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Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTIONS, CERTIFICATION, AND STANDARDS)

UNITED STATES STANDARDS FOR GRADES OF FROZEN STRAWBERRIES [1]

Revised United States Standards for Grades of Frozen Strawberries are hereby promulgated to supersede the standards which have been in effect since May 17, 1948 (13 F. R. 2011). The giving of preliminary notice and engaging in public rule making procedure (60 Stat. 237; 5 U. S. C. 1001 et seq.) with respect to this revision are, for the reasons hereinafter set forth, impracticable and contrary to the public interest.

The following revised United States Standards for Grades of Frozen Strawberries are hereby promulgated under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1949 (Pub. Law 712, 80th Cong., approved June 19, 1948) to become effective May 1, 1949:

§ 52.653 *Frozen strawberries.* Frozen strawberries are prepared from the properly ripened fresh fruit of the strawberry plant (Fragaria virginiana); are stemmed, washed, and sorted; may be packed with or without packing media; and are frozen and stored at temperatures necessary for the preservation of the product.

(a) *Styles of frozen strawberries.* (1) "Whole" or "whole strawberries."

(2) "Sliced" or "sliced strawberries."

(b) *Sizes of whole strawberries.* Except with respect to "U. S. Grade A" or "U. S. Fancy" grade (not for manufacturing), the size of whole strawberries is not incorporated in the grades of the finished product since size, as such, is not a factor of quality for the purpose of these grades. When used in connection with the following sizes of whole strawberries, the term "diameter" means the greatest dimension measured at right angles to a straight line running from the stem to the apex:

(1) *Small size.* Whole strawberries that measure less than 5/8 inch in diameter.

(2) *Medium size.* Whole strawberries that measure 5/8 inch to 1 inch, inclusive, in diameter.

(3) *Large size.* Whole strawberries that measure more than 1 inch in diameter.

(c) *Grades of frozen strawberries (not for manufacturing).* (1) "U. S. Grade A" or "U. S. Fancy" is the quality of frozen strawberries that possess similar varietal characteristics; possess a bright, practically uniform, typical color; are practically free from defects; possess a good character; possess a normal flavor and odor; and score not less than 85 points when scored in accordance with the scoring system outlined in this section. In addition to the foregoing requirements, whole strawberries of this grade may contain not more than 5 percent, by count, of whole strawberries that are small size, i. e., less than 5/8 inch in diameter.

(2) "U. S. Grade B" or "U. S. Choice" is the quality of frozen strawberries that possess similar varietal characteristics; possess a reasonably bright, reasonably uniform, typical color; are reasonably free from defects; possess a reasonably good character; possess a normal flavor and odor; and score not less than 70 points when scored in accordance with the scoring system outlined in this section.

(3) "U. S. Grade D" or "Substandard" is the quality of frozen strawberries that fail to meet the requirements of "U. S. Grade B" or "U. S. Choice."

(d) *Grades of frozen strawberries for manufacturing.* (1) "U. S. Grade A for Manufacturing" or "U. S. Fancy for Manufacturing" is the quality of frozen strawberries that possess similar varietal characteristics; that are of any size; that possess a bright, practically uniform, typical color; that are practically free from defects; that possess a good character for the purposes of manufacturing; and that possess a normal flavor and odor.

(2) "U. S. Grade B for Manufacturing" or "U. S. Choice for Manufactur-

(Continued on p. 1509)

[1] The requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

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ing" is the quality of frozen strawberries that possess similar varietal characteristics; that are of any size; that possess a reasonably bright, reasonably uniform, typical color; that are reasonably free from defects; that possess a reasonably good character for the purposes of manufacturing; and that possess a normal flavor and odor.

(3) "U. S. Grade D for Manufacturing" or "Substandard for Manufacturing" is the quality of frozen strawberries that fail to meet the requirements of "U. S. Grade B for Manufacturing" or "U. S. Choice for Manufacturing."

(e) *Ascertaining the score and grade for frozen strawberries (not for manufacturing).* (1) The grade of frozen strawberries is determined immediately after thawing to the extent that the units may be separated easily. The score and grade of frozen strawberries may be ascertained by considering, in addition to the requirements of the respective grade, the following factors: Color, absence of defects, and character.

(2) The relative importance of each factor has been expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

	Points
(i) Color	40
(ii) Absence of defects	40
(iii) Character	20
Total score	100

(3) "Normal flavor and odor" means that the strawberries are free from objectionable flavors, off flavors, and objectionable odors of any kind.

(f) *Ascertaining the score of each factor for frozen strawberries (not for manufacturing).* The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "34 to 40 points" means 34, 35, 36, 37, 38, 39, or 40 points).

(1) *Color.* (i) "Well colored" means that not less than four-fifths, in the aggregate, of the surface of the whole strawberry is the red or pink color characteristic of strawberries of similar varieties, and that the surface (including cut surfaces) of the sliced strawberry is the typical color, characteristic of well-ripened strawberries of similar varieties.

(ii) Frozen strawberries that possess a bright, practically uniform, typical color may be given a score of 34 to 40 points. "Bright, practically uniform, typical color" means that the whole and sliced strawberries possess a bright and good characteristic red or pink color, reasonably free from a slightly dull, slightly grey, or slightly reddish-brown cast; and that there may be present not more than 5 percent, by count, of the whole strawberries that are not well colored and not more than 5 percent, by weight, of the sliced strawberries that are not well colored.

(iii) If the frozen strawberries possess a reasonably bright, reasonably uniform, typical color, a score of 28 to 33 points may be given. Frozen strawberries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably bright, reasonably uniform, typical color" means that the whole and sliced strawberries possess a reasonably good characteristic red or pink color that may possess a slightly dull, slightly grey, or slightly reddish-brown cast; and that there may be present not more than 10 percent, by count, of the whole strawberries that are not well colored and not more than 10 percent, by weight, of the sliced strawberries that are not well colored.

(iv) Frozen strawberries that are definitely dull or off-color or that fail to meet the requirements of subdivision (iii) of this subparagraph, may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(v) The evaluation of the score points for the factor of color may be determined from Table No. I of this section which indicates the score range in the respective grades and which denotes the typical color in frozen strawberries and the maximum allowance for frozen strawberries that are not well colored for the score indicated.

TABLE NO. I—ALLOWANCES FOR COLOR

Grade	Score points	Whole and sliced, typical color	Whole, not well colored	Sliced, not well colored
			Maximum	
			By count (percent)	*By weight (percent)*
U. S. Grade A or U. S. Fancy	40	Bright and good characteristic red or pink color; reasonably free from a slightly dull, slightly grey, or slightly reddish-brown cast.	None	
	39		½	½
	38		1	1
	37		2	2
	36		3	3
	35		4	4
	34		5	5
U. S. Grade B or U. S. Choice	33	Reasonably good characteristic red or pink color; may possess a slightly dull, slightly grey, or slightly reddish-brown cast.	5½	5½
	32		6	6
	31		7	7
	30		8	8
	29		9	9
	28		10	10
U. S. Grade D or Substandard	27 or less	More than the allowances permitted for 28 points		

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from harmless extraneous material, caps and portions thereof, sepal-like bracts and portions thereof, stems, short stems, undeveloped strawberries, and damaged strawberries.

(i) "Harmless extraneous material" means vegetable substances such as weeds, grass, and leaves and any portions thereof that are harmless.

(ii) A "cap" means a loose or attached full cap or a portion of a cap to which at least one sepal-like bract or portion thereof is attached. A "short stem" that is attached to a cap is considered a part of the cap. A "stem" that is attached to the cap is considered a separate defect.

(iii) A "stem" means a stem, either loose or attached, that is longer than ⅛ inch.

(iv) A "short stem" means a stem that is ⅛ inch or less in length and which may include the center portion of a cap to which no sepal-like bract or portion thereof is attached.

(v) An "undeveloped strawberry" means a strawberry or a portion of a strawberry that possesses a hard, seedy, or deformed end or that possesses deformed areas which materially affect either the appearance or the edibility of the product.

(vi) A "damaged strawberry" means a strawberry or a portion of a strawberry that is damaged by bruises or by pathological, insect, or other injury or is damaged by other means which materially affect either the appearance or the edibility of the product. Minute, insignificant injuries are not considered as damage.

(vii) "Area" means the aggregate surface covered by the material stated when such material or portions thereof are placed in a contiguous position with no intervening spaces.

(viii) Frozen strawberries that are practically free from defects may be given a score of 34 to 40 points. "Practically free from defects" has the following meanings with respect to the following styles of frozen strawberries:

Whole. There may be present for each 16 ounces of net weight an area of not more than ¼ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 2 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 16 short stems; and there may be present not more than a total of 5 percent, by weight, of whole strawberries that are undeveloped strawberries and of whole strawberries that are damaged strawberries.

Sliced. There may be present for each 16 ounces of net weight an area of not more than ¼ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 2 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 16 short stems; and there may be present not more than a total of 2½ percent, by weight, of sliced strawberries that are undeveloped units of strawberries and of sliced strawberries that are damaged units of strawberries.

(ix) If the frozen strawberries are reasonably free from defects, a score of 28 to 33 points may be given. Frozen strawberries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" has the following meanings with respect to the following styles of frozen strawberries.

Whole. There may be present for each 16 ounces of net weight an area of not more than ½ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 4 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 32 short stems; and there may be present not more than a total of 10 percent, by weight, of whole strawberries that are undeveloped strawberries and of whole strawberries that are damaged strawberries.

Sliced. There may be present for each 16 ounces of net weight an area of not more than ½ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 4 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 32 short stems; and there may be present not more than a total of 5 percent, by weight, of sliced strawberries that are undeveloped units of strawberries and of sliced strawberries that are damaged units of strawberries.

(x) Frozen strawberries that fail to meet the requirements of subdivision (ix) of this subparagraph may be given a score of 0 to 27 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(xi) The evaluation of the score points for the factor of absence of defects may be determined from Table No. II of this section which indicates the maximum allowances for each class of defects for the score indicated.

TABLE No. II—ALLOWANCES FOR DEFECTS

Grade	Score points	Whole and sliced: Harmless extraneous material (leaves, etc.), caps, sepal-like bracts and portions thereof	Whole and sliced: Harmless extraneous material (weeds, grass) and stems (including stems over ½ inch)	Whole and sliced: Short stems	Whole, undeveloped and damaged strawberries	Sliced, undeveloped and damaged units of strawberries
		Maximum				
		Per 16 ounces of net weight			By weight	By weight
			Stems: Total	Stems: Over ½" / Harmless material		
					Percent	*Percent*
U. S. Grade A or U. S. Fancy.	40	None	None	None or None	None	None
	39	1/8 square inch	1	None or None	½	¼
	38	1/8 square inch	1	None or None	1	½
	37	1/8 square inch	1	None or 1 piece	2	1
	36	¼ square inch	2	1 or 1 piece	3	1½
	35	¼ square inch	2	1 or 1 piece	4	2
	34	¼ square inch	2	1 or 1 piece	5	2½
U. S. Grade B or U. S. Choice.	33	3/8 square inch	3	1 or 1 piece	5½	2¾
	32	3/8 square inch	3	1 or 1 piece	6	3
	31	3/8 square inch	3	1 or 1 piece	7	3½
	30	½ square inch	4	1 or 1 piece	8	4
	29	½ square inch	4	1 or 1 piece	9	4½
	28	½ square inch	4	1 or 1 piece	10	5
U. S. Grade D or Substandard.	27 or less	More than the allowances permitted for 28 points				

(3) *Character.* The factor of character refers to the texture and degree of disintegration or the degree of wholeness as evidenced by crushed or partial strawberries and mushy strawberries.

(i) A "crushed or partial strawberry" is a strawberry that has been excessively trimmed or has become disintegrated so that the portion remaining intact is less than one-half of the apparent whole strawberry.

(ii) "Mushy strawberries" are strawberries that are so soft that they are a pulpy mass.

(iii) Frozen strawberries that possess a good character may be given a score of 17 to 20 points. "Good character" means that the strawberries are fleshy, reasonably firm, and practically intact and that:

(*a*) Not more than 10 percent, by weight, of whole strawberries may be crushed or partial strawberries and mushy strawberries; and

(*b*) Not more than 20 percent, by weight, of sliced strawberries may be mushy strawberries.

(iv) If the frozen strawberries have a reasonably good character, a score of 14 to 16 points may be given. Frozen strawberries that fall into this classification shall not be graded above U. S. Grade B or U. S. Choice, regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the strawberries are reasonably fleshy, fairly firm, and reasonably intact and that:

(*a*) Not more than 20 percent, by weight, of whole strawberries may be crushed or partial strawberries and mushy strawberries; and

(*b*) Not more than 30 percent, by weight, of sliced strawberries may be mushy strawberries.

(v) Frozen strawberries that fail to meet the requirements of subdivision (iv) of this subparagraph may be given a score of 0 to 13 points and shall not be graded above U. S. Grade D or Substandard, regardless of the total score for the product (this is a limiting rule).

(vi) The evaluation of the score points for the factor of character may be determined from Table No. III of this section which indicates the texture of frozen strawberries and the maximum allowances for frozen strawberries that are crushed or partial strawberries and mushy strawberries for the score indicated.

TABLE No. III—CHARACTER

Grade	Score points	Texture	Whole, crushed, partial, and mushy	Sliced, mushy
			Maximum (by weight)	
			Percent	*Percent*
U. S. Grade A or U. S. Fancy.	20	Fleshy, reasonably firm, practically intact.	None	5
	19		3	10
	18		6	15
	17		10	20
U. S. Grade B or U. S. Choice.	16	Reasonably fleshy, fairly firm, reasonably intact.	13	25
	15		16	26
	14		20	30
U. S. Grade D or Substandard.	13 or less	More than the allowances permitted for 14 score points.		

(g) *Determination of the grades of frozen strawberries for manufacturing.* (1) The grade of frozen strawberries for manufacturing is determined immediately after thawing a sample to the extent that the units may be separated easily. The grade of frozen strawberries for manufacturing is ascertained by considering the following factors, and for which no scoring system is provided: Color, absence of defects, and character.

(2) "Normal flavor and odor" means that the strawberries are free from objectionable flavors, off flavors, and objectionable odors of any kind.

(h) *Ascertaining the rating of each factor for frozen strawberries for manufacturing.* (See Table No. IV of this section which is a brief summary of requirements for grades of frozen strawberries for manufacturing.)

(1) *Color.* (i) "Well colored" means that not less than four-fifths, in the aggregate, of the surface of the whole strawberry is the red or pink color characteristic of strawberries of similar

varieties, and that the surface (including cut surfaces) of the sliced strawberry is the typical color, characteristic of well-ripened strawberries of similar varieties.

(ii) "U. S. Grade A for Manufacturing" or "U. S. Fancy for Manufacturing" requires that the frozen strawberries shall possess a bright, practically uniform, typical color. "Bright, practically uniform, typical color" means that the whole and sliced strawberries possess a bright and good characteristic red or pink color, reasonably free from a slightly dull, slightly grey, or slightly reddish-brown cast; and that there may be present not more than 5 percent, by count, of the whole strawberries that are not well colored and not more than 5 percent, by weight, of the sliced strawberries that are not well colored.

(iii) "U. S. Grade B for Manufacturing" or "U. S. Choice for Manufacturing" requires that the frozen strawberries shall possess a reasonably bright, reasonably uniform, typical color. "Reasonably bright, reasonably uniform, typical color" means that the whole and sliced strawberries possess a reasonably good characteristic red or pink color that may possess a slightly dull, slightly grey, or slightly reddish-brown cast; and that there may be present not more than 10 percent, by count, of the whole strawberries that are not well colored and not more than 10 percent, by weight, of the sliced strawberries that are not well colored.

(iv) Frozen strawberries for manufacturing that fail to meet the requirements of subdivision (iii) of this subparagraph for the factor of color shall be considered U. S. Grade D for Manufacturing or Substandard for Manufacturing.

(2) *Absence of defects.* The factor of absence of defects refers to the degree of freedom from harmless extraneous materal, caps and portions thereof, sepal-like bracts and portions thereof, stems, short stems, undeveloped strawberries, and damaged strawberries.

(i) "Harmless extraneous material" means vegetable substances such as weeds, grass, and leaves and any portions thereof that are harmless.

(ii) A "cap" means a loose or attached full cap or a portion of a cap to which at least one sepal-like bract or portion thereof is attached. A "short stem" that is attached to a cap is considered a part of the cap. A "stem" that is attached to the cap is considered a separate defect.

(iii) A "stem" means a stem, either loose or attached, that is longer than ⅛ inch.

(iv) A "short stem" means a stem that is ⅛ inch or less in length and which may include the center portion of a cap to which no sepal-like bract or portion thereof is attached.

(v) An "undeveloped strawberry" means a strawberry or a portion of a strawberry that possesses a hard, seedy, or deformed end or that possesses deformed areas which materially affect either the appearance or the edibility of the product.

(vi) A "damaged strawberry" means a strawberry or a portion of a strawberry that is damaged by bruisers or by pathological, insect, or other injury or is damaged by other means which materially affect either the appearance or the edibility of the product. Minute, insignificant injuries are not considered as damage.

(vii) "Area" means the aggregate surface covered by the material stated when such material or portions thereof are placed in a contiguous position with no intervening spaces.

(viii) "U. S. Grade A for Manufacturing" or "U. S. Fancy for Manufacturing" requires that the frozen strawberries shall be practically free from defects. "Practically free from defects" has the following meaning with respect to the following styles of frozen strawberries:

Whole. There may be present for each 16 ounces of net weight an area of not more than ¼ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 2 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 16 short stems; and there may be present not more than a total of 5 percent, by weight, of whole strawberries that are undeveloped strawberries and of whole strawberries that are damaged strawberries.

Sliced. There may be present for each 16 ounces of net weight an area of not more than ¼ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 2 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 16 short stems; and there may be present not more than a total of 2½ percent, by weight, of sliced strawberries that are undeveloped units of strawberries and of sliced strawberries that are damaged units of strawberries.

(ix) "U. S. Grade B for Manufacturing" or "U. S. Choice for Manufacturing" requires that the frozen strawberries shall be reasonably free from defects. "Reasonably free from defects" has the following meaning with respect to the following styles of frozen strawberries:

Whole. There may be present for each 16 ounces of net weight an area of not more than ½ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 4 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 32 short stems; and there may be present not more than a total of 10 percent, by weight, of whole strawberries that are undeveloped strawberries and of whole strawberries that are damaged strawberries.

Sliced. There may be present for each 16 ounces of net weight an area of not more than ½ square inch comprising harmless extraneous material (such as leaves and portions thereof), caps and portions thereof, and loose sepal-like bracts and portions thereof; not more than 4 stems, including not more than 1 stem which may exceed ½ inch in length, or 1 piece of harmless extraneous material that is not measurable by area (such as weeds and blades of grass); and not more than 32 short stems; and there may be present not more than a total of 5 percent, by weight, of sliced strawberries that are undeveloped units of strawberries and of sliced strawberries that are damaged units of strawberries.

(x) Frozen strawberries for manufacturing that fail to meet the requirements of subdivision (ix) of this subparagraph for the factor of absence of defects shall be considered U. S. Grade D for Manufacturing or Substandard for Manufacturing.

(3) *Character.* The factor of character refers to the texture and degree of disintegration or the degree of wholeness as evidenced by crushed or partial strawberries and mushy strawberries.

(i) A "crushed or partial strawberry" is a strawberry that has been excessively trimmed or has become disintegrated so that the portion remaining intact is less than one-half of the apparent whole strawberry.

(ii) "Mushy strawberries" are strawberries that are so soft that they are a pulpy mass.

(iii) "U. S. Grade A for Manufacturing" or "U. S. Fancy for Manufacturing" requires that the frozen strawberries shall possess a good character for the purposes of manufacturing. "Good character for the purposes of manufacturing" means that the strawberries are reasonably fleshy, fairly firm, and reasonably intact and that:

(*a*) Not more than 15 percent, by weight, of whole strawberries may be crushed or partial strawberries and mushy strawberries; and

(*b*) Not more than 25 percent, by weight, of sliced strawberries may be mushy strawberries.

(iv) "U. S. Grade B for Manufacturing" or "U. S. Choice for Manufacturing" requires that the frozen strawberries shall possess a reasonably good character for the purposes of manufacturing. "Reasonably good character for the purposes of manufacturing" means that the strawberries are fairly fleshy and fairly intact and that:

(*a*) Not more than 25 percent, by weight, of whole strawberries may be crushed or partial strawberries and mushy strawberries; and

(*b*) Not more than 40 percent, by weight, of sliced strawberries may be mushy strawberries.

(v) Frozen strawberries for manufacturing that fail to meet the requirements of subdivision (iv) of this subparagraph for the factor of character shall be considered U. S. Grade D for Manufacturing or Substandard for Manufacturing.

