork Stanislaus River, forming Relief Reservoir with a storage capacity of about 15,550 acre-feet; Sand Bar Diversion Dam about 24 feet high, downstream from Spring Gap powerhouse; a conduit mostly in tunnel, about 11¼ miles long; a forebay formed by two earth-fill dams about 55 feet and 63 feet high; two penstock pipes each approximately 1,560 feet long, to an "upper header" from which extend three steel pipes each averaging 3,043 feet in length; Stanislaus Powerhouse on Stanislaus River, a short distance downstream from the confluence of the Middle and North Forks, housing four 13,000 horsepower, double impulse wheels direct-connected to four 10,000-kva generators; transforming, switching, and miscellaneous equipment; two 110,000-volt single circuit tap lines each about 300 feet long; and other facilities; and (3) Melones, consisting of Melones Tunnel about 0.9 mile long, from the irrigation outlet structure below the Melones Dam to applicant's constructed Melones power plant; two penstocks each about 112 feet long; Melones Powerhouse, on Stanislaus River, housing two 17,900-horsepower turbines, each direct-connected to a 13,500-kva generator, and miscellaneous equipment; a substation and switchyard; a 110,000-volt tower transmission line, approximately 7.7 miles long, from Melones plant to junction with applicant's transmission-line system near Copperopolis; and other facilities. The applicant desires also to surrender its outstanding licenses for Projects Nos. 1318 and 708 concurrently with acceptance of license for Project No. 2130.

Protest or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before September 14, 1953. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-6977; Filed, Aug. 7, 1953; 8:51 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

CENTRAL OFFICE

DESCRIPTION OF AGENCY AND PROGRAMS AND FINAL DELEGATIONS OF AUTHORITY

Section II *Central Office organization and final delegations of authority to Central Office officials* is amended as follows:

The first sentence of paragraph d and the list of Field Offices is amended to read as follows:

d. The Operations Division is headed by an Assistant Commissioner for Operations who is responsible to the Commissioner for activities of the Operations Division and of the Field Offices, the headquarters and jurisdictions of which are as follows:

Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia. Public Housing Administration, Peachtree-Seventh Street Building, Room 358, 50 Seventh Street, N. E., Atlanta 5, Georgia.

Chicago: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin. Public Housing Administration, Room 2201, 185 North Wabash Avenue, Chicago 1, Illinois.

Fort Worth: Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, Texas. Public Housing Administration, Room 2000, 300 West Vickery Boulevard, Fort Worth 4, Texas.

New York: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, District of Columbia. Public Housing Administration, 346 Broadway, New York 13, New York.

Puerto Rico: Puerto Rico and the Virgin Islands. P. O. Box 9197, Santurce, Puerto Rico.

San Francisco: Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, the Territory of Alaska, the Territory of Hawaii. Public Housing Administration, 1360 Mission Street, San Francisco 3, California.

Date approved: August 3, 1953.

[SEAL] CHARLES E. SLUSSER, *Commissioner*

[F. R. Doc. 53-6948; Filed, Aug. 7, 1953; 8:45 a. m.]

FIELD ORGANIZATION

DESCRIPTION OF AGENCY AND PROGRAMS AND FINAL DELEGATIONS OF AUTHORITY

Section III Field organization and final delegations of authority is amended to read as follows:

The second sentence of paragraph a is amended to read as follows: "There are six Field Offices, each headed by a Field Office Director, who is responsible to the Assistant Commissioner for Operations."

Date approved: August 3, 1953.

[SEAL] CHARLES E. SLUSSER, *Commissioner*

[F. R. Doc. 53-6949; Filed, Aug. 7, 1953; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3057]

GENERAL PUBLIC UTILITIES CORP.

SUPPLEMENTAL ORDER RELEASING JURISDICTION WITH RESPECT TO LEGAL FEES

AUGUST 4, 1953.

General Public Utilities Corporation ("GPU") a registered holding company, having heretofore filed an application-declaration and amendments thereto, pursuant to sections 6 (a) 7 and 12 (c) of the Public Utility Holding Company Act of 1935 ("the act") and Rules U-42 and U-50 thereunder, with respect to the issue and sale of 568,665 additional shares of its common stock through subscription warrants to its common stockholders, upon terms producing proceeds in excess of $13,000,000; and

The Commission having granted and permitted to become effective said application-declaration as amended, subject to reservation of jurisdiction over legal fees incurred in consummating the proposed transactions; and

The record having been amended and completed with respect to the legal fees incurred in said transactions, as follows: Shearman & Sterling & Wright, general counsel, $14,000; Berlack, Israels & Liberman, $4,000; and

The Commission finding that said legal fees are not unreasonable, and it appearing to the Commission that the jurisdiction heretofore reserved with respect thereto should be released:

It is ordered, That the jurisdiction heretofore reserved with respect to the payment of legal fees herein be, and the same hereby is, released, effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-6950; Filed, Aug. 7, 1953; 8:45 a. m.]

[File No. 70-3064]

COLUMBIA GAS SYSTEM, INC., AND UNITED FUEL GAS CO.