TABLE NO. IV—BRIEF SUMMARY OF REQUIREMENTS FOR GRADES OF FROZEN STRAWBERRIES FOR MANUFACTURING

Grades	Color		
	Whole and sliced, typical color	Whole, not well colored, maximum (by count)	Sliced, not well colored, maximum (by weight)
		Percent	*Percent*
U. S. Grade A for manufacturing or U. S. Fancy for manufacturing.	Bright and good characteristic red or pink color, reasonably free from a slightly dull, slightly grey, or slightly reddish-brown cast.	5	5
U. S. Grade B for manufacturing or U. S. Choice for manufacturing.	Reasonably good characteristic red or pink color that may possess a slightly dull, slightly grey, or slightly reddish-brown cast.	10	10

Grades	Absence of defects				
	Whole and sliced			Whole, undeveloped and damaged strawberries	Sliced, undeveloped and damaged units of strawberries
	Harmless extraneous material (leaves, etc.), caps, sepal-like bracts and portions thereof.	Harmless extraneous material (weeds, grass) and stems (including stems over ½ inch)	Short stems		
	Maximum				
	Per 16 ounce net weight			By weight	By weight
				Percent	*Percent*
U. S. Grade A for manufacturing or U. S. Fancy for manufacturing.	¼ square inch	1 stems, including 1 stem that may exceed ½ inch, or 1 piece harmless material.	16		2½
U. S. Grade B for manufacturing or U. S. Choice for manufacturing.	½ square inch	4 stems, including 1 stem that may exceed ½ inch, or 1 piece harmless material.	32	10	5

Grades	Character		
		Whole, crushed, partial, and mushy, maximum (by weight)	Slices, mushy, maximum (by weight)
		Percent	*Percent*
U. S. Grade A for manufacturing or U. S. Fancy for manufacturing.	Good character for purposes of manufacturing: reasonably fleshy, fairly firm, reasonably intact.	15	25
U. S. Grade B for manufacturing or U. S. Choice for manufacturing.	Reasonably good character for purposes of manufacturing: fairly fleshy and fairly intact.	25	40

(i) *Tolerance for certification of officially drawn samples.* (1) When certifying samples that have been officially drawn and which represent a specific lot of frozen strawberries, the grade for such lot will be determined by averaging the total scores of all containers comprising the sample, if:

(i) Not more than one-sixth of such containers fails to meet all the requirements of the grade indicated by the average of such total scores, and, with respect to such containers which fail to meet the requirements of the indicated grade by reason of a limiting rule, the average score of all containers in the sample for the factor, subject to such limiting rule, must be within the range for the grade indicated;

(ii) None of the containers comprising the sample fails more than 4 points below the minimum score for the grade indicated by the average of the total scores; and

(iii) All containers comprising the sample meet all applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act and in effect at the time of the aforesaid certification.

(j) *Score sheet for frozen strawberries (not for manufacturing).*

Size and kind of container		
Container mark or identification		
Label (style of pack: Ratio of fruit to sugar, etc., if shown)		
Net weight		
Style		
Size [1]		
Factors	**Score points**	
I. Color	40	(A) 34–40 (B) [2] 28–33 (D) [2] 0–27
II. Absence of defects	40	(A) 34–40 (B) [2] 28–33 (D) [2] 0–27
III. Character	20	(A) 17–20 (B) [2] 14–16 (D) [2] 0–13
Total score	100	
Normal flavor and odor		
Grade		

[1] See size limitation for U. S. Grade A or U. S. Fancy only.
[2] Indicates limiting rule.

(k) *Work sheet for frozen strawberries for manufacturing.*

Size and kind of container		
Container mark or identification		
Label (Style of Pack: Ratio of fruit to sugar, etc., if shown)		
Net weight		
Style		
Size		
Color	(A) mfg.: Bright, practically uniform, typical color	
	(B) mfg.: Reasonably bright, reasonably uniform, typical color	
	(D) mfg.: Fails to meet requirements for (B) manufacturing	
Defects	(A) mfg.: Practically free from defects	
	(B) mfg.: Reasonably free from defects	
	(D) mfg.: Fails to meet requirements for (B) manufacturing	
Character	(A) mfg.: Good character for the purposes of manufacturing	
	(B) mfg.: Reasonably good character for the purposes of manufacturing	
	(D) mfg.: Fails to meet requirements for (B) manufacturing	
Normal flavor and odor		
U. S. Grade for manufacturing		

(l) *Effective time and supersedure.* The foregoing revised United States Standards for Grades of Frozen Strawberries (which are the fourth issue) shall become effective May 1, 1949 and thereupon supersede the standards for grades of frozen strawberries (13 F. R. 2011) which have been in effect since May 17, 1948.

For the reasons hereinafter set forth, it is hereby found and determined that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rule making procedure (60 Stat. 237; 5 U. S. C. 1001 et seq.).

Since May 17, 1948, the effective date of the current provisions of the United States Standards for Grades of Frozen Strawberries (13 F. R. 2011), freezers have been using such standards in packing their frozen strawberries. Packers, preservers, brokers, and buyers have also been using the standards in making sales and purchases of this product. The preservers, who are the largest users of frozen strawberries, have been studying these standards in relation to the revised United States Standards for Grades of Fruit Preserves (or Jams), which were published in the FEDERAL REGISTER February 11, 1949 (14 F. R. 619).

During the past several months, the Department has conducted extensive investigations in all important producing areas and carefully appraised the proposed changes. Meetings and discussions have also been carried on with all interested parties to obtain their views and comments, as well as the benefits of their experiences and practices. A large number of samples of frozen strawberries and strawberry preserves (or jams) have been analyzed by the Department in conjunction with such interested parties. After the use, study, and investigations, as aforesaid, of the current standards, all interested parties have now requested that certain modifications be made therein.

The foregoing revised standards modify the present grades by (1) relaxing the tolerances for short stems and (2) incorporating into the "grades of frozen strawberries for manufacturing" the tolerances for damaged strawberries now permitted in the "grades of frozen strawberries (not for manufacturing)." All interested parties have indicated to the Department of Agriculture that if the present grade standards are so modified, such modifications will be fair and equitable to all strawberry producing areas, and, in addition, will provide the necessary quality classifications for frozen strawberries that are utilized in the manufacture of fruit preserves (or jams) and in other products.

Growers, packers, preservers, distributors, and buyers are now strongly urging that the current standards be revised, as set forth herein, and made effective as soon as practicable in order that such may be used in their present contract negotiations. In this connection, the earliest packing season in some of the southern States commences about April 25. Therefore, no apparent useful purpose would be served, at this time, by giving preliminary notice and engaging in public rule making procedure. (60 Stat. 1087; 7 U. S. C. 1621 et seq.); (Pub. Law 712, 80th Cong., approved June 19, 1948)

Issued at Washington, D. C. this 30th day of March 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-2479; Filed, Apr. 1, 1949; 8:50 a. m.]

Chapter II—Production and Marketing Administration (School Lunch Program), Department of Agriculture

APPENDIX—APPORTIONMENT OF ASSISTANCE FUNDS

FIFTH APPORTIONMENT OF FOOD ASSISTANCE FUNDS PURSUANT TO NATIONAL SCHOOL LUNCH ACT, FISCAL YEAR 1948

Pursuant to section 4 of the National School Lunch Act (60 Stat. 230), food assistance funds available for the fiscal year ending June 30, 1948, are reapportioned among the several States as follows:

State	Total	State agency	Private schools
Alabama	$2,224,142	$2,199,770	$24,372
Arizona	323,956	311,451	12,505
Arkansas	1,495,589	1,475,837	19,752
California	2,103,811	2,103,811	
Colorado	440,060	408,679	31,381
Connecticut	478,932	478,932	
Delaware	70,496	70,496	
District of Columbia	88,878	88,878	
Florida	888,833	861,504	27,329
Georgia	2,327,390	2,327,390	
Idaho	229,958	223,052	6,906
Illinois	2,146,735	2,146,735	
Indiana	1,200,933	1,200,933	
Iowa	845,964	767,657	78,307
Kansas	645,946	645,946	
Kentucky	1,943,296	1,943,296	
Louisiana	1,574,664	1,574,664	
Maine	278,151	262,657	15,494
Maryland	634,527	600,202	34,325
Massachusetts	1,133,761	1,013,516	120,245
Michigan	1,776,814	1,618,831	157,983
Minnesota	$1,052,418	$916,240	$136,178
Mississippi	1,610,012	1,610,012	
Missouri	1,343,054	1,343,054	
Montana	179,909	165,856	14,053
Nebraska	391,945	349,100	42,845
Nevada	46,362	45,449	913
New Hampshire	174,502	174,502	
New Jersey	1,132,923	935,648	197,275
New Mexico	250,540	230,696	19,844
New York	3,044,359	3,044,359	
North Carolina	2,634,814	2,634,814	
North Dakota	192,196	172,629	19,567
Ohio	1,971,739	1,708,379	263,360
Oklahoma	1,216,107	1,216,107	
Oregon	372,490	372,490	
Pennsylvania	1,884,327	1,662,110	222,217
Rhode Island	181,464	181,464	
South Carolina	1,594,392	1,588,372	6,020
South Dakota	15,251		15,251
Tennessee	1,812,269	1,798,776	13,493
Texas	3,330,306	3,330,306	
Utah	321,980	318,103	3,877
Vermont	133,089	133,089	
Virginia	1,427,909	1,409,943	17,966
Washington	540,899	510,647	30,252
West Virginia	1,090,722	1,073,024	17,698
Wisconsin	994,087	808,627	185,460
Wyoming	107,099	107,099	
Alaska	12,226	12,226	
Hawaii	91,683	75,260	16,423
Puerto Rico	1,962,862	1,962,862	
Virgin Islands	33,229	33,229	
Total	54,000,000	52,248,709	1,751,291

(60 Stat. 230)

Dated: March 30, 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2498; Filed, Apr. 1, 1949; 8:50 a. m.]

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

PART 729—PEANUTS

REVISION OF APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT FOR CROP PRODUCED IN 1949

The purpose of this proclamation is to revise the apportionment of the 1949 national peanut acreage allotment among the several peanut-producing States which was issued December 15, 1949 (13 F. R. 8127). The revision is necessary because the reserve of 20,851 acres set aside for new farms was in excess of requirements for this purpose, and 2,217 additional acres are available for apportionment. Since the additional acreage is being apportioned on exactly the same basis as the apportionment previously made, compliance with the notice and public procedure provisions of the Administrative Procedure Act is hereby found to be impractical and unnecessary.

§ 729.4 *Apportionment of the national peanut acreage allotment for the crop produced in the calendar year 1949 (Revised).* The national peanut acreage allotment proclaimed in § 729.2 is hereby apportioned as follows:

State:	*Acreage allotment* [1]
Alabama	399,821.1
Arizona	401.3
Arkansas	8,418.0
California [2]	1,257.3
Florida	83,882.0
Georgia	878,023.5
Louisiana	4,041.3
Mississippi	14,129.1
Missouri	401.3
New Mexico	8,641.1
North Carolina	243,034.5
Oklahoma	188,335.6
South Carolina	25,613.2
Tennessee	5,739.1
Texas	625,787.7
Virginia [2]	141,443.9
Total acreage	2,628,970.0

[1] Includes acreage allocated to State for new grower allotments.

[2] Includes additional acreage of 856 acres for California and 16,747 acres for Virginia required to provide allotments equal to the respective 1941 State allotment.

(Sec. 375, 52 Stat. 66, 7 U. S. C. 1375. Interprets or applies sec. 358 (c), 55 Stat. 89, & U. S. C. 1358 (c))

Done at Washington, D. C., this 30th day of March 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2478; Filed, Apr. 1, 1949; 8:50 a. m.]

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

[Lemon Reg. 313]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.420 *Lemon Regulation 313*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR, Cum. Supp., 953.1 et seq.; 13 F. R. 766), 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, 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 hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1946 ed. 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 Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circum-

stances, for preparation for such effective date.

(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., April 3, 1949, and ending at 12:01 a. m., P. S. t., April 10, 1949, is hereby fixed as follows:

(i) District 1: 325 carloads;

(ii) District 2: 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 to Lemon Regulation 312 (14 F. R. 1380) and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," and "District 2" shall have the same meaning as is given to each such term in the said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 31st day of March 1949.

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

[F. R. Doc. 49-2502; Filed, Apr. 1, 1949; 8:47 a. m.]

[Orange Reg. 274]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.420 *Orange Regulation 274*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges 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, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges 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., April 3, 1949, and ending at 12:01 a. m., P. s. t., April 10, 1949, is hereby fixed as follows:

(i) *Valencia oranges.* (*a*) Prorate District No. 1: No movement;

(*b*) Prorate District No. 2: No movement;

(*c*) Prorate District No. 3: Unlimited movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: Unlimited movement;

(*b*) Prorate District No. 2: 550 carloads;

(*c*) Prorate District No. 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said 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," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 (11 F. R. 10258) of the rules and regulations contained in this part. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 1st day of April, 1949.

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

PRORATE BASE SCHEDULE

[12:01 a. m. Apr. 3, 1949, to 12:01 a. m. Apr. 10, 1949]

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 2

Handler	*Prorate base (percent)*
Total	100.0000
A. F. G. Alta Loma	.3764
A. F. G. Corona	.2949
A. F. G. Fullerton	.0000
A. F. G. Orange	.0404
A. F. G. Riverside	.7221
Hazeltine Packing Co	.1283
Placentia Pioneer Valencia Growers Association	.0644
Signal Fruit Association	.8874
Azusa Citrus Association	1.2307
Damerel-Allison Co	1.5507
Glendora Mutual Orange Association	.5478
Irwindale Citrus Association	.4720
Puente Mutual Citrus Association	.0489
Valencia Heights Orchards Association	.2086
Covina Citrus Association	2.1362
Covina Orange Growers Association	.7517
Glendora Citrus Association	.9685
Glendora Heights Orange & Lemon Growers Association	.1670
Gold Buckle Association	3.2197
La Verne Orange Association	4.3562
Anaheim Citrus Fruit Association	.0000

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	*Prorate base (percent)*
Anaheim Valencia Orange Association	0.0000
Eadington Fruit Company, Inc	.3270
Fullerton Mutual Orange Association	.2739
La Habra Citrus Association	.1226
Orange County Valencia Association	.0000
Orangethorpe Citrus Association	.0261
Placentia Cooperative Orange Association	.0000
Yorba Linda Citrus Association	.0000
Escondido Orange Association	.3757
Alta Loma Heights Citrus Association	.3178
Citrus Fruit Growers	.9090
Cucamonga Citrus Association	.4385
Rialto Heights Orange Growers	.3831
Upland Citrus Association	3.9365
Upland Heights Orange Association	.9953
Consolidated Orange Growers	.0229
Frances Citrus Association	.0112
Garden Grove Citrus Association	.0000
Goldenwest Citrus Association	.1138
Olive Heights Citrus Association	.0400
Santa Ana-Trustin Mutual Citrus Association	.0128
Santiago Orange Growers Association	.1442
Tustin Hills Citrus Association	.0373
Villa Park Orchard Association	.0378
Bradford Brothers, Inc	.2347
Placentia Mutual Orange Association	.1630
Placentia Orange Growers Association	.2962
Yorba Orange Growers Association	.0303
Call Ranch	.6049
Corona Citrus Association	.9053
Jameson Co	.3725
Orange Heights Orange Association	1.5418
Crafton Orange Growers Association	1.1653
E. Highlands Citrus Association	.4083
Fontana Citrus Association	.3922
Highland Fruit Growers	.6511
Redlands Heights Groves	.8321
Redlands Orangedale Association	.9658
Break & Sons, Allen	.2414
Bryn Mawr Fruit Growers Association	.9347
Mission Citrus Association	.7758
Redlands Coop. Fruit Association	1.5316
Redlands Orange Growers Association	1.0005
Redlands Select Groves	.3683
Rialto Citrus Association	.6297
Rialto Orange Co	.3033
Southern Citrus Association	.6687
United Citrus Growers	.5569
Zilen Citrus Growers	.4238
Andrews Brothers of Calif	.1298
Arlington Heights Citrus Co	.8964
Brown Estate, L. V. W	1.7656
Gavilan Citrus Association	1.8730
Hemet Mutual Groves	.0000
Highgrove Fruit Association	.6693
Krinard Packing Co	1.6963
McDermont Fruit Co	1.9347
Monte Vista Citrus Association	1.1915
National Orange Co	.9008
Riverside Heights Orange Growers Association	1.3440
Sierra Vista Packing Association	.7716
Victoria Avenue Citrus Association	2.5090
Claremont Citrus Association	1.3273
College Heights Orange & Lemon Association	1.2733

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	*Prorate base (percent)*
El Camino Citrus Association	0.4342
Indian Hill Citrus Association	1.5082
Pomona Fruit Growers Exchange	1.9722
Walnut Fruit Growers Association	.6606
West Ontario Citrus Association	1.3042
El Cajon Valley Citrus Association	.2754
San Dimas Orange Growers Association	1.5352
Ball & Tweedy Association	.0000
Canoga Citrus Association	.0748
Covina Valley Orange Association	.1998
N. Whittier Heights Citrus Association	.1476
San Fernando Fruit Growers Association	.4198
San Fernando Heights Orange Association	.3974
Sierra Madre-Lamanda Citrus Association	.0000
Camarillo Citrus Association	.0106
Fillmore Citrus Association	1.2619
Ojai Orange Association	.8820
Piru Citrus Association	1.2214
Santa Paula Orange Association	.1285
Tapo Citrus Association	.0000
Ventura County Citrus Association	.0272
East Whittier Citrus Association	.0000
Whittier Citrus Association	.2189
Whittier Select Citrus Association	.0000
Anaheim Coop. Orange Association	.0595
Bryn Mawr Mutual Orange Association	.3464
Chula Vista Mutual Lemon Association	.1385
Escondido Coop. Citrus Association	.0899
Euclid Avenue Orange Association	3.0522
Fullerton Coop. Orange Association	.0000
Garden Grove Orange Coop., Inc	.0377
Golden Orange Groves, Inc	.3011
Highland Mutual Groves	.3102
Index Mutual Association	.0000
La Verne Coop. Citrus Association	3.3834
Mentone Heights Association	.6016
Olive Hillside Grove, Inc	.0000
Orange Coop. Citrus Association	.0335
Redlands Foothill Groves	2.6507
Redlands Mutual Orange Association	.8936
Riverside Citrus Association	.1710
Ventura County Orange & Lemon Association	.2730
Whittier Mutual Orange & Lemon Association	.0000
Babijuice Corp. of Calif	.1932
Borden Fruit Co	.0268
California Associated Growers	.0085
Cherokee Citrus Co., Inc	.9461
Chess Co., Meyer W	.2959
Evans Brothers Packing Co	.8864
Gold Banner Association	2.0671
Granada Packing House	.1405
Hill Packing House, Fred A	.5896
Inland Fruit Dealers, Inc	.0268
MacDonald Fruit Co	.1952
Orange Belt Fruit Distributors	2.0685
Panno Fruit Co., Carlo	.0340
Paramount Citrus Association	.2753
Placentia Orchard Co	.0000
San Antonio Orchard Co	1.1560
Snyder & Sons, W. A	.4783
Wall, E. T	1.7893
Western Fruit Growers, Inc., Redlands	2.7701

[F. R. Doc. 49-2543; Filed, Apr. 1, 1949; 11:01 a. m]

No. 63——2

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 107—MANIFESTS

MANIFESTING OF ALIEN LABORERS ENTERING AND DEPARTING FROM UNITED STATES

MARCH 18, 1949.

The following amendments to Part 107, Chapter I, Title 8 of the Code of Federal Regulations, are hereby prescribed:

1. The fifth sentence of § 107.9, *Form I–415; preparation*, is amended by inserting "the serial number of Immigration Form I–100" so that the sentence will read: "In column 3 shall be shown the serial number (red) of Foreign Service Form 257, the serial number (black) of Foreign Service Form 256, the serial number of Immigration Form I–94, the serial number of Immigration Form I–100, or the reentry permit number (red) of Immigration Form I–132."

2. Section 107.9 is further amended by inserting in the eighth sentence the phrase "an Immigration Form I–100" so that the sentence will read: "In the case of every alien passenger who does not have a Foreign Service Form 257 or 256, an Immigration Form I–100, or a reentry permit (Form I–132), the transportation company shall, as a part of the manifest Form I–415, execute an Immigration Form I–94 in triplicate in the manner prescribed by § 107.19, but shall deliver it to the passenger for surrender by him to the United States immigrant inspector at the United States port of arrival."

3. The third sentence of paragraph (a) of § 107.15, *Form I–434; preparation*, is amended by inserting "Immigration Form I–100" so that the sentence will read: "In column 3 there shall be shown the serial number of any Foreign Service Form 257a, Immigration Form I–100, or Immigration Form I–94, 'Visitor's Permit,' presented by the alien passenger."

4. Paragraph (a) of § 107.15 is further amended by changing the fifth sentence to read as follows: "If a Form 257a, Form I–100, or Form I–94 is not presented by the alien passenger, an Immigration Form I–424, 'Report of Departure of Alien,' must be prepared by the transportation company, in which case the notation 'I–424' shall be entered in column 3 opposite the name of the passenger and the Form I–424 attached to and made a part of Form I–434."

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary because the amendments prescribed by the order relieve restrictions in the execution of entry and departure documents by transportation companies.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458)

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

Approved: March 30, 1949.

TOM C. CLARK,
Attorney General.

[F. R. Doc. 49-2461; Filed, Apr. 1, 1949; 8:47 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

PART 220—CREDIT BY BROKERS, DEALERS AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

GENERAL ACCOUNTS

1. Effective March 30, 1949, § 220.8 (the Supplement) is hereby amended to read as follows:

§ 220.8 *Maximum loan value for general accounts.* The maximum loan value of a registered security (other than an exempted security) in a general account, subject to § 220.3, shall be 50 per cent of its current market value.

Margin required for short sales in general accounts. The amount to be included in the adjusted debit balance of a general account, pursuant to § 220.3 (d) (3), as margin required for short sales of securities (other than exempted securities) shall be 50 per cent of the current market value of each such security.

2. a. This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values and margin requirements in order to carry out the purposes of the act in the light of the general credit situation.

b. The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in section 4 (c) of such act, are impracticable, unnecessary and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) of the Board's rules of procedure (Part 262).

(Sec. 3 (a) and (b), sec. 7 (a), (b), (c) and (d), sec. 8 (a), sec 17 (b) and sec. 23 (a), 48 Stat. 881, 886, 888, 897, and 901; sec. 8, 49 Stat. 1379; 15 U. S. C. 78c–(a) and (b), 78g–(a), (b), (c) and (d), 78h–(a), 78q–(b), 78w–(a))

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-2448; Filed, Apr. 1, 1949; 8:45 a. m.]

PART 221—LOANS BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

MAXIMUM LOAN VALUE OF STOCKS

1. Effective March 30, 1949, § 221.4 (the Supplement) is hereby amended to read as follows:

§ 221.4 *Maximum loan value of stocks.* For the purpose of § 221.1, the maximum loan value of any stock, whether or not registered on a national securities exchange, shall be 50 percent of its current market value, as determined by any reasonable method.

2. a. This amendment is issued pursuant to the Securities Exchange Act of 1934, particularly section 7 thereof. Its purpose is to change loan values in order to carry out the purposes of the act in the light of the general credit situation.

b. The notice and public procedure described in sections 4 (a) and 4 (b) of the Administrative Procedure Act, and the thirty day prior publication described in section 4 (c) of such act, are impracticable, unnecessary and contrary to the public interest in connection with this amendment for the reasons and good cause found as stated in § 262.2 (e) of the Board's rules of procedure (Part 262).

(Secs. 3 (a) and (b), 7, 17 (b), 48 Stat. 882, 886, 897, sec. 23 (a) as amended by sec. 8, 49 Stat. 1379; 15 U. S. C. 78c, 78g, 78q (b), 15 U. S. C., Supp. 78w (a))

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-2449; Filed, Apr. 1, 1949; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

PART 62—NOTICE AND REPORTS OF AIRCRAFT ACCIDENTS AND MISSING AIRCRAFT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of March 1949.

Provision for the notification and reporting of accidents and for the removal, release, and preservation of aircraft wreckage is currently made in Part 1 of the Civil Air Regulations. Experience has shown that more accurate information and statistics, and better cooperation, is necessary if the work of the Board's Bureau of Safety Investigation is to be expedited.

Thus, while the new Part 62 in general continues the requirements now in force, it sets forth such requirements with greater specificity so that those persons required to give notice or submit reports will be better informed as to their responsibilities.

The new part will also require an operator to notify the Board of any aircraft which is overdue and unaccounted for, so that the appropriate governmental agencies may assist in the search for the aircraft.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates a new part of the Civil Air Regulations (14 CFR) effective May 1, 1949, to read as follows:

Sec.

AUTHORITY: §§ 62.0 to 62.47 issued under secs. 205 (a), 702, 52 stat. 984, 1013; 49 U. S. C., 425 (a), 582.

§ 62.0 *Applicability of this part.* The provisions of this part establish requirements for the notification and reporting of accidents involving civil aircraft in the United States, and aircraft of United States registry wherever they occur, and further establish requirements for the notification of overdue aircraft.

§ 62.1 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Aircraft accident.* An aircraft accident is an accident which occurs during the starting or warming up of an engine or engines, or operation of an aircraft, which results in serious or fatal injury to one or more persons or in substantial damage to any aircraft. Whenever fatal or serious injury results from contact with a rotating propeller which is installed on an aircraft, it shall be considered an aircraft accident. A collision of two or more aircraft is considered one aircraft accident. Aircraft accidents are divided into two classifications: (i) Aircraft accidents incident to flight and (ii) aircraft accidents not incident to flight.

(2) *Accident incident to flight.* An aircraft accident incident to flight is an accident which occurs between the time an engine or engines are started for the purpose of commencing flight until the aircraft comes to rest with all engines stopped for complete or partial deplaning or unloading. It excludes death or injuries to persons on board which result from illness, altercations, falling, stumbling, etc., or during enplaning or deplaning and other occurrences not directly attributable to normal flight operation.

(3) *Accident not incident to flight.* An aircraft accident not incident to flight is an aircraft accident other than one defined in subparagraph (2) of this paragraph as incident to flight.

(4) *Operator.* An operator of aircraft shall include the owner, lessee, and any other person who causes or authorizes the operation of the aircraft.

(5) *Fatal injury.* Fatal injury is an injury which results in death within 30 days.

(6) *Serious injury.* Serious injury is an injury which requires hospitalization and medical treatment for a period of five or more days, or results in a fracture of any bone (except simple fractures of fingers, toes, or nose), lacerations which cause severe hemorrhages, or involve muscles, injury to any internal organ, or second or third degree burns or any burns involving more than 5% of the body surface, provided that the injury does not result in death within 30 days.

(7) *Minor injury.* Minor injury is any injury which does not result in death within 30 days and is not a serious injury.

(8) *Substantial damage.* Substantial damage is damage which necessitates major overhaul of the aircraft or the replacement of or extensive repairs to any major component or combination of components of the aircraft.

(9) *Minor damage.* Minor damage shall include damage which is easily repairable such as scraped wing tips, bent fairing or cowling, small punctured holes in the skin or fabric, dented skin or trailing edge, or damage to tires, engine accessories, brakes, or propeller blades.

SUBPART A—AIR CARRIER REQUIREMENTS

NOTICE OF ACCIDENT

§ 62.5 *Notice of aircraft accident and occurrences.* Immediate notice shall be given of any accident [1] involving air carrier aircraft of United States registry wherever it occurs. Immediate notice will be made of any occurrence of fire involving any of the components or systems aboard the aircraft when incident to flight, regardless of the extent of injury to occupants or damage to the aircraft.

[1] See definition of "aircraft accident" in § 62.1 (a) (1).

§ 62.6 *Responsibility for giving notice.* In accidents or occurrences involving air carrier aircraft of United States registry, the operator [3] thereof shall be responsible for giving notice as provided in § 62.5.

§ 62.7 *To whom notice is directed.* The notice shall be directed to the Civil Aeronautics Board through its nearest office or through the nearest Civil Aeronautics Administration communications station or agent who upon receipt shall transmit the information to the nearest Civil Aeronautics Board office. The notice shall be sent by the most expeditious means of communication available.

§ 62.8 *Information to be given in notice.* The notice shall include the following information concerning the accident, if available: Location, date, time of day, number of persons involved, injuries to each, aircraft identification including registration number, aircraft make and model, names of crew members, operator, and briefly the nature or circumstances surrounding the accident.

REPORT OF ACCIDENTS

§ 62.10 *Report of aircraft accidents.* A written report shall be made of every aircraft accident incident to flight involving air carrier aircraft of United States registry wherever it may occur. A written report will not be required on any occurrence involving minor damage, or minor injury, or of any aircraft accident not incident to flight, unless the operator has been requested to make such a report by an authorized representative of the Civil Aeronautics Board or the Civil Aeronautics Administration.

§ 62.11 *Responsibility for making report.* The operator of the aircraft involved in the accident shall be responsible for making the written report required by § 62.10. The report shall be made as soon as practicable and good cause shown in writing for any delay over ten days. Each member of the crew involved in the accident, if not physically incapacitated at the time of the submission of the report, shall attach thereto a signed statement setting forth the facts, conditions, and circumstances pertinent to the accident. If incapacitated, a statement shall be submitted as soon as physically possible.

§ 62.12 *Form of report and contents.* The report shall be made in duplicate on an accident report form furnished by the Civil Aeronautics Board and shall contain all available information required therein.

§ 62.13 *To whom the report is directed.* The original and one copy of the report shall be mailed or delivered to the office or representative of the Civil Aeronautics Board nearest the headquarters of the air carrier involved, or delivered to a Civil Aeronautics Administration agent who will immediately transmit the original copy of the report with the originals of any attachments directly to the appropriate office of the Civil Aeronautics Board.

[3] See definition of "operator" in § 62.1 (a) (4).

PRESERVATION OF WRECKAGE AND RECORDS

§ 62.14 *Preservation of aircraft wreckage and records.* Aircraft, parts, and records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.5 shall be preserved for the Board by the operator.[3] Wreckage of aircraft involved in accidents not requiring notification under § 62.5 need not be preserved, unless specifically ordered by an authorized representative of the Civil Aeronautics Board or of the Administrator.

§ 62.15 *Prohibition against removing or disturbing wreckage and records.* Aircraft, parts, or records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.5 shall not be disturbed or removed, unless specific permission is granted by an authorized representative of the Civil Aeronautics Board, except where necessary (a) to give assistance to persons injured or trapped therein, (b) to protect such wreckage from further serious damage, or (c) to protect the public from injury.

§ 62.16 *Recording of original position and condition of wreckage.* Whenever wreckage is removed in accordance with the provisions of § 62.15, prior to the removal, sketches or photographs shall be made of the original position and condition of the wreckage, and marks on the ground, and any pertinent data which cannot be effectively photographed shall be recorded, unless the resultant delay would endanger the lives of persons injured, or trapped, or unless the essential interests of public safety can be protected only by immediate movement. In any event, movement of the wreckage shall be so accomplished as to entail the minimum possible disturbance thereof, and it shall be preserved in accordance with the provisions of § 62.14.

§ 62.17 *Release of wreckage.* Aircraft, parts, or records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.5 shall not be released for repair, salvage, disposal, or any other purpose until permission is granted by an authorized representative of the Civil Aeronautics Board.

NOTICE OF OVERDUE AIRCRAFT

§ 62.21 *When notice is to be given.* When an aircraft is overdue and the operator is reasonably sure that it has been involved in an accident, the operator shall immediately notify the Civil Aeronautics Board in accordance with the provisions of §§ 62.6 through 62.8.

§ 62.22 *Contents of notice.* The notice shall include place, date and time of departure, destination, estimated time of arrival, aircraft identification including registration number, make and model, names of crew members and passengers, operator, and all other known pertinent information concerning the flight. In addition, it shall be the responsibility of the operator to furnish such records pertinent to the flight as may be requested by the Civil Aeronautics Board.

[3] Where accidents occur outside of the United States, its territories, or possessions, the air carrier shall only be responsible for taking such measures for preserving aircraft wreckage or records as may legally be taken in the place where the accident occurs.

SUBPART B—REQUIREMENTS FOR CIVIL AIRCRAFT OTHER THAN AIR CARRIER AIRCRAFT

NOTICE OF ACCIDENT

§ 62.31 *Notice of aircraft accident and occurrences.* Immediate notice shall be given when any occurrence incident to flight, and involving civil aircraft in the United States, or within a territory or possession thereof, or civil aircraft of United States registry anywhere, (a) is known or believed to have resulted from structural failure of an aircraft, aircraft engine, or prepeller, (b) involves collision of two or more aircraft in the air, (c) involves fire on board an aircraft, or (d) results in serious or fatal injury to any person.[4]

§ 62.32 *Responsibility for giving notice.* In all civil aircraft accidents of which immediate notice must be given, the pilot, or pilots, or, if the pilots are incapacitated, the owner or operator [5] shall be responsible for giving such notice.

§ 62.33 *To whom notice is directed.* The notice must be directed to the Civil Aeronautics Board through its nearest office or through the nearest Civil Aeronautics Administration communications station or agent who upon receipt shall transmit the information to the nearest Civil Aeronautics Board office. The notice shall be sent by the most expeditious means of communication available.

§ 62.34 *Information to be given in notice.* The notice shall include the following information concerning the accident, if available: location, date, time of day, number of persons involved, injuries to each, aircraft identification including registration number, aircraft make and model, names of crew members, operator, and briefly the nature or circumstances surrounding the accident.

REPORT OF ACCIDENT

§ 62.36 *Report of aircraft accident.* A written report shall be made of every aircraft accident involving aircraft of United States registry wherever it may occur. A written report is not required on an occurrence involving minor injury or minor damage, unless the pilot, owner or operator has been requested to make a report by an authorized representative of the Civil Aeronautics Board or the Civil Aeronautics Administration.

§ 62.37 *Responsibility for making report.* The pilot, owner, or operator of the aircraft involved in the accident shall be responsible for making the written report required by § 62.36. The report shall be made as soon as possible and good cause shown in writing for any delay over seven days. If the operator is not the pilot, then each pilot involved in the accident, if not physically incapaci-

[4] It will be noted that notice is required even though the damage to the aircraft is only minor in nature.

[5] See definition of "operator" in § 62.1 (a) (4).

tated at the time of the submission of the report, shall sign the report or attach thereto a signed statement setting forth the facts, conditions, and circumstances pertinent to the accident. When incapacitated at the time of the submission of the report, the pilot shall submit such a statement as soon as he is physically able to do so.

§ 62.38 *Form of report and contents.* The report shall be made in duplicate on an accident report form furnished by the Civil Aeronautics Board and shall contain all available information required therein.

§ 62.39 *To whom the report is directed.* The original and one copy of the report shall be mailed or delivered to the nearest office of the Civil Aeronautics Board or delivered to a Civil Aeronautics Administration agent who will immediately transmit the original copy of the report with the originals of any attachments directly to the appropriate office of the Civil Aeronautics Board.

PRESERVATION OF WRECKAGE AND RECORDS

§ 62.41 *Preservation of aircraft wreckage and records.* Aircraft, parts, and records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.31 shall be preserved for the Board by the pilot, owner, or operator.[4] Wreckage of aircraft involved in accidents not requiring notification under § 62.31 need not be preserved, unless specifically ordered by an authorized representative of the Civil Aeronautics Board or of the Administrator.

§ 62.42 *Prohibition against removing or disturbing wreckage and records.* Aircraft, parts, or records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.31 shall not be disturbed or removed, unless specific permission is granted by an authorized representative of the Civil Aeronautics Board, except where necessary (a) to give assistance to persons injured or trapped therein, (b) to protect such wreckage from further serious damage, or (c) to protect the public from injury.

§ 62.43 *Recording of original position and condition of wreckage.* Whenever wreckage is moved in accordance with the provisions of § 62.42, sketches or photographs of the original position and condition of the wreckage, marks on the ground, and any other pertinent data shall be made prior to the removal, unless the resultant delay would endanger the lives of persons injured, or trapped, or unless the essential interests of public safety can be protected only by immediate movement. In any event, movement of the wreckage shall be accomplished so as to entail the minimum possible disturbance thereof and shall be preserved in accordance with the provisions of § 62.41.

§ 62.44 *Release of wreckage.* Aircraft, parts, or records thereof involved in or pertaining to an accident of which notice must be given under the provisions of § 62.31 shall not be released for repair, salvage, disposal, or any other purpose until permission is granted by an authorized representative of the Civil Aeronautics Board.

NOTICE OF MISSING AIRCRAFT

§ 62.46 *Notice of missing aircraft.* When an aircraft is assumed to be missing and the operator or owner is reasonably sure that it has been involved in an accident, the operator or owner shall immediately notify the Civil Aeronautics Board in accordance with the provisions of §§ 62.32 through 62.34.

§ 62.47 *Contents of notice.* The notice shall include place, date and time of departure, destination, estimated time of arrival, aircraft identification including registration number, make and model, names of crew members and passengers, operator, owner, and all other known pertinent information concerning the flight. In addition, it shall be the responsibility of the owner or operator to furnish such records pertinent to the flight as may be requested by the Civil Aeronautics Board. If the aircraft is still missing upon the expiration of seven days, the reporting provisions of §§ 62.36 through 62.39 shall be complied with.

NOTE: The requirements of this part concerning notices, reports, and record keeping have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2491; Filed, Apr. 1, 1949; 8:54 a. m.]

Subchapter B—Economic Regulations

[REGS., SERIAL NO. ER-140]

PART 292—CLASSIFICATIONS AND EXEMPTIONS

AIR FREIGHT FORWARDERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 28th day of March 1949.

Section 292.6 (e) (2) of the Economic Regulations requires prospective Air Freight Forwarders to submit financial statements showing assets and liabilities as of the date of their application for a Letter of Registration as an Air Freight Forwarder.

This has been found in practice to be an undue burden to most forwarder applicants. Ordinarily, they do not have such statements available, but nevertheless, are able to provide adequate statements as of the end of their last full fiscal year which is usually the preceding January or July 1st. The most recent of such statements are acceptable to the Board if such statements have been struck within a period of not to exceed 6 months preceding date of filing the application and will inform the Board satisfactorily concerning the financial status of most Air Freight Forwarder applicants.

Accordingly, § 292.6 (e) (2) (viii) is being amended to permit the submission of financial statements showing assets and liabilities as of the end of an applicant's latest fiscal year, but no earlier than a date 6 months prior to the date of filing the application.

In addition to this change, certain minor revisions and clarifications of the information required in an application are considered necessary and are being made at this time.

Since this amendment is minor in nature and imposes no additional burden on any person, but removes certain requirements, notice and public procedure hereon are unnecessary and the amendment may be made effective without prior notice.

In consideration of the foregoing the Civil Aeronautics Board hereby amends § 292.6 of the Economic Regulations (14 CFR 292.6) effective immediately:

By amending subdivisions (ii), (v), (viii) and (x) of paragraph (e) (2) to read as follows:

(e) *Letters of registration.* * * *

(2) *Application for letter of registration.* * * * (ii) name of air freight forwarder; * * * (v) if a corporation, the state of incorporation, the name and citizenship of officers and directors, and a statement that at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions; * * * (viii) A financial statement showing assets and liabilities as of a date not exceeding 6 months prior to the date of filing the application, and a statement showing the types and amounts of insurance, which is in force for the protection of the forwarder's customers, and the public and the name or names of the insurers; * * * (x) the information required in a "Report of Ownership of Stock" (CAB Form 2786; available from the Board's Publications Section) with respect to each officer and director, if a corporation or association; with respect to each partner or member, if a partnership; or with respect to the owner where the business is conducted by an individual; * * *"

(Secs. 205 (a), 416 (a); 52 Stat. 984, 1004; 49 U. S. C. 425, 496)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2490; Filed, Apr. 1, 1949; 8:53 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 146—CERTIFICATION OF BATCHES OF PENICILLIN- OR STREPTOMYCIN-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Federal Security Administrator by the

[4] Where accidents occur outside of the United States, its Territories, or possessions, the operator shall only be responsible for taking such measures for preserving aircraft wreckage or records as may legally be taken in the place where the accident occurs.

provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463 and 61 Stat. 11; 21 U. S. C. 357) the regulations for certification of batches of penicillin- or streptomycin-containing drugs (12 F. R. 2231, 7998; 13 F. R. 439, 1087, 1099, 1305, 2475, 4196, 5152, 6015; 14 F. R. 886) are amended as indicated below:

1. In § 146.26 *Penicillin intment* * * *, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended to read:

(iii) The statement "Expiration date ----------," the blank being filled in with the date which is not more than 12 months after the month during which the batch was certified;

In § 146.26, subparagraph (2) (i) of paragraph (c) *Labeling* is amended to read:

(i) The statement "Store in refrigerator not above 15° C. (59° F.)" or "Store below 15° C. (59° F.)," unless it is labeled with an expiration date which is not more than 9 months after the month during which the batch was certified;

2. In § 146.27 *Penicillin tablets*, paragraph (b) *Packaging* is amended by deleting the last sentence thereof.

In § 146.27, subparagraph (1) (iv) of paragraph (c) *Labeling* is amended to read:

(iv) The statement "Expiration date ----------", the blank being filled in, if crystalline sodium or potassium penicillin is used without the addition of buffer substances, diluents, binders, lubricants, colorings, or flavorings and each such tablet is enclosed in a foil or plastic film or other container, with the date which is 36 months; or if each such tablet is not enclosed in a foil or plastic film or other container, or if crystalline sodium or potassium penicillin is used with the addition of buffer substances, diluents, binders, lubricants, colorings, or flavorings with the date which is 18 months; or if crystalline sodium or potassium penicillin is not used, with the date which is 12 months after the month during which the batch was certified.

3. In § 146.40 *Penicillin bougies* * * *, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended to read:

(iii) The statement "Expiration date ----------", the blank being filled in, if crystalline sodium or potassium penicillin is used without the excipient polyethylene glycol, with the date which is 18 months; or if the excipient polyethylene glycol is used, or if crystalline sodium or potassium penicillin is not used, with the date which is 12 months after the month during which the batch was certified;

4. In § 146.44 *Procaine penicillin* * * *, subparagraph (3) of paragraph (c) *Labeling* is amended by deleting the figure "12" and substituting "18" therefor.

5. In § 146.45 *Procaine penicillin in oil*, the second sentence of paragraph (a) *Standards of identity, strength, quality, and purity* is changed to read: "Its potency is 300,000 units per milliliter, except if it is packaged and labeled solely for veterinary use, its potency is not less than 10,000 units per milliliter.

In § 146.45, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended by deleting the figure "12" and substituting "18" therefor.

6. In § 146.47 *Procaine penicillin for aqueous injection*, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended by deleting the figure "12" and substituting "18" therefor.

7. In § 146.50 *Procaine penicillin and buffered crystalline penicillin for aqueous injection*, paragraph (a) is amended to read:

(a) Its potency is such that when the diluent is added as directed, each milliliter shall contain not less than 300,000 units of procaine penicillin and not less than 50,000 units of buffered crystalline penicillin. The buffered crystalline penicillin conforms to the requirements prescribed therefor by § 146.37.