ORDER AUTHORIZING AN ADVANCE ON OPEN ACCOUNT TO SUBSIDIARY COMPANY BY PARENT COMPANY

The Columbia Gas System, Inc. ("Columbia") a registered holding company, and United Fuel Gas Company ("United Fuel") a subsidiary company of Columbia, having filed a joint declaration pursuant to the provisions of section 12 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-45 of the rules and regulations promulgated thereunder with respect to the following proposed transactions:

In order to provide funds required to purchase "inventory gas" during the months of May through October for use during the months of November 1953 through April 1954, Columbia proposes to advance an open account to United Fuel amounts aggregating not in excess of $7,700,000. Such amounts are to bear interest at the rate of 3⅓ percent per annum and will be repayable in three equal installments on February 25, March 25, and April 25, 1954; and

The Public Service Commission of West Virginia, the State commission of the State in which United Fuel is organized and doing business, having by order dated June 25, 1953 authorized the issuance and sale of the securities as proposed; and

Due notice having been given of the filing of the joint declaration, and a hearing not having been requested or ordered by the Commission; and the Commission finding that the applicable provisions of the act are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said joint declaration be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions contained in Rule U-24, that said joint declaration be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-6951; Filed, Aug. 7, 1953; 8:46 a. m.]

[File No. 70-3109]

CENTRAL PUBLIC UTILITY CORP.

NOTICE OF FILING OF APPLICATION PROPOSING INDIRECT ACQUISITION BY PARENT HOLDING COMPANY OF STOCK AND ASSETS OF NON-AFFILIATED BUS COMPANY

AUGUST 4, 1953.

Notice is hereby given that an application has been filed with this Commission by Central Public Utility Corporation ("Cenpuc") a registered holding company. The filing designates sections 9 and 10 of the Public Utility Holding Company Act of 1935 (the "act") as applicable to the proposed transactions which are summarized as follows:

Cenpuc owns all of the capital stock of Carolina Coach Company ("Carolina") a Virginia corporation engaged in the motor bus transportation business in Delaware, Maryland, North Carolina, Pennsylvania and Virginia. Carolina proposes to purchase from the Norfolk Southern Railway Company ("Railway") a Virginia corporation, (1) all of the capital stock (1,760 shares) of Norfolk Southern Bus Corporation ("Bus Corporation") a Virginia corporation, for a cash consideration of $395,000, subject to certain adjustments; (2) the open account indebtedness of Bus Corporation to Railway at the time the transaction set forth in item (1) above is closed, which account as at December 31, 1952 amounted to $89,000; and (3) a 4.01 acre parcel of land located in the City of Norfolk, Virginia, for a cash consideration of $14,000.

Bus Corporation is a motor bus carrier engaged in the transportation of passengers, baggage, mail and express in Virginia and North Carolina. It owns 85 shares (50 percent) of the outstanding capital stock of Norfolk Union Bus Terminal, Inc. ("Bus Terminal") which operates a bus terminal in Norfolk, Virginia. Carolina owns the remaining 85 shares of Bus Terminal's capital stock. As at December 31, 1952, the underlying net book worth of Bus Corporation's capital stock was $209,427.22.

The application indicates that in order to finance the proposed acquisitions, Carolina will borrow $350,000 from a bank or banks. This borrowing will be evidenced by unsecured promissory notes bearing interest at a rate not in excess of 4½ percent per annum and payable in quarterly installments over a period of five years. These notes may be prepaid without penalty.

The application further indicates that if Carolina acquires the capital stock of Bus Corporation, that company will be merged into Carolina. In connection with this merger, it is represented that the tangible property of Bus Corporation, stated on its books as at December 31, 1952 at the aggregate net amount of $405,050, will be restated on Carolina's books. On a pro forma basis as at December 31, 1952, the aggregate net amount of such property, as restated, would have been recorded on Carolina's books at $483,492. Such restatement includes adjustments to the depreciation reserves which it is stated are necessary to properly set forth the value of structures to which excessive depreciation has been charged and to give effect to an appreciation in revenue equipment based upon providing more equitable salvage value therefor. The amount by which the consideration paid by Carolina exceeds the adjusted book value of the property of Bus Corporation will be amortized at the rate of 10 percent per year. In addition, Carolina on the basis of its experience proposes to reduce the depreciation rate on the structures to be acquired from 4 percent to 2½ percent and on shop and garage, furniture and office, and miscellaneous equipment from 10 percent to 5 percent. The income statement of Bus Corporation for the year ended December 31, 1952 reflects a loss of $63,445 in net income. Based upon the proposed merger and the estimated savings from joint operations, the estimated increase in the pro forma and adjusted net income of Carolina for that period would have been approximately $204,935.

It is represented that the proposed transactions are subject, in whole or in part, to the jurisdiction of the Virginia Corporation Commission, the North Carolina Utility Commission and the Interstate Commerce Commission. It is stated in the application that Rule U-8 promulgated under the act is applicable and that upon securing the approval of the Interstate Commerce Commission the transactions proposed to be entered into by Carolina are exempt from the act. In such event only the indirect acquisitions by Cenpuc will be subject to the jurisdiction of this Commission.

Notice is further given that any interested person may, not later than August 17, 1953, e. d. s. t., request the Commission in writing that a hearing be held on such matter stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said filing which he desires to controvert or he may request notice thereof if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after 5:30 p. m., e. d. s. t., August 17, 1953, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt the transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-6952; Filed, Aug. 7, 1953; 8:46 a. m.]