8. In § 146.52 *Procaine penicillin and crystalline penicillin in oil*, subparagraph (1) of paragraph (a) is amended to read:

(1) It contains not less than 50,000 units of crystalline penicillin for each 300,000 units of procaine penicillin, except if it is packaged and labeled solely for veterinary use, it contains not less than 3,000 units of crystalline penicillin for each 10,000 units of procaine penicillin. The crystalline penicillin conforms to the requirements prescribed therefor by § 146.24 (a).

9. In § 146.101 *Streptomycin sulfate*, * * *, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended by deleting the figure "18" and substituting "24" therefor.

10. In § 146.105 *Streptomycin for topical use* * * *, subparagraph (1) (iii) of paragraph (c) *Labeling* is amended by deleting the figure "18" and substituting "24" therefor.

This order which provides for storage of penicillin ointment at room temperature if the label of such ointment bears an expiration date of not more than 9 months; an unlimited size container for crystalline penicillin tablets that do not contain other ingredients and modification of the expiration date after certification of such tablets; modification of the expiration date after certification for penicillin bougies containing polyethylene glycol, procaine penicillin, procaine penicillin for aqueous injection, streptomycin and streptomycin for topical use; modification of the potency standard for penicillin in oil if packaged and labeled solely for veterinary use and modification of the expiration date after certification for this drug; modification of the potency standard for procaine penicillin and buffered crystalline penicillin for aqueous injection; and modification of the potency standard for procaine penicillin and crystalline penicillin in oil, if packaged and labeled solely for veterinary use shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industries will benefit by the earliest effective date and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order and would be contrary to public interest, and I so find, since it was drawn in collaboration with interested members of the affected industries, and since it would be against public interest to delay providing for storage of penicillin ointment at room temperature if the label of such ointment bears an expiration date of not more than 9 months; to delay providing for an unlimited size container for crystalline penicillin tablets that do not contain other ingredients and for modification of the expiration date after certification of such tablets; to delay modification of the expiration date after certification for penicillin bougies containing polyethylene glycol, procaine penicillin, procaine penicillin for aqueous injection, streptomycin, and streptomycin for topical use; to delay modification of the potency standard for penicillin in oil if packaged and labeled solely for veterinary use and modification of the expiration date after certification for this drug; to delay modification of the potency standard for procaine penicillin and buffered crystalline penicillin for aqueous injection, and procaine and crystalline penicillin in oil.

(52 Stat. 1040, as amended; 21 U. S. C. 357)

Dated: March 30, 1949.

[SEAL] J. DONALD KINGSLEY,
Acting Administrator.

[F. R. Doc. 49-2516; Filed, Apr. 1, 1949; 8:50 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg. Amdt. 75 [1]]

PART 825—RENT REGULATION UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respect:

Schedule A, item 14, is amended to read as follows:

(14) [Revoked and decontrolled]

This decontrols from §§ 825.1 to 825.12 the entire Phoenix-Salt River Valley Defense-Rental Area, State of Arizona.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894)

This amendment shall become effective April 2. 1949.

Issued this 30th day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2458; Filed, Apr. 1, 1919; 8:47 a. m.]

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[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005.

[Rent Reg. for Controlled Rooms in Rooming Houses and Other Establishments, Amdt. 71[1]]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATIONS FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respect:

Schedule A, item 14, is amended to read as follows:

(14) [Revoked and decontrolled]

This decontrols from §§ 825.81 to 825.92 the entire Phoenix-Salt River Valley Defense-Rental Area, State of Arizona.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894)

This amendment shall become effective April 12, 1949.

Issued this 30th day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2459; Filed, Apr. 1, 1949; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 575]

WASHINGTON

RESERVING CERTAIN PUBLIC LANDS IN CONNECTION WITH METHOW WINTER RANGE AND WILDLIFE REFUGE

Whereas the act of September 2, 1937, 50 Stat. 917 (16 U. S. C. 669–669j), provides for Federal aid to States in wildlife-restoration projects; and

Whereas the State of Washington has set up a Federal aid wildlife-restoration project and has acquired wildlife control over certain lands in Okanogan County, which lands are to be administered by the State of Washington through its State Game Commission as the Methow Winter Range and Wildlife Refuge; and

Whereas certain intermingled public lands possess wildlife value and could be administered advantageously in connection with the area; and

Whereas the act of March 10, 1934, 48 Stat. 401 (16 U. S. C. 661–666), provides for cooperation with Federal, State, and other agencies in developing a nationwide program of wildlife conservation and rehabilitation:

Now, Therefore, by virtue of the authority vested in the President, and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Okanogan County, Washington, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, but not the mineral leasing laws, and reserved under the jurisdiction of the Department of the Interior for use by the Washington State Game Commission in connection with the Methow Winter Range and Wildlife Refuge, under such conditions as may be prescribed by the Secretary of the Interior:

WILLAMETTE MERIDIAN

T. 35 N., R. 21 E.,
Sec. 1, SW¼NW¼, NW¼SW¼, S½SW¼, and SE¼SE¼;
Sec. 2, lot 1 and S½NE¼;
Sec. 12, NE¼NE¼, SW¼NE¼, and W½;
Sec. 13, S½NE¼, NE¼SW¼, and SE¼.
T. 33 N., R. 22 E.,
Sec. 1, lot 1.
T. 34 N., R. 22 E.,
Sec. 4, lots 3, 4, and SE¼SW¼;
Sec. 5, lot 1 and SW¼SE¼;
Sec. 17, SE¼NW¼;
Sec. 22, S½NE¼, NE¼NW¼, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 23, NE¼NE¼;
Sec. 26, SE¼SE¼;
Sec. 27, NW¼NE¼ and NE¼NW¼;
Sec. 35, SE¼NE¼ and NE¼SE¼.
T. 35 N., R. 22 E.,
Sec. 30, E½ NE¼;
Sec. 32, NE¼NW¼ and E½SE¼.
T. 33 N., R. 23 E.,
Sec. 5, lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 6, lot 1 and S½NE¼;
Sec. 8, N½.

The areas described aggregate 3,037.97 acres.

This order shall take precedence over, but shall not modify, the withdrawal for classification and other purposes made by Executive Order No. 6964 of February 5, 1935, as amended, so far as it affects the above-described lands.

J. A. KRUG,
Secretary of the Interior.

MARCH 29, 1949.

[F. R. Doc. 49-2444; Filed, Apr. 1, 1949; 8:45 a. m.]

[Public Land Order 577]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE AIR FORCE AS AN AIR FORCE BASE

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in the Territory of Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of the Air Force as an Air Force Base:

FAIRBANKS MERIDIAN

T. 2 S., R. 3 E.,
Sec. 34 (unsurveyed).
T. 3 S., R. 3 E.,
Sec. 2, W½ (unsurveyed);
Secs. 3, 10, 11, 12, 13 and 14 (unsurveyed);
Sec. 15, N½,
Secs. 23, 24, 25, 26 and 36 (partly unsurveyed).

The areas described contain approximately 8,320 acres.

This order shall be subject to Executive Order No. 8020 of December 2, 1938, withdrawing lands for flood-control purposes in connection with the Tanana River and Chena Slough flood-control project under the supervision of the War Department, so far as such order affects any of the above-described lands.

It is intended that the lands described herein shall be returned to the jurisdiction of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

J. A. KRUG,
Secretary of the Interior.

MARCH 29, 1949.

[F. R. Doc. 49-2452; Filed, Apr. 1, 1949; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Monetary Offices

[31 CFR, Part 128]

TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

NOTICE OF PROPOSED RULE-MAKING

Notice is hereby given, pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U. S. C. 1003), that the Secretary of the Treasury proposes to amend the regulations relating to transactions in foreign exchange, transfers of credit, and export of coin and currency issued under section 5 (b) of the act of October 6, 1917 (40 Stat. 415), as amended by section 2 of the act of March 9, 1933 (48 Stat. 1; 12 U. S. C. 95a), and Executive Order No. 6560 of January 15, 1934 (Part 127).

Interested persons may participate in the making of the proposed amendment through the submission of written data, views or argument at any time within fifteen days of the date of publication of this notice. Material should be submitted to the Office of International Finance, Treasury Department, Washington, D. C.

It is proposed that the regulations be amended to read as follows:

SUBPART A—REGULATIONS

Sec.
128.1 General license.
128.2 Reports.
128.3 Modification or revocation.

AUTHORITY: §§ 128.1 to 128.3 issued under sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, sec. 301, 55 Stat. 838; 12 U. S. C. 95a, 50 U. S. C. App. Sup., 5 (b), sec. 8, 59 Stat. 515; 22 U. S. C. 286f, E. O. No. 6560, Jan. 15, 1934, 31 CFR 127, E. O. No. 10033, Feb. 8, 1949, 14 F. R. 561.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978.

SUBPART A—REGULATIONS

§ 128.1 *General license.* Licenses may be granted, and a general license is hereby granted, to all individuals, partnerships, associations, and corporations, authorizing any and all transactions in foreign exchange, transfers of credit, and exports of currency (other than gold certificates) and silver coin. The general license herein granted authorizes transactions to be carried out which are permitted by the Executive order of January 15, 1934 (Part 137 of this chapter), under license therefor issued pursuant to such Executive order; but does not authorize any transaction to be carried out which, at the time, is prohibited by any other order or by any law, ruling, or regulation.

§ 128.2 *Reports.* In order to effectuate the purposes of the Executive Order of January 15, 1934 (Part 127 of this chapter), and in order that information requested by the International Monetary Fund under the Articles of Agreement of the Fund may be obtained in accordance with section 8 (a) of the Bretton Woods Agreements Act (Sec. 8 (a) 59 Stat. 515; 22 U. S. C. 286f and Executive Order No. 10033, 14 F. R. 561), every person subject to the jurisdiction of the United States engaging in any transaction, transfer, export or withdrawal referred to in § 127.1 of this chapter shall furnish to the Federal Reserve bank of the district in which such person has his principal place of business in the United States information relative thereto, including information relative to claims and liabilities arising therefrom, and information determined to be essential to comply with official requests for data made by the International Monetary Fund, to such extent and in such maner and at such intervals as is required by report forms and instructions prescribed by the Secretary of the Treasury. In the event that such person has no principal place of business within a Federal Reserve district, the information shall be furnished directly to the Office of International Finance, Treasury Department, Washington 25, D. C., or to such agency as the Treasury Department may designate.

§ 128.3 *Modification or revocation.* The regulations in this part and the general license herein granted may be modified or revoked at any time.

WM. MCC. MARTIN, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2482; Filed, Apr. 1, 1949; 8:51 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 986]

[Docket No. AO-196]

HANDLING OF HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO, AND OF HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS 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, Supps., 900.1 et seq.; 13 F. R. 8585), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States. Such marketing agreement and order would be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.; 61 Stat. 208, 707). Interested parties may file exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 1846, South Building, Washington 25, D. C. Any exceptions should be filed in quadruplicate, and must be received prior to the close of business on the 15th day after publication of this recommended decision in the FEDERAL REGISTER, except that if such 15th day should fall on Saturday, Sunday, or a holiday, they must be received not later than the next succeeding workaday.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and marketing order (hereinafter called the "order") were formulated, was held at Yakima, Washington on November 29 and 30, 1948 at Salem, Oregon; on December 2 and 3, 1948; and at Santa Rosa, California on December 6 and 7, 1948. The hearing was held pursuant to a notice thereof which was published in the FEDERAL REGISTER (13 F. R. 6448, 6520) on November 2 and 4, 1948. Said notice contained a draft of a proposed marketing agreement and order which had been presented to the Secretary of Agriculture (hereinafter called the "Secretary") by the United States Hop Growers Association, Mills Building, San Francisco, California, with a petition for a hearing thereon. The objective of such proposal was to bring to the hop industry of Oregon, California, Washington, and Idaho, the benefits of the Agricultural Marketing Agreement Act of 1937, as amended.

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

(1) The existence of the right to exercise Federal jurisdiction in this instance.

(2) The need for the proposed regulatory program to accomplish the declared objectives of the act.

(3) The provisions which should be incorporated in any marketing agreement and order adopted, such as:

(a) Defining of such terms as "Secretary", "act", "person", hops", "hop product", "grower", "dealer", "grower-dealer", "brewer", "handler", "handle", "consumptive demand", "marketing season" and "Federal-State inspection service";

(b) Establishing and maintaining an administrative agency to conduct the program operations, the granting of powers and duties to such agency, and the providing for its manner of conducting business;

(c) Establishing and maintaining a growers allocation committee to have such duties and powers as are expressly specified and the establishing of procedure for its operation;

(d) Establishing and maintaining of growers advisory committees, the delimiting of election districts for the selection of committee members, and the defining of functions of the committees;

(e) Prescribing of minimum standards of quality and/or maturity, and providing for the inspection and certification of merchantable hops;

(f) Controlling of surplus hops, including: (i) The determination of a salable quantity, and providing for its increase; (ii) the apportionment of the salable quantity among growers, including the computation of a salable percentage, and the establishment of preliminary, supplementary and final salable allotments among growers; (iii) the certification for handling; (iv) the limitation of handling to certificated hops or hop products; and (v) the diversion privproducts; and (v) the diversion privileges.

(g) Providing for operational expenses and the assessments to be imposed in that connection;

(h) Prohibiting the handling of hops or hop products in any manner other than as provided for in the order;

(i) Providing for the books and records which handlers should keep and the reports which they should file;

(j) Providing for certain additional provisions, as set forth in §§ 986.10 to 986.21, both inclusive, as published in the FEDERAL REGISTER (13 F. R. 6448, 6520) on November 2 and 4, 1948, which are common to marketing agreements and marketing orders, namely; amendments, agents, effective time and termination, duration of immunities, separability, derogation, right of the Secretary, liability of control board members, and effect of termination or amendment, and the additional provisions which are applicable to marketing agreements alone, such as counterparts, additional parties, and request for order.

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

(1) Three Federal regulatory programs generally similar to that now proposed operated in this area from August 15, 1938 through August 31, 1945, except for a suspension of the program for the crops of 1942 through 1944, when the price exceeded parity. According to statistical data introduced by a representative of the Department of Agriculture and made an exhibit in the hearing record, approximately 10 perecent of the quantity of hops available for domestic consumption is normally consumed within the area of these four States, the handling of which is to be regulated by the proposed marketing agreement and order. Approximately 98 percent of the hops produced are used in the manufacture of beer. In 1947, 41 brewers located in Oregon, California, and Washington produced 6,470,623 barrels of beer, or only sevent percent of the total national production of 91,291,219 barrels. It was

testified at the hearing that, within the four States in this area there is considerable interstate and intrastate movement of hops; and it was further testified that hops for such movement are commingled with hops for interstate and foreign movement to points outside the area. Hops for intrastate and interstate handling are competitive. It would not be practicable to regulate interstate handling without regulating intrastate handling. The statistics referred to above and testimony of dealers indicate that a very large part of the hops produced in the area move in interstate and foreign commerce.

(2) Prior to the institution of Federal regulation of the handling of hops, which began in 1938, there were large surpluses of this commodity in excess of the then current domestic needs. Some of these surpluses were being carried over from one year to the next, and some hops were left in the hands of the growers, or in the fields unharvested. This situation created a chaotic marketing condition. Testimony and statistical data submitted at the hearing were to the effect that increased wartime plantings of hops, a level of imports exceeding those of the war period, the improbability of increasing export outlets, and the possibility of decreased domestic consumption, make it appear probable that a price depressing surplus situation will arise again. Under the aforementioned regulatory program, the undesirable situation resulting from surpluses was improved through the establishment of a salable quantity of hops based on the estimated consumptive demand for such hops. The establishment and enforcement of salable quantity provisions in connection with the consumptive demand for hops prevented a glut in the market in that regard. Testimony presented at the hearing on behalf of both growers and dealers was to the general effect that the operation of the previous programs resulted in enhancement of crop values and tended to relieve the industry of a large part of the difficulties caused by surpluses. The testimony also indicates that, if a regulatory program of this type is not again put into operation, market conditions similar to those which existed prior to 1938 may again prevail. It was further testified that inventories of hops have increased substantially in the last few years, that this trend is likely to continue, and that it is necessary and desirable that a surplus control program be placed in effect. Statistics placed in the record indicate that hop prices to growers in respect to parity have declined each year since 1944. Further, the evidence indicates that the average price to growers for 1948 crop hops was less than parity. The Bureau of Agricultural Economics' preliminary estimate of the average price to growers for the 1948 crop was 56.2 cents a pound compared with the January 1948 parity price of 57.3 cents. Testimony was to the effect that spot prices to growers for hops of the 1948 crop were considerably below parity, and that some sales of seeded hops of the 1948 crop were at prices as low as 35 cents a pound to growers, with sales of seedless hops at 50 cents a pound. One of the expressed primary objectives of Congress in enacting the Agricultural Marketing Agreement Act is that a program of this nature shall regulate the particular commodity with a view to raising and maintaining the prices to the growers thereof as near the parity level as is practicable and consistent with the interest of the consumers. As has been indicated, the regulatory program which was in effect and the program which is being proposed are on a basis which is designed and intended to accomplish that objective.

As a result of an amendment to the act in 1947, certain regulations can be effective when prices exceed parity, as well as when prices are at or below parity. These regulations may be only for the purpose of establishing and maintaining such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities as will be in the public interest. It was testified that the adoption of minimum standards of quality and/or maturity which would keep culls, and offgrade hops from the market at all times would be in the interest of the hop industry and of the public. Under the proposed marketing agreement and order for hops, only those hops which meet these minimum standards of quality and/or maturity will be certificated and moved into the channels of trade.

The quantity of hop products produced at present is inconsequential. However, if they should not be included under the proposed program, their production and use would probably increase. The regulatory provisions should apply to any product that is derived from hops and which is able to compete with hops in any trade channels.

(3) (a) Certain terms, applying to specific individuals, agencies, legislation, concepts, or things, are used throughout the proposed order. Those terms should be defined for the purpose of designating specifically their applicability, and establishing appropriate limitations of their meaning wherever they are used, and to preclude the necessity of defining them whenever they are used.

Definitions of "Secretary", "act", and "person", as contained in the proposal set forth in the notice of hearing, are similar to or identical with the definitions of those terms which are set forth in other orders of this nature. The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with general supervision over 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 perform the duties of the Secretary. The definition of "act" merely gives the correct legal citation for the statute pursuant to which regulatory programs of the proposed nature are operated and shortens the reference thereto wherever it is used subsequently. The definition of "person" merely follows the definition of that term as set forth in the act for applicability wherever such term is used therein.

"Hops" should be defined, except as otherwise specifically indicated in the order, as the pistillate cones, either in dried or green state, of the vine Humulus lupulus or Humulus americanus, grown in the States of Oregon, California, Washington, and Idaho. Testimony shows that hops grown commercially in these four States are limited to these two species. The order will provide for the estimation, under certain circumstances, of the quantities of unharvested, or green, hops. The commercial production of hops in the United States is confined to these four States and New York, and it is improbable that such production will develop, on an appreciable commercial scale, in other States. The small quantity of hops produced in New York, which averaged approximately 200,000 pounds in 1947 and 1948, or less than one-half of one percent of the United States' production, and the distance from the main producing area in four western States make it undesirable to include New York under the program. While, at the present time, commercial production in the west is confined mainly to certain segments of the four States, such production may reasonably be expected to expand into other segments of those States. It would not be practicable to regulate the handling of hops in any part of the proposed area without applying the same regulation to the remaining parts of such area. The omission of a part of such area from regulation would be unfair to persons in parts of the area in which hops are not regulated. It is concluded, therefore, that the four States, considered as a unit, constitute the smallest practicable production area for the purpose of the proposed order.

"Hop product" should be defined to include any substance which is derived either in whole or in part from hops, and which may be used for any purpose for which hops are used. This should include, but is not limited to, any form of lupulin, lupulin sweepings, hop oil, or hop extracts or concentrates.

The term "grower" should be synonymous with "producer" and should be defined so as to include hereunder all persons who are engaged, in a proprietary capacity, in the commercial production of hops. This term is of primary importance in determining the persons who will be eligible to vote in the selection of nominees for grower representatives on the Growers Advisory Committees, and the persons who are eligible for selection as grower representatives on such committees and on the Control Board. Such a coverage will confine the term to those who are intended, under the act, to be benefited by the program, and is in accord with the general understanding of the term in the hop industry.

The term "dealer" should be defined to mean any person, other than a grower or brewer, who is a handler of hops or hop products for his or its own account. Such a definition would cover thereunder all persons whom the hop industry generally considers as belonging in that category. Brewers normally buy hops for their own use, rather than for resale to others and traditionally they are considered, in any event, as being in a separate category from that of dealers. This term

"dealer" is of primary significance in determining the persons who shall be eligible to vote for nominees, and to serve on the control board. Growers and brewers will be accorded their own separate representations and voice in the administrative machinery. The words, "for his or its own account" are included in the definition to limit it to the owner of the hops who acquires title to hops and subsequently disposes of them, as distinguished from a broker or an agent. "Its" is included to cover an organization such as a Corporation.

The term "grower-dealer" should be defined to mean any grower, other than a brewer, who is a handler for his or its own account of any hops or hop products other than those of his or its own production, except that handling transactions pursuant to § 986.6 (f) should not be within this definition. The proviso with reference to the handling transactions pursuant to § 986.6 (f) deals with a special diversion privilege, and anyone engaging in that transaction should not be subject to the requirements of a dealer. Brewers are excluded for the same reasons that they are excluded from coverage under the term "dealer." Such a definition would be in accord with the generally accepted view of the industry as to the meaning of the term, and it is of importance in determining who should be eligible to vote for, and serve as, grower-dealer representatives on the Control Board.

The term "brewer" should be defined to mean any person who uses hops, or any hop product, in the manufacture of malt beverages for commercial purposes. Most hops are used ultimately in the production of malt beverages, and it is considered desirable that brewers be given a voice in the management of any program activities. The proposed definition would serve to cover all persons who are engaged in that activity. While a small percentage of hops and hop products is used in other manufacturing operations, the volume of such use is relatively insignificant, and any similar representation of them in the management of the program would be impracticable. It was proposed at the hearing by an attorney representing the brewers that the term "malt beverage manufacturer" be substituted for the term "brewer". However, no testimony or other substantiation in support of such proposal was adduced at the hearing, and such proposal is hereby denied. The term "brewer" has a well recognized signification as covering the types of persons here involved, and has been used in previous marketing agreements and orders with respect to hops. The term "brewer" is in common use in the brewing industry itself, and generally is included in the names of trade organizations of brewers. In the brief on the evidence filed on behalf of one brewer, it was suggested that there be included a definition of "brewer-grower". Such suggestion was predicated on the contention that it would be inequitable to impose on a brewer who grows hops for his own use in manufacturing operations the salable and surplus percentage restrictions which are proposed to be imposed in connection with growing operations generally. Such proposal is hereby denied. As will appear hereinafter, it is concluded that any brewer who grows hops should receive the same but no greater consideration as other growers. Since the indicated exemption is not to be granted, there will be no need for any definition of "grower-brewer".

The term "handler" should be defined to include any person who, either personally or through an authorized agent, handles hops or any hop product, except that a person who handles hops or hop products which have been previously certificated and handled by another person shall not thereby be deemed to be a handler with respect thereto. The term will identify those persons to whom the order restrictions will apply. Obviously, any person who engages in handling operations in connection with hops or hop products should be considered as a handler, since he is the person on whom such restrictions will need to be made applicable. In the case of hops or hop products which have previously been certificated and handled by another handler, the acquirer thereof will have no obligation to perform in that regard, since such obligations would necessarily have had to be met by the first handler.

The term "handle" should be defined to mean, except as provided in § 986.6 (f), (1) to market, ship, or transport (except as a common or contract carrier for others) to or for market, or to use, any hops or hop product, or (2) to purchase, take consignment of, accept delivery of (except as a common or contract carrier) in connection with a purchase or sale or otherwise acquire, within the States of Oregon, California, Washington, or Idaho, hops or any hop product from a grower or any other person. It is purposely a broad definition so as to effectuate enforcement. The first paragraph within the definition is intended to cover the acts specified, namely, to market, ship, or transport, with the proviso to or for market, or to use any hops or hop products. That covers those acts wherever they may be done, whether within the four States or elsewhere. To illustrate, if uncertificated hops, through some unlawful transaction, are removed from the Pacific Coast area of the four States, a person who performs an act of shipment or transportation of those uncertificated hops, for example from Chicago to New York, is committing an act which violates the order, and should be subject to enforcement under the provisions of the order. The second subdivision, which basically relates to the purchasing or taking consignment or taking delivery of hops, is limited to the four States within which the hops are produced. The initial handling will cover the transaction for all practical purposes of the order. Common or contract carriers of hops owned by another person should, for obvious reasons, be excluded from coverage.

The term "consumptive demand" should be defined to mean that quantity of hops and hop products (expressed in terms of dried hops) which it is anticipated will be required in all trade outlets, both domestic and foreign during the period September 1 of the respective year through the following August 31. The term should be defined, since it will be used under the surplus control provision, whereby the Control Board will be required to estimate the total consumptive demand of hops produced during the respective 12 months. In attempting to determine a salable quantity, it will first be necessary to estimate the approximate quantity of hops that will be absorbed by the various outlets for the 12 months, and in so doing, the total estimated quantity to be absorbed by those outlets, both domestic and foreign, will be then known as the consumptive demand. The Control Board, under former programs, found it convenient and practicable to estimate consumptive demand for a 12-month period beginning September 1, which is just after the beginning of harvest, and it is, therefore, a desirable beginning date for the 12-month period to be covered by the estimate.

The term "marketing season" should be defined to mean the twelve months from August 1 to the following July 31, both dates inclusive. The period is selected for the reason that it begins the first of the month in which harvesting normally begins. It is necessary to start the marketing season prior to beginning of harvest, so as to include all hops produced. This is desirable for assessment and other administrative and statistical purposes. The same period was used as the marketing season under the preceding marketing order, and proved to be satisfactory.

The term "Federal-State inspection service" should be defined to mean that inspection service on hops or hop products which is performed within the States of Oregon, California, Washington, or Idaho by the United States Department of Agriculture or by said Department under a cooperative arrangement with any of such States pursuant to authority contained in any act of Congress. Such service is under the supervision of the United States Department of Agriculture and it may in some instances be necessary for employees of the Department not working under a cooperative arrangement to make inspections. The meaning of the term as herein used should include inspection service performed by United States Department of Agriculture employees. The definition will merely shorten any subsequent reference to such service.

(b) The provisions of § 986.2 of the proposed order, hereinafter set forth, are practicable, equitable, and necessary to establish an agency to act in administering the proposed order under and pursuant to the act.

Identification of the aforesaid agency should be "Control Board" or "Hop Control Board", to reflect the administrative character thereof. Such board should be composed of 18 members to provide a broad base of representation of grower, handler, and consumer interests over the entire area, as well as outside the area.

There should be an alternate member for each member of the board to act in the place and stead of such member during the member's absence, or, in the event of the member's death, removal, resignation, or disqualification, until a successor for his unexpired term has been

selected and has qualified. Such provision is necessary to provide a full committee at all times to act on any and all problems presented to it. Each alternate member of the Control Board will, under appropriate circumstances, be acting for his respective member. Alternate members should meet the same qualifications, therefore, as the members. Nine members should represent growers of hops, two should represent grower-dealers, three should represent dealers, and four should represent brewers. The grower members of the Control Board should be growers of hops who are not grower-dealers, of whom three should be growers of hops in and residents of the States of Oregon or Idaho, three should be growers of hops in and residents of the State of California, and three should be growers of hops in and residents of the State of Washington. Testimony indicated that considering both volume of production and geographical factors, grower representation by States as set forth is equitable. One of the grower-dealer members of the Control Board should be a grower-dealer having his or its principal office in that regard in the States of Oregon, California, Washington, or Idaho, and the other grower-dealer member should be a grower-dealer having his or its principal office in that regard outside of such States. Evidence indicated that this division of grower-dealer membership is fair and equitable. Each of the three dealer members of the Control Board should be a dealer in hops. An officer, agent, or employee of a business unit other than an individual person should be eligible for membership or alternate membership on the Control Board in the category in which such business unit belongs pursuant to the provisions hereof. No person should be selected as a member or alternate member of the Control Board who is not actively engaged, as his principal business occupation, in the business of the group which he represents, and may be an officer, agent, or employee of a business unit engaged in such business. No person should be selected who is not actively engaged as a principal occupation in the group which he represents, in order that the representative would be familiar with the problems of the business.

It should be provided that initial members and alternate members of the board be selected as soon as reasonably practicable after the effective date of the order to assure establishment of the administrative machinery in time to permit the early and efficient operation of the order. The original members of the Control Board, and their respective alternates, should be selected by the Secretary, subject to the requirements as to district representation, occupation, and residence which are previously mentioned, and should serve for a term ending on March 31, 1950, except that, if the respective successor to such original member or alternate member has not been selected and qualified by March 31, 1950, such original member or alternate member should serve until his respective successor has been selected and has qualified. For the consideration of the Secretary in making such selection, it should be provided that nominations for original members and alternate members of the Control Board may be submitted to him not later than the date on which this order is issued by the Secretary, but may be submitted prior thereto. Nominations for the original nine grower members and their alternates should be made by any grower, or by any association or other group of growers. Nominations for the original two grower-dealer members and their alternates should be made by any grower-dealer, or by any group of grower-dealers. Nominations for the original four brewer members and their alternates should be made by any brewer, or by any organization of brewers. Nominations for the original three dealer members and their alternates should be made by any dealer, or by any group of dealers. However, the Secretary, in making his selection of the original members and their alternates should not be bound to make such selections from nominations thus received, but he should make such selections in his discretion. This provision is necessary to permit the Secretary to exercise his sound discretion in discharging such duty. In designating the original members and alternates, the date March 31, 1950 was selected as the end of the term of the original members, because it would be at a time when the marketing of the 1949 crop would be about completed, yet sufficiently in advance of the 1950 crop marketing season to permit the proper organization of the new board and to enable the new members to become familiar with their duties in administering the order. It is necessary to make special provisions for the nominations of the original members and alternates since there will not be sufficient time between the effective date of the order if such order is made effective, and the beginning of operations for the 1949 crop marketing season, to permit the procedure for selecting successor members to be followed. It will be necessary to have the Control Board appointed and organized for action within a few weeks after the effective date of the order which the proponents have testified should be not later than May 1, 1949.

According to the proposed order and evidence presented at the hearing, it is believed that a two year period of office would be most equitable and practicable for all terms, excepting that of the initial board, which should serve through March 31, 1950. A period shorter than two years for successor boards would require unnecessary and burdensome elections and would not permit board members to use gained experience most effectively. A longer period would make it difficult for the industry to reflect its desires for changes in membership. A member should be eligible for selection for a succeeding term. The term of office for successor members and alternates should commence April 1, 1950, and thereafter, the members and alternates should serve for terms of two years ending March 31 or until such time thereafter as their successors have been selected and have qualified. Selection of successor members of the Control Board and their alternates should be made by the Secretary for each of the aforementioned groups from the nominations submitted for that purpose by the respective groups and/or from among other qualified persons. Such nominations for each respective group should be made to the Secretary on or before March 1 of each election year in the manner hereinafter described. March 1 was selected as the last day for making nominations by the groups entitled to make them to the Secretary in order to permit the Secretary sufficient time to make such investigations as he might wish prior to appointment.

In nominating the grower members, each of the growers Advisory Committees, established pursuant to § 986.4 of the order, should nominate to the Secretary the names of three qualified persons as grower members, and three qualified persons as their alternates, from the State or States represented by the respective committee. The persons receiving in consecutive order the highest number of votes for members should be the nominees for members of the respective committees, and a corresponding provision should apply to nominees for alternate members. The grower members, in order to qualify, should conform to the requirements described in section 986.2 (a) of the proposed order. In the election, each Advisory Committee member should have one vote. This was the method used in previous orders for election of grower members and alternates and was found to be generally satisfactory. If a growers Advisory Committee votes upon more than three prospective nominees, the three receiving the highest number of votes would be the persons to be nominated to the Secretary as board members. A similar provision should apply to nominations for alternates. It is fair and equitable that persons receiving the highest number of votes should be the nominees of the committees.

In nominating the grower-dealer member, Western, the grower-dealers whose principal offices are within the States of Oregon, California, Washington, or Idaho, should nominate to the Secretary, by means of an election in which all (and only) such grower-dealers are permitted to participate, on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as the grower-dealer member, and one qualified person as his alternate.

In nominating the grower-dealer member, Eastern, the grower-dealers whose principal offices are outside the States of Oregon, California, Washington, or Idaho, should nominate to the Secretary, by means of an election in which all (and only) such grower-dealers are permitted to participate, on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as grower-dealer member, and one qualified person as his alternate. This method was developed under previous orders and was found to be generally satisfactory. Certain grower-dealers handle large quantities.

To insure fair representation on the Board, it is desirable and equitable to provide for voting on the basis of volume handled. The Eastern and Western grower-dealers should be segregated in selection of board members and alternates in order to assure all-round representation. Although about three-fourths of the grower-dealers are located within the area, it is indicated that considerably less than this proportion of total grower-dealer tonnage is represented by such grower-dealers.

In nominating the dealer members, the order should provide that the dealers should nominate to the Secretary, by means of elections in which all (and only) dealers are permitted to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular dealer, as the first handler thereof, other than a grower, and for that dealer's own account, during the next preceding marketing season, three qualified persons as dealer members and three qualified persons as their alternates. It was clearly indicated at the hearing that it is intended that only the first dealer handling hops should be entitled to votes accruing on said hops. Views were presented at the hearing both for and against the voting by dealers on the basis of one vote per bale of hops handled. An alternate recommendation was made that voting be on the basis of one vote per dealer. The recommended provision for one vote per bale of hops handled was used under previous hop marketing agreements and orders. It is also the same method that is used, pursuant to the act, that a marketing agreement be signed by the handlers of not less than fifty percent of the commodity covered by that agreement (7 U. S. C. 608c). This recognizes volume handled rather than the number of handlers. Each dealer would be affected or concerned by the marketing regulations of the agreement or of the Control Board to an extent in proportion to the volume of hops marketed by that dealer. One of such members and his alternate should be nominated by each of the following categories of dealers: (i) Those handling less than 10,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season; (ii) those handling between 10,000 and 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season; and (iii) those handling over 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season. Selection of dealer members and alternates based on the nomination of one dealer member and one alternate by each of three handling groups is recommended as the most practical means of assuring equitable representation of all dealers. Under previous hop marketing agreements and orders, the method of selection of dealer member nominees was developed through regulations adopted by the Control Board. Under that arrangement all dealers voted on all dealer member nominees on the basis of one vote for each bale handled by the dealer voting. Segregating the dealers into three voting groups in accordance with the volume handled by each would assure representation of large, medium, and small volume dealer groups on the Control Board. Grower-dealers are not included as dealers, since they are generally recognized in the industry as being a distinct group.

Nominations for the brewer members of the Control Board should be made by the two leading brewer trade organizations representing practically all domestic brewers. However, nominations should also be allowed from any individual brewer or other groups of brewers. Each of the two organizations mentioned below should nominate two brewer members. This would give the same numerical representation as the brewing industry had on previous Control Boards under previous marketing orders and it is felt that it would give adequate opportunity for counsel, advice, and collaboration of the consumers of hops in the administration of the order. A change was recommended in briefs filed which proposed that nine, instead of four, brewer representatives be provided for, or that brewer representatives be eliminated. Four brewer members for representation on the Hop Control Board, and their respective alternates, should be selected. It should be provided that two of such nominations for members and their respective alternates may be made to the Secretary by The United States Brewers Foundation, Inc., whose present office address is 21 East Fortieth Street, New York, N. Y., and two such nominations for members, and their respective alternates may be made by the Small Brewers' Association, whose present office address is 188 West Randolph Street, Chicago, Illinois. However, nominations should also be accepted from any brewer or from any other associations or groups of brewers.

The foregoing conclusions as to the representation by groups follows the proposal set forth in the notice of hearing and contended for at the hearing with minor exceptions. These follow the basis of representation which was followed under previous orders, except that it provides for one additional grower member and one additional dealer member. This is recommended to facilitate a more complete and equitable representation for producers in all hop producing districts and for the dealers of all volume groups. Under earlier hop marketing agreements and orders there were two grower members selected from each of the principal State areas, and the two additional ones, making a total of eight, were selected to represent the area as a whole by the six who had been previously selected. It was felt desirable to more completely represent all of the State areas and to have such selection obtained through direct recommendation from those States as nearly as possible. By the addition of one grower member, this was obtained by then permitting three from each area. The State of Idaho, which under the last previous marketing agreement and order was included with the State of Washington, is now proposed to be included with the State of Oregon. Since there is now some production of hops in the State of Oregon immediately adjacent to the Idaho production district, and since similar conditions prevail in these two districts, Idaho should properly be included with Oregon. Spokesmen for different sections of the area testified that, in their opinion, the aforesaid representation constitutes a fair and equitable distribution among interested parties, and takes due consideration of respective volumes of hops handled by the several groups of dealers. Growers receive consideration by geographical representation. Inasmuch as the consumers are almost entirely limited to the brewers, it was felt that their representatives on the board would be of benefit to the industry.

Each election for the purpose of nominating grower, grower-dealer and dealer members or alternates of the Control Board to succeed those whose terms of office expire on March 31 of any year, should be held on or before the preceding March 1, and should be conducted and supervised by the Control Board. The proposal that the Control Board will supervise the elections of nominees for successor members is the most practical means of insuring prompt and proper development of these nominations. In the provision for electing the nominees for membership, the date March 1 was recommended at the hearing instead of February 15 as stated in the proposed order as the date prior to which an election must have been held for the purpose of selecting the nominees. Inasmuch as the Growers' Advisory Committees, hereinafter described, have a deadline of February 1 for their election, a date of February 15 for elections by these committees would only allow 15 days in which they could organize and nominate Control Board candidates, and inasmuch as there are two months left between February 1 and March 31, it was felt desirable to divide that period evenly in order to give one month in each of those periods. The date of March 31 as a termination date for Control Board members is sufficiently in advance of the start of the new marketing season so that the new Board might organize so as to be properly prepared to carry out the functions during the next year. Regulations prescribing the method or modes and rules governing elections should, of course, be approved in ample time prior to these elections so that they may be properly carried out and that is the justification for the Control Board's recommending such rules to the Secretary by November 1, 1949. Such regulations should assure to all persons eligible to take part in such elections reasonable opportunity to select candidates and to vote for nominees. Regulations as are approved by the Secretary should govern each such election. Following the elections the nominees should properly be reported to the Secretary by the Control Board in order that he may make his investigations and findings.

A time limitation should be placed on nominations, and in the event any of the group nominations are not submitted to the Secretary within 20 days after the time hereinbefore specified, the Secretary should be authorized to select each such member or alternate without waiting for the nomination or nominations to be

made. This time limitation on nominations is essential to allow the Secretary to act on appointments within the necessary length of time. If the Control Board should fail to carry out its designated function in making nominations, the Secretary would not be precluded from filling the places for the coming year. The 20 additional days allowed for submitting nominations to the Secretary is a grace period to provide for unforeseen delays in placing the nominations before the Secretary. For practical operation it should be provided that in the event no qualified person is available from any category in any such group, the Secretary may appoint such member or alternate from another category within such group.

Each person selected as a member or alternate of the Control Board, including original members and alternates, should promptly qualify by filing with the Secretary a written acceptance of the appointment. The failure of an appointee to qualify within 20 days after the appointment of such person should be cause for the Secretary to appoint another person in his stead. A longer period would cause delay in organization of the Control Board and its functioning. The word "Qualifications" in the paragraph heading was proposed to be changed at the hearing to "Qualification", since it refers to the qualification as to acceptance in proper form by each member and not to their individual qualifications as far as their individual capacity is concerned. This requirement would authorize the Secretary to replace any members or alternates who do not promptly qualify under their appointments. It was pointed out that an appointed member who did not have sufficient interest in the matter to qualify might not have sufficient interest to serve in this capacity, and it gives a positive indication on the part of the member so appointed that he is willing to serve if he qualifies according to the regulations. An appointee should not sit on the board until after he has accepted his appointment.

Each alternate should meet the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board should, in the event of that member's absence, act in the place and stead of that member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for such member should act in the place and stead of said member until a successor for the unexpired term of said member has been selected. This provides for qualifications for office by alternates on the same basis as that required of members and is considered proper, inasmuch as they are the substitutes for the members in case the members cannot serve. It is desirable that some qualified person be prepared and continue to be in touch with the problems of the Control Board, so that if it becomes necessary to act in the place of the active member, he may take over the duties at once and be able to carry them out properly. By this provision under previous orders attendance at Control Board meetings and participation by a full membership was nearly always possible.

Provision should be made for substitutes for members or alternates. It should be provided that in the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member of the same group as that represented by the absent member may be designated by the absent member to serve in the stead of the absent member, or pending such designation the Secretary may designate such temporary substitute. The proposed agreement and order included a provision that "in the event such other alternate cannot attend, or there is no such other alternate, then the absent member, or in the event of his disability or a vacancy, his alternate, may designate a temporary substitute to attend such meeting with the power to act in the place and stead of that member." Testimony at the hearing was to the effect that in previous marketing agreement and order programs on hops this provision had never been invoked. The request for inclusion of this provision in the agreement and order should be denied, inasmuch as past experience indicates that it is unnecesary.

To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Control Board or as an alternate member thereof, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate member of the Control Board, a successor for his unexpired term of office should be nominated and selected in the manner (insofar as is appropriate) herein specified for the nomination and selection of successors to the initial members and alternate members of the Control Board representing the same industry group as was represented by the respective member or alternate member thus to be succeeded. In the event such nomination for vacancy is not made within 30 days after the beginning of the vacancy, the Secretary should be allowed to select a person to fill such vacancy without waiting for the nomination to be made. This provides for the filling of vacancies in the same manner as was used in nomination and appointment of original members and alternates, except that less time is indicated and in the election of individual nominees much less time should be required. The proposed agreement and order provided for 20 days in which to effect a nomination. This should be changed to 30 days as proposed at the hearing, in view of the fact that it might be necessary to hold elections for this purpose.

The members of the Control Board, and their respective alternates, should serve without compensation, but should be reimbursed for expenses necessarily incurred in the performance of their duties as prescribed in the order. It is felt proper that they should not be considered as salaried employees. They are representatives serving the industry and in most cases are recommended by the industry and are charged with and have accepted the responsibilities, of a general service nature, for which compensation is not ordinarily made. They should not, however, be burdened with the necessary expenses incidental to such service. These incidental expenses would include necessary traveling expenses, living and hotel expenses while en route to and in attendance at Control Board meetings, and while attending to other duties necessary in properly carrying out their Board responsibilities. It is not contemplated that this would preclude compensating a person who might be employed in other hop work, even with the Control Board. The prohibition against compensation for a member or alternate member of the Control Board extends only to his services as such a member of the Control Board and not in any other capacity in which he may be employed.

The Control Board should be given those specific powers which are set forth in section 8c (7) (C) of the Agricultural Marketing Act of 1937, as amended, as ones which may properly be granted an administrative agency of the proposed nature.

The Control Board should be given, among others, certain specific duties. The Control Board should act as intermediary between the Secretary and any grower, handler, dealer, grower-dealer, or brewer. It is logical that the Control Board should act as such intermediary in such dealings. It is not intended that the Control Board be an exclusive channel of communication with respect to these matters between the Secretary and the industry. An individual should be permitted to appeal directly to the Secretary on any matter. The Control Board should keep minutes, books, and other records which will clearly reflect all of its acts and transactions, and which should be subject at any time to examination by the Secretary or his designated representative. This is necessary for assurance of the maintenance of proper records. It should be provided that, subject to the prior approval of the Secretary, the Control Board be permitted to make scientific and other studies and to conduct research appropriate in connection with the performance of its official duties. It is contemplated that the scientific studies or research which might be undertaken with the approval of the Secretary would be limited to subjects having primary concern with the administration of the order. The Control Board should gather and assemble data on the growing, handling, shipping, and marketing conditions relative to hops and hop products, appropriate or desirable in connection with the performance of its official duties. In order that the Control Board may be properly informed on conditions of supply and demand, upon yields and acreages, and other information, it must necessarily have these data. The data thus assembled on the growing, handling and marketing conditions should be made available to the industry, except insofar as it may involve the confidential statistics of a particular business unit in the industry. There will be considerable information which the Control Board should properly furnish the Secretary in the regular performance of its duties without a specific request. The Board

should also furnish to the Secretary such available information with respect to hops as it may deem appropriate. Further, there is a possibility that the Secretary might desire additional information or information of a special nature which the Control Board might possess but had not furnished, and which should be furnished, at the Secretary's request. The wording of this paragraph in the proposed order as published in the hearing notice, should be changed to provide for the furnishing of information as herein described. The Control Board should cause its books and other records to be audited by one or more competent accountants at least once each marketing season and at such times as the Control Board may deem necessary, or as the Secretary may request, and to file with the Secretary a copy of each audit report made. The Control Board should employ a managing agent who, during his employment as such, should not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof or financially interested in the production of, dealing in, or use of hops or hop products, and who should serve as the secretary of the Control Board and the secretary of the Growers Allocation Committee, and should have such other duties as are specified for him herein or by the Control Board; and it should employ or retain such other employees, agents, and representatives as it deems necessary, and should determine the salaries and define the duties of such managing agent, employees, agents and representatives. Since the managing agent would have occasion to receive information from growers, handlers, dealers, grower-dealers, and brewers which might be of a confidential nature, it would be more effective from the standpoint of the administration of the order if the managing agent therefor was entirely disinterested in the subject matter of that information. It would not be considered proper, for instance, for the managing agent to own stocks or bonds in a brewery because of possible intimation or implication of an interest therein. The Control Board should give to the Secretary, or to his designated representative, the same notice of meetings of the Control Board as is given to the members of the Control Board. This allows the Secretary or his representative an opportunity to attend and be familiar with their deliberations. The Control Board should issue, with the approval of the Secretary, any regulations which are necessary and appropriate for the carrying out of the provisions of the order in accordance with its terms. In accordance with the powers common to all marketing orders to make rules and regulations to effect its terms and provisions, it is logical that the Control Board should have the power to issue, with the approval of the Secretary, any regulations which are necessary and appropriate for the carrying out of the provisions. To the extent that regulations issued under this paragraph are rule-making, in accordance with the Administrative Procedure Act, opportunity would be given to interested persons to participate in the formulation thereof to the extent required by law.

Certain procedure to be followed by the Control Board should be specified in the order. The Control Board should adopt rules governing the performance of its powers and duties, and should select a chairman and such other officers as it may deem advisable. Since the board, as a group, is to be charged with the responsibility for the administration of the program, it is reasonable and logical that it should be authorized to select its officers and employees to carry out such responsibility. A quorum should consist of twelve members, or alternate members or substitutes then serving in the place and stead of any members, in attendance at the meeting. This provides for a quorum of two-thirds of the total membership, which is a substantial majority of the membership. All decisions of the Control Board should be made by not less than 10 affirmative votes. This would prevent action from being taken when there was a very small attendance. It should be provided that the Control Board may vote by mail or telegraph upon due notice to all members, and when any proposal is submitted for polling by such method, one dissenting vote should prevent its adoption until submitted to a meeting of the Control Board. It is not always practicable to convene when important matters must be considered. In such an instance, mail and telegraph voting should be provided. A provision should be included to require that in case a mail or telegraph vote is not unanimous, the matter must be submitted at a Board meeting for final action.

Definite regulations governing the funds and other property of the Control Board should be prescribed in the order. All funds received by the Control Board pursuant to the order should be used solely for the purposes specified in the order. The secretary should require the Control Board and its members to account for all receipts and disbursements. Whenever any person ceases to be a member or alternate member of the Control Board, such person should be required to account for all receipts and disbursements hereunder and deliver all property, funds, books, and other records (in his possession or control) of the Control Board, to his successor in office or to such other person as the Secretary may designate, and should be required to execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all of the property, funds, or claims vested in such member. This would insure that the successor will be promptly and properly vested with the right to all property, funds, or claims vested in such prior member, or vested in the successor member. Fidelity bonds were required of those representatives and employees of the Control Board who had access to funds of the Control Board under previous orders, and precautions were invoked with respect to joint signatures on bank accounts which are customary among prudent business men under like circumstances. It is intended that the marketing agreement and order now proposed would operate in like manner. A provision should be included concerning legal action for the collection of assessments. It should be provided that the Control Board may, with the approval of the Secretary, maintain in its own name, or in the names of its members, legal action against any handler for the collection of assessments imposed upon him pursuant to the provisions hereof. Legal action by the Board to collect assessments is in accordance with the provisions of the act.

(c) It should be provided that the Growers Allocation Committee consist of all grower and grower-dealer members of the Control Board. This committee should have such duties and powers as are expressly recommended hereinafter and such other duties and powers as may be incidental thereto. The Growers Allocation Committee should be allowed to incur only such expenses as, from time to time, are authorized by the Control Board. The grower and grower-dealer members of the Control Board should constitute the Growers Allocation Committee because the performance of the duties of that Committee requires an intimate knowledge and experience of the production and harvesting of hops. It would also be inconvenient or impossible for the other members of the Control Board to attend the necessary meetings of the Growers Allocation Committee and to participate properly in its other functions because of their residences and places of business, in many cases far removed from the area to be covered by the order. The Control Board itself will normally meet less often and require less detailed duties of its members throughout most of the season. It is, of course, proper that the Committee should have only such duties as are expressely recommended hereinafter and such other duties and powers as may be incidental thereto, and that their expenses should be limited to those that are authorized by the Control Board from time to time as the responsible administrative body.

The Growers Allocation Committee should select one of its members as its chairman and such other officers as it might deem advisable. It should keep proper records of all its proceedings, and should adopt regulations governing its procedure. It was stated in the proposal set forth in the notice of hearing that the committee might provide for voting by mail or telegraph upon due notice to all members. Evidence presented at the hearing indicates that a provision should be included to prohibit the transaction of business by this method in case of dissent by one member of the Committee. This would be comparable to a similar provision recommended in the case of the Control Board. The Growers Allocation Committee will require a chairman, and may deem it advisable to select other officers in addition to its secretary, which latter office is to be filled by the managing agent in accordance with other provisions of this proposal. Proper records of the proceedings are necessary, as are regulations governing its procedure.

The alternate of each grower member or grower-dealer member of the Control Board should have the same right to serve in lieu of a member of the Growers Allocation Committee as such

alternate has to serve in lieu of a member of the Control Board. This is justifiable since they have the same relationship to their member on the Growers Allocation Committee as on the Control Board.

(d) The establishment and membership of a Growers Advisory Committee of twelve members should be provided for each of the States of Washington and California, and of thirteen members for the combined States of Oregon and Idaho. Each of the said committees should consist of members who shall be growers or grower-dealers, or officers or employees of growers or grower-dealers, engaged in growing hops in and residents of the State or States for which the respective committee is established. One of the members of the Advisory Committee for the States of Oregon and Idaho should be a grower, or an officer or employee thereof, engaged in growing hops in and a resident of the State of Idaho. There are relatively few hop growers in the State of Idaho, and this provision should insure adequate representation for such growers. These Advisory Committees should have as their purpose the providing of advice to the Control Board from their respective districts, the performing of such ministerial duties as may be found desirable by the Control Board, and the acting as nominating committees from their respective districts for nominating grower members of the Control Board. These districts are divided on a geographical basis so that the Advisory Committees are representative of growers in all districts, and thereby provide a representative nominating committee from each State. The number of members is approximately the same as under previous marketing orders, and is considered the proper basis as a beginning under this order.

It should be provided that the original members of the Growers Advisory Committees be the members of the existing Advisory Committees organized by the United States Hop Growers Association, an association of hop growers whose present address is Mills Building, San Francisco, California. Each of the original members should serve for a term ending on January 31, 1950, and in the event that the respective person's successor has not been selected by February 1, 1950, such person should serve until his successor has been selected. In the absence of any definite organization at the present time to allocate membership, and in view of the fact that the United States Hop Growers Association is a representative for the majority of the growers in all districts, and since it has practically parallel committees at the present time to the committees to be established, it is appropriate that the first members of the Growers Advisory Committees shall be the members of the existing Advisory Committees of the United States Hop Growers Association.

Successor members of the Growers Advisory Committees, beginning with those elected for terms beginning on and after February 1, 1950, should serve a two-year term ending January 31. Election should be at meetings held, under the supervision of the Managing Agent or his designated representative, by the growers and grower-dealers in each of the hereafter designated districts. In such election each grower and each grower-dealer residing or producing hops in the district should have an opportunity to participate, and at such election should, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one vote to fill the vacancy or vacancies occurring in his district. No grower or grower-dealer should vote in more than one district in any one State. Voting should be by ballot. There should be no voting by proxy. The nominee having the highest number of votes should be the member for the district or, in the districts electing more than one member, the nominees receiving in consecutive order the highest number of votes for the number of positions should be the members for that district. In the case of a tie vote, where vacancies are insufficient to give membership to each, a run-off election should be held on the vacancy in question. A person should be allowed to vote in each State in which he is a grower.

The State of Washington should be delimited into four election districts, as follows: District No. 1 should include that portion of Yakima County lying east of the Yakima River and north of Parker Ridge, and all counties of the State of Washington not delineated in other districts. District No. 2 should include Benton County, Klickitat County, and that portion of Yakima County lying south of Parker and Ahtanum ridges. District No. 3 should include that portion of Yakima County lying north of Ahtanum Ridge and west of the Yakima River. District No. 4 should include all counties of the State of Washington lying west of districts 2 and 3, or lying west of the Cascade Mountains. Growers and grower-dealers who reside or produce hops in any such district should be entitled to vote for and select for that district three members of the Advisory Committee. This is practically the same delineation that was in effect under previous marketing agreements and orders and as now used by the United States Hop Growers Association. Under previous marketing agreements and orders the entire State was not delineated, but only those portions that then grew hops, but it is felt desirable and it was recommended at the hearing to include the entire State in order to include future growers in other sections of the State. It is believed that the delineation is in conformity with logical divisions at the present time. Certain terrain features are used to indicate boundaries of some districts. These features are of a definite nature and it was testified that there would be no difficulty in locating them. It was further testified that the four proposed districts are more or less separate production districts, and although the delineations may not be absolutely correct insofar as their descriptions are concerned, they indicate without question the intent of the area to be included in each district. Inasmuch as the proposed districts are set forth and are final for initial operation of the order, the order should, as decided at the hearing, indicate the districts rather than leave it to the Washington Advisory Committee as provided for in the proposed order.

The State of California should be delimited into three election districts, as follows: District No. 1 should include Sacramento County and all other counties of the State of California not delineated in other districts. District No. 2 should include Sonoma, Napa and Marin Counties. District No. 3 should include Mendocino and Lake Counties. Growers and grower-dealers who reside or produce hops in any such district should be entitled to vote for and select for that district four members of the Advisory Committee. This delineation follows the method that was used and found satisfactory under previous hop marketing agreements and orders under which the three rather widely separated and rather logically centralized districts were segregated into three election districts. The reason for the inclusion in district 1 of all other counties not delineated in other districts is to automatically cover all counties in the State of California which now or hereafter may produce hops. In District No. 2, at the present time there are hop plantings only in Sonoma County but Napa and Marin Counties are included because they are immediately adjacent to and so located that they would not be conveniently located in any of the other two districts if any planting should take place there. The geographical distribution of the districts are the same as or similar to the basis upon which advisory committee members of the United States Hop Growers Association have been and are selected and it has been satisfactory to the growers in California who are members of that organization. Inasmuch as the proposed districts are set forth by counties and are definite in regard to description, the order should, as decided at the hearing, indicate the districts rather than leave it to the California Advisory Committee as was provided in the hearing notice proposal.

The States of Oregon and Idaho should be delimited into twelve election districts with respect to the Growers Advisory Committee, as set forth in the notice of hearing. Growers and grower-dealers who reside or produce hops in the district which includes the State of Idaho should be entitled to vote for and select for that district two members of the Advisory Committee, one of whom should be a grower of hops in the State of Idaho; and growers and grower-dealers who reside or produce hops in any of the other districts should be entitled to vote for and select for that district one member of the Advisory Committee. These districts were largely developed under the first marketing agreement and order and were used under subsequent marketing agreements and orders with revisions to include the State of Idaho and to include all portions of the State in some district even though hops are not now grown there. District Number one should be changed from the description shown in the proposed order on the basis of the hearing record to include Coos and Currie Counties. In the proposed agreement and order, these two counties are completely separated from the rest of the State by Counties in District

Number 1, and therefore should be added to that district. No hops are produced in these counties at present, but if there should be later, they would be more properly located in that district. In order to correct other minor errors and to more fully describe certain identifying features, other facts were introduced in the record. References to Federal highways were changed to conform to official designation. Other roads are well known and are either Federal, State, or County roads. Testimony shows that "Aral Corners" is a very small village at a road intersection and that the "Old Miller Place" is a farm which is well known in the area. In district 5, it was pointed out that the Abiqua River is sometimes referred to as the Abiqua Creek, and that "North Howell Grange" is actually "North Howell Grange building" in the North Howell Grange community. Errors in direction should be corrected in districts 3, 9, 10 and 12. The "Mulino Section" is a community known as "Mulino". In district 10, "Jurgen's Park" is a small park on the Tualatin River. In district 11, the description should be changed in order that the boundary line will return to the point of beginning. In all references to "an imaginary line" the intention was to indicate a straight line; the references thereto, therefore, should be changed. District 12 should be changed to include all other counties or portions of counties of Oregon not delineated in other districts because at the present time this is the smallest producing district. This would necessarily change district 7 to read "The State of Idaho and Malheur County in the State of Oregon." Inasmuch as the proposed districts are set forth and are final for initial operation of the order, the order should, as recommended at the hearing, indicate the districts rather than assign this duty to the Oregon-Idaho Advisory Committee as provided for in the proposed order.

A provision should be included to give opportunity for changes in districts. The number of districts or the area covered by each in any State or States should be subject to change in an equitable manner, giving consideration to quantity of hops produced, number of growers, geographical characteristics or other factors if the changes are recommended by the Control Board or Advisory Committee for such State or States and are approved by the Secretary. Such a provision is necessary in the event that the nature of production in the various areas should shift. It would be possible to redistrict the States in a manner that would then be equitable without an amendment of the order. A change might be necessary in the event of shifts in the planting of hops.

Provision should be made in the order for each member of an Advisory Commitee to designate, in writing addressed to the managing agent, an alternate having the same membership qualifications as are applicable to the member. Such alternate should act at any meeting of the Advisory Committee at which the member is not present.

A vacancy in the membership of an Advisory Committee should be filled, for the balance of the term of the member whose place is vacant, by a person of the membership qualifications of the former member, selected by majority vote of the remaining members of that Committee.

The members of each Advisory Committee should be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

Each Advisory Committee should promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate expires, or whose place on the Control Board for any reason may become vacant. Grower members of an Advisory Committee, as well as other growers, should be eligible for nomination by that Advisory Committee to serve on the Control Board. The Advisory Committee should act as a nominating committee in each State to nominate to the Secretary candidates for membership on the Control Board. They also should act in an advisory capacity to the Control Board within the different districts of each State in such capacities as the Control Board may find necessary and desirable. Each Advisory Committee should select from its membership a chairman and such other officers as the respective committee may deem advisable, and should keep proper records of all of its proceedings. It should hold meetings after notice to its members, upon the call of its chairman, the Control Board, the managing agent, or any four members. Each Advisory Committee should serve the Control Board in an advisory capacity concerning the administration of the order in the State or States for which such committee is established, and in general should perform such ministerial functions as the Control Board may, from time to time, specify. Each Advisory Committee should incur only such expenses as are authorized by the Control Board.

(e) There has been a gradual development over a number of years toward recognizing quality standards in the marketing of hops. It appears that all segments of the industry realize the importance of marketing a high quality hop. In order to effectuate the declared policy of the act, the Secretary should, after consideration of the Control Board's recommendations, prescribe minimum standards of quality for hops with respect to their leaf and stem content, or other factors of quality and maturity for which grading and inspection procedure has been developed by the Grain Branch, Production and Marketing Administration, United States Department of Agriculture and is in general use; and should prescribe grading and inspection requirements therefor. The term "leaves and stems," as used herein, should include all leaves and stems of the hop plant, except the stems (petioles) which bear the individual cones, and all extraneous matter. Hop seeds which are naturally within the hops under inspection should not be considered as extraneous matter. To aid the Secretary in prescribing minimum standards and requirements, the Control Board should furnish to the Secretary the information upon which it acted in recommending such standards and requirements, and should furnish such other available data pertaining thereto as the Secretary may request. At the present time some control over quality is imposed by the operation of contractual or spot bargaining through the exercise of the law of supply and demand. In the proposed order it is intended that the provision relating to quality standards will be in effect for an indefinite period, and will operate regardless of whether the price is above or below parity. It is possible that the techniques of procedure of the Grain Branch of the Production and Marketing Administration, United States Department of Agriculture, in its inspection work might be modified to conform to improvements in the industry, therefore it is not intended or desirable to freeze within the order the detailed procedures and techniques to present practices, thus precluding improvement other than through an amendment of the order itself. There is a possibility that it will be desirable at a later date to include minimum standards on factors other than leaf and stem content. After such other standards are in general use and the Grain Branch, Production and Marketing Administration, United States Department of Agriculture has established inspection procedure or standards therefor, the Control Board may recommend to the Secretary that such standards be included in the order.

In selecting initial minimum standards, which will be subject to modification if later deemed advisable and justified, it is intended that such minimum standards be generally acceptable by the industry under varying conditions. This minimum standard must be placed at a point which will be consistent with general demand. It is intended that low quality, culls, and offgrade hops be kept off the market. Such unmerchantable hops should be disqualified for handling on the basis of their leaf and stem content in any season, regardless of the demand or price for hops. Testimony presented at the hearing shows that most contracts are written on the basis of about six to eight percent leaf and stem content. Premiums in price are usually paid for hops with a lower leaf and stem content, while penalties are usually imposed on hops with a higher leaf and stem content. The average leaf and stem content of all 1947 crop hops inspected was 6.42 percent. The proponents testified that it was generally agreed that under forseeable conditions, hops with over 15 percent leaf and stem content are of unmerchantable quality, regardless of any and all other good qualities which such hops might have and that the establishment of a 15 percent limitation on leaf and stem content would guard against market competition from unmerchantable quality hops due to this cause, and would give both the brewer consumers and practically all growers some protection they have not previously had. They further pointed out the fact that the 15 percent maximum leaf and stem content provision was included in the proposed order as the initial quality standard because it was considered to be as low as necessary in order to permit the orderly marketing of a large part of the crop. It has been demonstrated in recent years that, under

reasonably balanced conditions, the consuming trade does not use any substantial quantity of hops containing more than 15 percent leaves and stems. If and when it appears that a different maximum leaf and stem content should be prescribed, it would be within the power of the Control Board to recommend such a change in the minimum standards, subject to the approval of the Secretary. The minimum standard, on the other hand, must not result in keeping merchantable hops off the market when prices are above parity. While utilizing this provision of the order to protect both the consumer and the grower, it is desirable and proper to keep the minimum standard well within established and accepted practices which can be defended as not removing from market channels by this means any hops which may be of merchantable quality. The proponents testified that they questioned the advisability of attempting to establish an initial maximum leaf and stem content substantially below 15 percent. To do so would be to declare as unfit for use a considerable quantity of hops which have moved in the past two to three years while hop supplies and demand have been generally in balance. Some hops of excellent quality in regard to factors other than leaf and stem content but with leaf and stem content somewhat above average may be more desirable and usable to a buyer than some other poorer quality hops in regard to such other factors, but with relatively low leaf and stem content. Until such time as other standards and requirements for leaf and stem content are prescribed under § 986.5 of the proposed order, no hops should be deemed merchantable or entitled to certification which contain over 15 percent by weight, of leaves and stems as defined in § 986.5 (a) (1) of the proposed order, and as determined by the Federal-State Inspection Service. The establishing of the initial minimum standard of quality with respect to leaf and stem content at 15 percent appears to be justified by the fact that the Federal-State inspection records in the last two crop years, representing inspection of a very high percentage of the crops, indicated that less than one-tenth of one percent had a leaf and stem content of more than 15 percent. This indicates that under current trade practices hops with more than 15 percent leaf and stem content, as determined by the Federal-State Inspection Service, are not acceptable to the trade. The 15 percent maximum leaf and stem content regulation is expected to be a rather constant minimum quality, subject to the provision which permits flexibility to the extent that the industry through the Control Board, with the approval of the Secretary, might find it proper to make any revisions found to be justified and which are in accordance with the requirements of the act. It is presumed that once the agreement and order are set up, the Control Board would be in position to make recommendations to the Secretary in regard to desirable changes. Near the end of the hearing, the proponents proposed the deletion of the provision establishing an initial minimum standard, as it was felt that the Control Board should recommend this standard nearer the beginning of the season. Briefs filed also recommended the deletion of this initial minimum standard provision. Evidence presented at the hearing appears, however, to justify retaining the provision as set forth in the notice of hearing.

As authorized in the act, the provisions of the agreement and order relating to minimum standards of quality and maturity, and to grading and inspection requirements, within the meaning of section 2 (3) of the act, and any other provisions pertaining to the administration and enforcement thereof, should continue in effect irrespective of whether the season average price for hops is in excess of the parity level specified in section 2 (1) of the act.

Each grower should be entitled, upon application to the Control Board or its representative, and subject to the meeting by him of any applicable provisions of §§ 986.5 and 986.6 of the order, to the certification of hops harvested after the effective date of the order, *Provided*, That such hops have been inspected by the Federal-State Inspection Service within the States of Oregon, California, Washington, or Idaho, and their official certificate presented by such grower showing such hops to meet said standards and requirements. Said Federal-State inspection should be at the grower's expense. No person should be permitted to handle any hops harvested after the effective date of the order unless such hops have been so certificated by the Control Board. Under the present inspection procedure, any fractional quantity of leaf and stem content is adjusted downward to the next lower whole number. Therefore, the hops that show 15 percent leaf and stem content after inspection may actually contain from 15.00 to 15.99 percent leaves and stems.

Regulations as to such certification concerning minimum quality should be based on information placed on a Federal-State inspection certificate and should include substantially the following wording: "Hops covered by this certificate are of the _____ (year) crop and are covered by Federal-State Inspection Certificate No. _____ as meeting minimum standards of quality prescribed pursuant to applicable Federal Marketing Agreement and Order." Such certification should be executed by authorized representatives of the Control Board, the grower and the handler. The bale or other container should also be marked or tagged to furnish proper identification as to producer and lot. Such proposal was included in the notice of hearing. It was recommended at the hearing that in order to insure proper language for the carrying out of this provision that the following sentence be added, "Such marking or tagging shall comply with the requirements for marking included in § 986.6 (d) (1)," which relates to certification for handling as being within the salable quantity. However, there may be some seasons in which there will be no salable and surplus provisions. In this case certification will cover minimum standards only. Briefs filed recommended that the bale or container not be marked so as to identify the grower. Under present inspection procedure the tag does not bear the name of the grower, but it does show a lot number or symbol now voluntarily used in the industry to identify the grower of such hops. It is not believed desirable to change the present practice being followed by the industry.

(f) Surplus control provisions, i. e., as represented by the imposition of salable allotments, should be applied only during marketing seasons in which the estimated season average price of hops to growers is at or below the parity level specified in section 2 (1) of the act. Under the enabling act, provisions of an agreement and order restricting volume of sales of merchantable production can be in effect only when the estimated season average price is not above parity.

The total carryover is an important factor in determining the salable quantity. As early in the respective year as it should find to be feasible, but not later than August 1, which is just prior to harvest time, the Control Board should ascertain or estimate the total carryover, within the United States, of hops and hop products expressed in terms of dry hops, produced in or outside the area covered by the order, prior to that year and which, if produced within such area, are eligible for handling pursuant to the terms of the order. In addition to other sources of information, in estimating the carryover, the Board would have available the report of the Department of Agriculture on stocks of hops in the hands of growers, dealers and brewers (now issued as of March 1). This would be useful as a base in making the estimate as of August 1.

At the same time that the Control Board estimates the total carryover it should estimate the total consumptive demand for hops produced during the respective year. In estimating such consumptive demand, there should be included the quantity of such hops estimated to be used as hops and the quantity estimated to be used in the form of hop products. Consumptive demand is defined elsewhere in the order as the prospective needs for both domestic and export usage. That is, the Control Board would estimate the total outlet for the hops in the area covered by the order for the next year based on information that it then has available. In making its recommendation to the Secretary, the Control Board should take into consideration the probable consumptive demand by domestic brewers for the next year. The Control Board should know the usage of hops by brewers during the past season, the current production of beer and the apparent rate of consumption of hops at the time of the estimate. It would view the economic situation as to possible changes in the next year. Consideration would be given to the prospective volume of imports. Probable consumptive demand through export outlets would be estimated based on various factors, including the competition from foreign countries at that time, the money exchange situation, and such other information as it considers ap-

propriate. This estimate would be based on a twelve month period beginning September 1.

As soon as the Control Board has made proper estimates concerning total carryover and consumptive demand, it should make and transmit to the Secretary its recommendation of the maximum quantity of hops (net dry weight), produced during that respective year which should, in order to effectuate the declared policy of the act, be handled in the form of hops or in the form of any hop product, and, with such recommendation, the Control Board should transmit to the Secretary its estimates and findings on which its recommendation is based. In estimating the quantity which should be handled, it is understood that the Board will take into consideration the estimated carryover at the beginning of the period, and also make allowance for a reasonable carryover at the end of the period. Under previous marketing agreements and orders the Control Board generally made determination of the maximum quantity of hops that it believed could properly be absorbed through market channels during the next year. Since it is the Secretary that makes the final determination, it is proper that he should have all information available to him that the Control Board had and used in making its determination in addition to other available information in order to determine whether the Control Board made a proper recommendation.

On the basis of the aforesaid estimates, data, and recommendations of the Control Board submitted pursuant to § 986.6 (b) of the order, and such other pertinent information as the Secretary may have, the Secretary should determine, fix, and announce such maximum quantity of hops produced during that respective year which may be handled in the form of hops or in the form of any hop product. Such maximum quantity of hops, fixed by the Secretary as outlined, should be known and referred to as the salable quantity of that respective year's crop of hops.

It should be provided that the Secretary may at any time increase the salable quantity for the crop of any year in which the continued withholding of surplus would result in a season average price to growers in excess of the parity level specified in section 2 (1) of the act, or upon due consideration of either the needs of brewers or a recommendation of the Control Board that the salable quantity be increased. The Secretary should not decrease said salable quantity. If unusual conditions developed during any year, resulting in an increased demand for hops, the Secretary should be authorized to increase the salable quantity during that year. The Secretary should not decrease the salable quantity as such action would not be equitable to those growers who had not moved their crops. If the salable quantity was actually too high it would be taken care of in the next season as a larger carryover.

In computing the hops equivalent of hop products, and unless changed as hereinafter provided, one pound of lupulin should be considered equivalent to 20 pounds of dry hops and one pound of hop oil to 400 pounds of dry hops. In the case of hop extracts or concentrates for which conversion ratios are not established pursuant to the order, the Control Board, or its authorized representative should be permitted to specify the conversion ratio to be used until such ratio can be established. It should be provided that the conversion factors referred to in the proposed order might be changed by regulation of the Control Board, subject to approval of the Secretary. These conversion ratios are needed to insure against a hardship or advantage to the party who so handles his hops. The production of hop products varies considerably according to the methods used in extracting said products, and under a program of this nature it would be necessary to establish a figure which approximates the average ratio of the particular product to dry hops. There must, of necessity, be a conversion ratio for each hop product, so that the allocation and assessment may be, as nearly as possible, in line with the quantity of hops from which such hop products were obtained or produced. Under the previous marketing agreement and order, the conversion ratios included in the present order were set up, and the ratios then used proved to be reasonably satisfactory. Therefore, it is considered that they should be the initial conversion ratios to be used, with the right of the Control Board, upon further investigation and knowledge of the matter, to make any changes that might be necessary or proper, subject to the approval of the Secretary. Lupulin and hop oil are the only known hop products manufactured in the area. Therefore, until such time as other hop products are manufactured, it is not felt necessary to establish conversion ratios for them, particularly since there is no information at this time which would warrant establishing ratios for such products. If an occasion should arise in which a conversion ratio other than those specified are needed for immediate use, a ratio should be temporarily established by the Board, or its authorized representative, for a period not exceeding 90 days.

The salable quantity of each year's crop should be apportioned equitably among all growers. As a basis for such apportioning, the Growers Allocation Committee each year, as early as practicable during or after harvest should determine, or cause to be determined under its supervision, the total quantity of hops (net dry weight), meeting the minimum standard requirements of § 986.5 available for market by each grower from his production of hops during that year. This would provide for the determination of the crop on the basis of the actual quantity of hops produced, first, from the weight of the hops which have been harvested and baled, or if converted into hop products, their weight in terms of hops, and second, with the added determination on the living vine of any hops which have been left unharvested and which have not been partially picked over. The estimation as to unharvested hops would be primarily for the purpose of permitting a grower to make his own determination as to whether or not he desires to harvest his entire crop in view of a prospective allocation which may not permit him to sell his entire production. If the grower, considering the Government estimates and other information available, has reason to believe that the crop is going to exceed the total salable quantity by any substantial percentage, he could leave unharvested the excess or any portion thereof, and pick only the approximate quantity of hops which might be salable under his allotment. The determination by the Growers Allocation Committee would necessarily include the quantity, if any, of such hops found to have been converted into hop products, except that lupulin sweepings should be included only to the extent of the pounds of lupulin found to be in such quantity of lupulin sweepings. This is reasonable, because the lupulin in the sweepings represents that which is shaken out in normal handling of the hops. Unharvested hops should be included in the estimate only if grown to maturity and then remain on living vines which are strung or trained on the wires or poles, and from which no hops have been picked. It is impracticable to determine before harvest each grower's production and allocation without estimating his production of unharvested hops. Such estimates under previous orders have been made with a reasonable degree of accuracy. In the event any grower should not permit the Growers Allocation Committee, or its representatives, access to any hops grown by that grower, or to any product thereof, or if he should fail or refuse to make available to said committee, or its representatives, information relative to such hops or hop products which the Growers Allocation Committee should find to be necessary to make such determination, the Growers Allocation Committee should determine or cause to be determined, on the basis of an estimate of the grower's acreage, the average crop conditions in the area, and the probable yield per acre on the grower's acreage, the respective grower's total production as aforesaid. The determination of the production of each grower should be on a basis of merchantable hops, which are those meeting the minimum standards of quality. Suggestions were made that the Growers Allocation Committee use specific percentages as a standardized leaf and stem content in making determinations of unharvested hops. Suggestions were made that different percentages be used for seeded and seedless type hops. It is concluded that the same method as was used under previous marketing agreements and orders should be followed, since, according to the testimony, such method proved satisfactory. It provides for no specific leaf and stem content in making the determination of grower production of unharvested hops, but in general assumes that such hops if harvested, would have approximately the same leaf and stem content as the hops which the grower had harvested from that crop. The use of a fixed leaf and stem content for unharvested hops of any grower would be inconsistent, unless the harvested quantity of such grower was adjusted to the same basis of leaf and stem content, which testimony indicated would be impracticable. After complet-

ing its determination of production by each individual grower, the Growers Allocation Committee should, by means of addition, compute the production of all growers.

It should be provided that each year, prior to the start of harvest, or as soon thereafter as practicable, the Growers Allocation Committee determine, or cause to be determined under its supervision, a preliminary estimate of said total quantity of hops which would become available for market by each such grower and by all growers, during that year. Said preliminary estimate should be based upon physical examinations of the hop yards, upon the historical productions thereof, upon official crop estimates, and upon such other relevant data as are available.

It is obvious that Committee members or alternates should not determine their own production for the purpose of allotment pursuant to § 986.6 (c) (1) (ii). This determination should be made by such other qualified person or persons as the Control Board or its authorized representative designates for that purpose. This report should be made in writing to the Secretary and to the Growers Allocation Committee. Any protest by a member or alternate member of the Growers Allocation Committee concerning such determination should be made directly to, and be determined by, the Secretary.

The Growers Allocation Committee should cause to be mailed to each grower notice of the determination pursuant to § 986.6 (c) (1) of the respective grower's production for the year, and also, the computation of the total quantity determined pursuant to § 986.6 (c) (1) produced by all growers during that year. The committee should also publicly announce said computations of said total quantity, both preliminary and final.

Any grower who might be dissatisfied with the determinations pursuant to §§ 986.6 (c) (1) or 986.6 (c) (2), should be permitted to protest in writing to the Growers Allocation Committee within 10 days of the date of mailing of the notice and if dissatisfied with the decision in regard to such protest should have the privilege of appealing in writing to the Secretary. This procedure would insure the making of fair and equitable determinations.

The "salable percentage" of the aggregate production should be computed by dividing the salable quantity of that year's crop by the aforesaid aggregate production, and multiplying the quotient by 100. After computing the salable percentage on this basis, it should be adjusted to the nearest one-tenth of a percent. Under the procedure described in the hearing notice, each grower's allotment of the salable quantity of that year's crop would be that same salable percentage applied to his production including leaf and stem content in his hops as prepared for market by him. Under this procedure, each grower's salable allotment would be that portion of his crop which is in the same proportion to his total production as the total salable quantity of hops is to the total or aggregate production of all growers.

A proposal was submitted at the hearing by Mr. William H. Hill, Jr., of Yakima, Washington, for a different procedure by the Growers Allocation Committee in computing growers' salable allotments. Under it, the Growers Allocation Committee would subtract from the grower's production of hops as determined pursuant to § 986.6, the weight of leaves and stems contained therein as shown by the inspection record. The grower's production of hops (exclusive of leaves and stems) would thus be obtained, and the salable percentage would be applied to it. The resulting quantity would then be adjusted upward by dividing it by the percent of "clean" hops (those with no leaf and stem content) in the aggregate merchantable production in the preceding marketing season. The grower's salable allotment of hops including leaf and stem content as prepared for market by him would thus be obtained. The salable allotments computed in this way would be higher for growers who had picked cleaner than average and lower for growers who had picked less clean than average, as compared with salable allotments determined by a direct application of the salable percentage to the grower's merchantable production including leaf and stem content. A large proportion of the hop crop varies within only a percent or two from average, with respect to leaf and stem content. Salable allotments under this method, therefore, would differ in most instances only to a small extent from allotments computed by the method described in the hearing notice. Testimony was presented that the method proposed by Mr. Hill, if put into effect, would tend to result in a lower average leaf and stem content of hops marketed, and that this would increase demand in domestic and export outlets, and tend to improve prices. It was testified that there is a substantial loss in weight of hop cones in clean picking by machines, and that clean picking by hand costs more per pound than picking with a high leaf and stem content. Testimony by proponents of the method proposed by Mr. Hill was that growers who pick cleanly would be penalized under the method described in the hearing notice, in that they would be permitted to sell a smaller proportion of the quantity of hops produced on the vines than growers who pick with a high leaf and stem content. It was testified that the method proposed by Mr. Hill would tend to correct this inequity. Testimony presented against the method of determining growers' salable allotments proposed by Mr. Hill was: that, it would cause delay in computing the allotments due to the more complicated procedure; that it might result in hardship or inequities to growers in some States who because of type of hops grown and seed content of hops, might find it difficult or impracticable to produce cleaner hops for market; that some growers might find it difficult to estimate their salable allotments preparatory to deciding what proportion of their crops to harvest; and, that if brewers or dealers prefer hops with a lower average leaf and stem content than those at present available, they could, through revision of prevailing price premiums and discounts, encourage cleaner picking. Either one of the two methods of determining growers' salable allotments, herein described, could be used satisfactorily in the surplus control procedure. Views of growers and testimony differ as to which method is more equitable. It is impracticable, in view of lack of experience under the Hill method, to determine at this time which of the two methods would be preferable. Objections raised against the two methods of computing the allotments are not of such a nature as to make the use of either impracticable. In these circumstances the original method of determining growers' salable allotments as described in the hearing notice, and which was used under the preceding program should be provided as the initial method of computing such allotments. It should be provided, however, that if the Control Board recommends to the Secretary, pursuant to a recommendation to it by the Growers Allocation Committee, that the method as proposed by Mr. Hill and described herein be substituted for the initial method, the Secretary should, if he approves the recommendation, put such method into effect at the beginning of the next marketing season. In order to insure that any change in the method of computing growers' allotments is favored by the hop producing industry, it is desirable that action in regard to such a change be initiated by the Growers Allocation Committee. The Board's recommendation should give full information and data upon which it based its recommendation for a change, and should contain specific information as to whether conditions then prevailing in the different States in regard to type of hops grown and seed content, make it desirable and equitable to consider States separately or in the aggregate in determining the percentage of clean hops for use in making the upward adjustment in computing the growers' salable allotments. For administrative reasons the percentage of clean hops for the preceding marketing season would be preferable if the method proposed by Mr. Hill should be made effective. The use of the method proposed by Mr. Hill would not necessitate a change in the method of computing preliminary and supplementary allotments. Since the estimates on which such allotments are based vary considerably from the final estimates, it would be impracticable to attempt to refine their computation in line with the method proposed by Mr. Hill, if it should be made effective. In case this method should be made effective for any marketing season, it should be provided that at the beginning of a subsequent marketing season, if the Control Board recommends to the Secretary, following approval by the Growers Allocation Committee, that the initial method for computing growers' allotments as herein provided be readopted, and accompanies its recommendation with information and data on which such recommendation is based, the Secretary should, if he approves, make the initial method again effective.

There should be included a further provision to take care of a situation in which the total production might be only slightly above the salable quantity, that

is, in any year in which the salable percentage exceeds 98 percent of the aggregate production, each grower's allotment should be the total quantity of merchantable hops produced by such grower. In addition to the provisions in the notice of hearing, the proponents recommended the inclusion of the following provision which was used in prior marketing agreements and orders: "Provided further that in the event the Growers Allocation Committee shall find and determine after completion of the harvest of any year's crop that the total quantity of hops produced, harvested, and dried during that year by all growers, not including hops destroyed by fire or otherwise, is less than the total salable quantity theretofore fixed for that year's crop, then the Growers Allocation Committee shall report to the Secretary said determination, and if the Secretary finds that such determination is correct, he shall issue an order to the effect that each grower's salable allotment of that year's crop shall be the quantity of hops determined by the Growers Allocation Committee to have been produced, harvested, and dried by that grower during that year, and such salable allotment shall supersede any allotment previously determined and issued to that grower for that year's crop." The proponents stated that this provision was inadvertently omitted from the original proposal. It is concluded that this provision should be omitted, since the 98 percent provision should take care of such a situation satisfactorily. When the consumptive demand approximates aggregate production, growers generally will harvest their entire production. It would therefore be unnecessary to distinguish between harvested and aggregate production in such instances in order to permit growers to market their entire merchantable production. Each allotment determined under this section should be expressed in pounds, net dry weight, of hops and should be known as the respective grower's "salable allotment" of that respective year's crop.

In order to assist growers to avoid delays in their individual harvesting and marketing, the Control Board, or its authorized representative, should compute an "estimated salable percentage" of estimated aggregate production and should compute and issue, or cause to be computed and issued, for each grower a preliminary allotment. The estimated salable percentage should be computed by dividing the salable quantity of that year's crop by the estimated aggregate production, as determined pursuant to § 986.6 (c) (1) (ii) of the proposed order, and multiplying the quotient by 100. Each grower's preliminary allotment of the salable quantity of that year's crop should be 50 percent, or such lower percentage as the Control Board may establish with the approval of the Secretary, of that same estimated salable percentage applied to that grower's estimated production as determined pursuant to § 986.6 (c) (1) (ii) of the proposed order. This would permit all growers to sell the same percentage of their merchantable crops under the preliminary allotments, and would permit issuance of the allotment to a grower early in the season in order that he may conduct his harvesting policy as may best suit his particular convenience. Such preliminary allotment would be issued as soon as practicable, probably about the start or during the early part of harvesting operations and would not be contingent upon an application by the grower. This allotment must, of necessity, be very conservative in order to avoid exceeding the amount of the final salable allotment. This allotment would only require individual yard inspection in a few exceptional cases. It was stated in the notice of hearing that the Control Board shall compute an estimated salable percentage of the aggregate production. Since it is obvious that the Control Board itself cannot handle all of these computations, it should be provided that authorized representatives of the Board may perform such functions.

When a grower wishes to ship a larger portion of his crop than authorized under the preliminary allotment, there should be provided a supplementary allotment, which would be determined on a basis similar to that by which the preliminary allotment was established under previous marketing agreements and orders, and which was found to be reasonably satisfactory. Under those orders there was no supplementary allotment. This supplementary allotment should be issued by the Control Board on the basis of individual applications to the Growers Allocation Committee, prior to the issuance of final allotments applicable to that year's crop. This supplementary allotment representing such proportion of that grower's total production of hops during that year as the Growers Allocation Committee or its authorized representatives may determine will not be in excess of 80 percent (or such higher percentage as the Control Board, with the approval of the Secretary, might specify for the computation of supplementary allotments) of that grower's probable salable allotment for that year's crop.

After issuance to a grower of such preliminary or supplemental allotment, the hops covered thereby, and any hop product derived from such hops, should be eligible for certification, marking, and handling as though the final allotment had been issued, and subject to the same terms, conditions, and regulations as are applicable to such certification, marking, and handling of hops and hop products under a final salable allotment.

The Growers Allocation Committee should mail to each grower notice of his preliminary, of his supplementary and of his final salable allotment computed by that committee as provided in the proposed order. A list of the salable allotments of all growers for each year's crop should be compiled and maintained by the Growers Allocation Committee at each of its offices, where the same should be available during all reasonable hours for inspection by any interested person.

In the event that more than one grower should participate jointly in the production of hops, whether as landlord and tenant, as partners, or otherwise, and said growers report that fact to the Growers Allocation Committee, then a single salable allotment should cover such joint production. In the event that thereafter the interests of those growers in the crop produced or being produced are segregated, the Growers Allocation Committee, or its authorized representative, upon written application signed by all of said interested growers should segregate and distribute said salable allotment among said growers in accordance with their respective segregated interests in the crop.

It was proposed that, upon application of any bona fide incorporated cooperative association of growers which is authorized to market hops or hop products included within the salable allotments of those of its members who have authorized it to sell hops for them, the individual salable allotments should be pooled and thereafter hops produced by those members during that year, and hop products derived from such hops, be certificated and handled by such association without regard to the limits of the individual allotments of the members. As a condition to granting permission for such a way of handling, the association would submit a written application signed by its duly authorized officers, accompanied by proper evidence of the approval of such application generally by the association's membership at a meeting or otherwise during the calendar year in which the application is made. It was argued that such a provision would permit a cooperative association to market the best quality hops produced by its membership, leaving the poorer quality hops as surplus. A somewhat similar provision was incorporated in the previous marketing agreement and order on hops, except that it was required that such application be signed by each producer member whose hops were to be so pooled to indicate that he was in agreement with the proposed way of handling. It should be clear that each grower-member affected is satisfied with the proposed pooling arrangement, insofar as it affects his hop crop. Any cooperative association which desires to handle hops or hop products produced by its members, under the pooling arrangement herein described should be required to furnish to the Growers Allocation Committee satisfactory evidence that it has contractual authorization for such procedure from each of its members whose hops are to be pooled. The proposal should, therefore, be modified accordingly.

In the event that at the normal time no determination, pursuant to § 986.6 (c) (1), has been made as to a particular grower entitled thereto, or a previous determination as to a particular grower is substantially in error, the Growers Allocation Committee should make the determination or correct the erroneous determination or should cause such determination or correction to be made. The phrase, "or should cause such determination or correction to be made" should be added as included above based on facts presented at the hearing. The same requirements of determination and approval by the Secretary, notice to the grower and rights of protest and appeal, should be effective with respect to such determination, as in the case of a timely or original determination. This provision

would permit any error or omission to be corrected when discovered.

It should be provided that in the event the Growers Allocation Committee or the managing agent shall find, at any time, that the salable allotment previously issued to a grower was incorrectly computed or is erroneous by reason of mathematical or clerical error, the Growers Allocation Committee or the managing agent should correct and revise said allotment to the extent found to be proper, and should notify the respective grower and the Secretary of such correction. Errors such as these, naturally, should be corrected when they are discovered.

Each grower for whom a salable quantity is determined should be able to, upon application to the Control Board or its representative and subject to the limitations of § 986.5, have the eligible quantity of hops or hop products certificated for handling. Such certification should consist of the indelible marking of each bale or other container of such hops or hop products by an authorized representative of the Control Board and the issuance and delivery of a "handling certificate." Such marking should be placed on the bale cover or other container or on a tag securely attached to such other container, and should show the year of production, the handling certificate number, and the words "Certificated, Hop Control Board." This method of marking should be subject to change by the Control Board, with the approval of the Secretary. Such handling certificate should certify that pursuant to the provisions of the order a specified quantity of hops or hop products has been duly certificated, for the grower and handler named in said certificate, as being eligible for handling pursuant to the terms of the order. At the hearing it was proposed that the certificate be executed by the grower, handler, and authorized representatives of the Control Board. Since hops are normally marketed in 200-pound bales, and the salable allotment will seldom be evenly divisible by 200, such certification should be allowed to exceed any grower's salable quantity by not over 100 pounds, provided such excess quantity is included entirely within the weight of the last bale or container certificated for said quantity. Certification is the means by which hops, which are eligible to be handled, may be so certified by agents of the Control Board. Certification would take place prior to handling. The grower would be permitted to have certificated a quantity of his hops up to the amount of his allocation up to that time and the hops should then be properly marked and a certificate issued which has been executed by those concerned, namely the grower, the handler, and a representative of the Control Board.

Any person who owns or is in the possession of hops harvested or hop products from hops harvested prior to the effective date of this order, should be entitled upon application, within 30 days after the effective date of the order, to the Control Board or its representatives, to have such hops certificated free of charge and without regard to any salable quantity or minimum standards of quality. The Control Board should be permitted to extend such time for good cause. It is essential that the hops produced prior to the first marketing season under the order be certificated in order that they will not be confused with the new crop. However, it is not intended that any of the other restrictions or obligations shall apply to such hops.

It was recommended that a qualified certification be adopted to permit brewer-growers to handle their entire production of hops when such hops are to be used by said brewer-growers. This would not be in conformity with the purposes of the order to treat all growers similarly with respect to their salable allotments. If a brewer-grower should desire to use a quantity equivalent to his entire production, he may do so through the diversion privilege by purchasing another growers salable allotment, known in the industry as "transfer of certificate."

It should be provided that no person, as principal, agent, broker, legal representative, or otherwise, should be permitted to handle any hops harvested or hop products from hops harvested subsequent to the effective date of the order, unless: (1) Prior to such handling, the Control Board shall have issued a "handling certificate" applicable to such hops or hop products; (2) each bale or other container of said hops or hop products shall have been duly marked or tagged for the purpose of identifying such hops or hop products as being covered by a duly issued salable allotment or as being properly certificated. However, hops harvested prior to the effective date of the order and hop products produced from such hops should be certificated for handling without regard to the salable allotment or the quality restriction. This provision should be included in order to make doubly clear the fact that hops which do not meet the minimum standards of quality requirements are not eligible for consideration as hops eligible for certification. Hops which do not meet the minimum standards of quality must be controlled, as well as merchantable hops.

In the event hops produced subsequent to the effective date of the order, whether harvested or unharvested, in the control of the respective grower thereof, are destroyed, or are so damaged or deteriorated as in the judgment of the grower to be unmarketable, or if because of quality or type such hops are unsatisfactory to the grower, the grower thereof should be allowed (if the lupulin has not been removed from such hops) to replace such hops, within the limits of his salable allotment, by acquiring uncertificated hops of that year's crop from the growers thereof. However, such purchasing grower should first submit a written statement to the Growers Allocation Committee setting forth the year of production, location, and the quantity of hops which such grower desires so to replace, and, if the hops to be replaced have been destroyed, the time, place, and cause of such destruction, together with proof of such destruction satisfactory to the Growers Allocation Committee, and the name and address of each grower from whom he proposes to acquire uncertificated hops for that purpose, and makes arrangements with the Growers Allocation Committee whereby the unmarketable or unsatisfactory hops which are thus to be replaced will be effectively diverted from or disposed of out of the normal channels of trade, and such disposal or diversion should be in such manner as may be prescribed by the Control Board. Also, such hops should not be diverted or disposed of into hop products. The selling grower in such a situation should not be regarded as handling hops, nor should the hops sold be considered a part of the selling grower's salable allotment. The Growers Allocation Committee should prepare, and from time to time should revise, a list of the names and addresses of growers known to have uncertificated hops for sale, and a list of the names and addresses of growers who report to the Growers Allocation Committee that they desire to purchase or acquire uncertificated hops. It was recommended by the proponents at the hearing, that in order to carry this out effectively it would be desirable to add a sentence substantially as follows: "At the request of the Growers Allocation Committee, each grower shall report to them the quantities and allocation of his holdings of certificated and of uncertificated hops." Reports of this kind would benefit growers and it is believed that such information would be furnished by them voluntarily. The proponents' proposal in regard to requiring such reports is therefore denied. The Growers Allocation Committee should make such lists available to any grower of hops at each office of the Control Board. It is not intended that the provisions of this section should prohibit arrangements between individuals concerning which hops will be sold. It was an accepted practice under previous agreements and orders that a grower might secure a salable quantity of another grower's allotment without actually purchasing hops. The growers refer to this transaction as a "transfer of certificate." Under any conditions, the total salable quantity of hops must not be exceeded by the aggregate of individual salable quantities. A brewer who produces his own hops, for instance, might prefer to use his own hops. This is possible under the diversion privilege, even though his needs are in excess of his own salable allotment, by the purchase of other growers' allotments of salable quantities, commonly known as "transfer of certificate." The grower selling his allocation of salable quantity may save the cost of harvest if he does not wish to keep the uncertificated hops on hand. The grower of poor quality hops could purchase hops of better quality from growers who had supplies in excess of their allocation. This is done in many instances to satisfy contract requirements. Witnesses testified that, under previous agreements and orders, this plan was satisfactory, and that a considerable portion of the poorer quality hops was left unharvested. In determining a grower's production, a definite determination would be made on a weight basis of those hops which have been harvested and dried, and also a determination in the field of those quanti-

ties of hops which the grower might, at his option, leave unharvested on the living vine and from which no hops have been picked. This would make it unnecessary for a grower to harvest his entire production in order to receive credit for it, thereby effecting a saving in expense. Destruction of replaced hops should be supervised by the Control Board. The transfer of hops under the diversion privilege, is not necessarily profitable for the growers concerned. It would either be profitable or their losses would be minimized. If a grower had hops which were moldy, or for some reason were unsuitable for sale, then he could in this manner salvage at least a portion of his costs. The producer of good quality hops would find it to his advantage to harvest in excess of his salable allotment if he could sell the surplus at more than the cost of harvesting.

(g) The act provides, in effect, that each handler subject thereto shall pay such handler's pro rata share of operational expenses as the Secretary may find are reasonable and likely to be incurred by the administrative agency during a specified period. The Control Board, therefore, should be authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each marketing season for its maintenance and functioning and for such purposes as the Secretary may determine to be appropriate. Such authorization should also include expenses of the Growers Allocation Committee and the several Growers Advisory Committees. It is anticipated that any regulatory program on hops which is put into effect will be made effective prior to the next marketing season, which begins on August 1, 1949. Therefore, the initial recommendation of the Control Board as to its budget of expenses should include, in addition to such expenses for the next marketing season, its expenses for the remainder of the then current marketing season. This initial recommendation together with all supporting data should be submitted to the Secretary within 45 days from the effective date of the order and, in succeeding marketing seasons, on or before September 15 of the season for which such recommendation is made. It is believed that 45 days affords ample time for the preparation of a budget. The funds to cover such expenses should be acquired by levying assessments. The Control Board should be in charge of these funds.

Each handler should pay to the Control Board the assessment provided for with respect to all hops and hop products which are handled or are to be handled by that handler as the first handler thereof, except (i) such hops or hop products as are duly certificated and were in existence when the regulatory program went into effect, and (ii) such hop products as have been derived from duly certificated hops with respect to which such assessment previously had been paid. Any grower who markets or transports to market, within the State of production, hops produced by that grower, or any hop product produced by that grower from hops produced by that grower, or hops acquired pursuant to § 986.6 (f) hereof, should not be deemed to be the first handler thereof insofar only as payment of assessments may be concerned. The assessment should be paid to the Control Board prior to or at the time of such handling, or at such subsequent time as the Control Board may specify. It sometimes happens that a grower will transport his hops directly to a brewer, or the ultimate consumer of them, thereby by-passing the normal intermediate handling through a dealer. In every such a case, the grower should be considered the handler from the standpoint of having the responsibility for meeting the then applicable minimum standards and for seeing that such shipment is within his salable allotment. In the previous marketing agreement and order on hops, however, it was provided that in case such a shipment was completed within the State of production, the handler for assessment purposes was the brewer, or the ultimate consumer. Conversely, if such a shipment was made outside the State of production, the grower was also the handler for assessment purposes. Such handling in the past, which was designed to insure collection of assessments in the most practicable manner, was found to be both satisfactory and workable. Such shipments outside the State of production are often made to distant points, such as to the middle west or the east. However, in either event, it would seem proper that the grower meet the requirements as to minimum standards, and so forth.

It is generally known that, since the last marketing agreement and order on hops became ineffective, there have been heavy increases in salaries, wages, and other expenses. However, the production of hops has also increased, and it was testified at the hearing that, because of the greater volume, the same rate—one-fourth of one cent per pound—should be satisfactory as an initial assessment rate. This assessment should cover each pound, dry net weight, of hops first handled. If the funds collected are insufficient, the rate should be raised by the Control Board with the approval of the Secretary. It was set forth in the notice of hearing, and contended for at the hearing, that prior to fixing any assessment in excess of three-fifths of a cent per pound, the Secretary should hold a meeting or meetings in the production area for the purpose of obtaining pertinent information. However, it was developed that, under the law, any change in the specified assessment rate of one-fourth of one cent per pound would have to be preceded by publication in the FEDERAL REGISTER of notice of the proposed change, interested parties would need to be given an opportunity to submit written data, views, or arguments with respect thereto, and such written data, views, or arguments would have to be considered in the making of the determination on the matter. In these circumstances, it is concluded that the holding of such a public meeting or meetings would not only serve no useful purpose, but also it would entail unnecessary expenditure of labor and expense. It was objected at the hearing that many interested parties might not normally see such a notice as published in the FEDERAL REGISTER. It was developed, however, that, in case of consideration of any change in the assessment rate, it would be the duty of the Control Board to give advance notice thereof to interested parties generally and to inform them of their right and privilege to submit their written views in that regard. Such proposal is, therefore, hereby denied. A grower who acquires uncertificated hops from the grower thereof under the diversion privilege should not, by reason of such acquisition, or the marketing or transportation of said hops in connection with such operation be deemed to be the handler of those hops within the provisions of the paragraph on assessments. In the event any grower who handles hops or any hop product is not covered by this section as the first handler thereof, then the person who handles any of such hops or any hop product next following such handling thereof by said grower should constitute the first handler thereof for the purposes of assessment. The assessment should be collected on each pound of hops as placed on the market, which would include any leaves and stems which might be present.

A paragraph providing for the liquidation of net assets was included in the proposed order, as set forth in the notice. Since this would be a duplication of authority which would be given elsewhere, it should be eliminated from this section.

An amendment was proposed that a provision be included to permit the Control Board to borrow money, pending the collection of sufficient assessments to cover operational expenses. It was developed at the hearing that this problem has been met in the case of other marketing programs of this nature in other ways such as by having the administrative agency accept advance payments from handlers for credit against assessment obligations which they would incur later. It should be unnecessary to include the proposed amendment.

It was also proposed at the hearing that provision be made for the disposition of any excess of funds realized from assessments at the end of any marketing season. The proponents recommended that the Control Board be permitted to utilize these funds until moneys are available from the assessments for the following season and yet at the same time that the handlers from whom such funds were obtained receive credit, or in due course refund, of any excess. The following provision was suggested: "Any money collected as assessments during any marketing year and not expended in connection with the respective marketing season's operations hereunder may be used and shall be refunded by the Control Board, in accordance with the provisions hereof. Such excess funds may be used by the Control Board during the period of six months subsequent to such marketing season in paying the expenses of the Control Board incurred in connection with the new marketing season. The Control Board shall, however, from funds on hand, including assessments collected during the new marketing season, credit or upon request make available, within seven months after the beginning of the new marketing season, the aforesaid excess to each han-

dler from whom the assessment was collected as aforesaid, in the proportion that the amount of the assessment paid by the respective handler bears to the total amount of the assessments paid by all handlers during said marketing season." The general substance of the new provision is similar to the provision relating to refunds in a marketing agreement and order program for another commodity, with the exception that the time period for use of the funds by the Board has been increased from four months to six months. Testimony at the hearing developed the fact that it would be satisfactory to reduce this period to five months, and it is concluded that this period should be the one to be adopted.

(h) Provision should be made for all handlers to comply strictly with all regulations of the order. No handler should handle any hops or any hop product in violation of any of the provisions of the order or in violation of any regulation effective pursuant to the order.

(i) Each handler and each subsidiary or affiliate thereof should keep books and other records which will clearly show the details of its handling of hops and hop products. Certain reports relating to operations under the program, as hereinafter specified should be required of handlers, and books and records pertaining to each handler's operations are necessary in order that reports may be furnished promptly and accurately, and in order to insure compliance with the provisions of the order.

Certain information from handlers is necessary to enable the Control Board, the Growers Allocation Committee, and each Advisory Committee to perform their functions in respect to the operation of the program. Reports required of handlers as set forth in the notice of hearing are as follows: "each handler shall furnish to the managing agent complete information on June 1, or as of that date and within 15 days thereafter, or on any other date or dates which the Control Board, with the approval of the Secretary, may specify, relating to (1) The volume of and the price paid for hops and hop products handled during the next preceding marketing season, and the volume of and prices to be paid for hops and hop products of future crops by the respective handlers; (2) the names and addresses of the growers and other persons from whom hops or hop products were acquired; (3) quantities of hops grown by that handler; and (4) the total quantity of hops and hop products owned by the respective handler." Substantial changes should be made in regard to the reports required. The proponents proposed the deletion of the reports with reference to price in view of the fact that price information which would be obtained from such reports would not be necessary in the operation of the program. The reports of the Bureau of Agricultural Economics of the Department are the official sources of price information needed in connection with the program. Each handler should however, furnish to the managing agent on June 1, or as of that date and within 15 days thereafter, or on any other date or dates which the Control Board may specify, complete information as requested by the Control Board relating to the total quantity of hops and hop products owned by the respective handler. This information is needed for the Control Board meeting at which determinations are made as to the propriety of surplus control and at which estimates are made of the consumptive demand and the salable quantity. Some reports, the proponents testified, would be particularly valuable around December 1, in connection with the arrangements for election of Control Board members. This would be a date between the end of the next preceding marketing season and the time when the election would be held soon after the first of the year in election years. Information would be needed with respect to the quantity handled during the preceding marketing season. It should be provided that reports may be submitted earlier than December, but in any event would cover the previous marketing season ending July 31. The supplying of names and addresses of the growers and other persons from whom hops or hop products were acquired by handlers, would give an added overall check for enforcement and for other purposes of the order. It is desirable to know the quantity of hops grown by a handler in order to help eliminate any confusion between the handling of the persons own growth and of hops bought for handling. This type of information in grower-dealer operations is needed for election arrangements. In order to obtain the necessary information in a minimum of reports, the reporting requirements should be changed to read as follows: "each handler shall furnish to the managing agent, (1) on June 1, or as of that date and within 15 days thereafter, or on any other date or dates which the Control Board may specify, complete information as requested by the Control Board relating to the total quantity of hops and hop products owned by the respective handler; and (2) on December 1, or on any other date or dates which the Control Board may specify, complete information relating to: (i) The volume of hops and hop products handled during the next preceding marketing season; (ii) the names and addresses of the growers and other persons from whom such hops or hop products were acquired; and (iii) the quantity of hops grown by that handler during such season." Such information furnished to the managing agent should be confidential and not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, or to such person as the Secretary may specify. However, the managing agent should be authorized to compile this information in such form as will not reveal the identify of individual informants and to make such compilations available to the Control Board, Growers Allocation Committee, any Advisory Committee, or to the public. The managing agent should not disclose any information acquired under this section, except as provided for in the order. Representatives of the hop industry testified at the hearing that the aforementioned proposals had been discussed generally prior to that time by interested parties in their respective areas, and that such proposals were considered to be appropriate, fair, and equitable.

(j) The provisions of §§ 986.10 to 986.18, both inclusive, as hereinafter set forth, are provisions similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 986.19 to 986.21, both inclusive, 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, are necessary to effectuate the other provisions of the proposed regulatory program, and are necessary to effectuate the declared purposes of the act. Testimony at the hearing supports the inclusion of each of such provisions as hereinafter set forth. These provisions which are applicable to both the proposed marketing agreement and order, identified by both section numbers and titles, are as follows: §§ 986.10 Amendments; 986.11 Agents; 986.12 Effective time and termination; 986.13 Duration of immunities; 986.14 Separability; 986.15 Derogation; 986.16 Right of the Secretary; 986.17 Liability of Control Board Members; and 986.18 Effect of termination or amendment.

Those provisions which are applicable to the proposed marketing agreement only, identified by both section numbers and titles, are as follows: §§ 986.19 Counterparts; 986.20 Additional parties; and 986.21 Request for order.

It is hereby found and proclaimed that the parity price for hops can be determined satisfactorily from statistics of the United States Department of Agriculture on the August 1909–July 1914 base period specified in section 2 (1) of the act, and such period is the period to be used for such computation. The parity situation in this regard was discussed, in some detail, under (2) hereof, relating to the need for a regulatory program of this nature.

The proposed agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to hops grown in Oregon, California, Washington, and Idaho by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to the producers thereof at a level that will give such hops a purchasing power with respect to the articles that the producers thereof buy equivalent to the purchasing power of such hops in the base period, August 1909–July 1914, and protect the interests of consumers by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand, (2) by authorizing no action which has for its purpose the maintenance of prices to the producers of such hops above the level which it is declared in the act to be the policy to establish, and (3) by providing for the establishing of such minimum standards of quality, maturity, and inspection requirements as will effectuate such orderly

marketing of such hops as will be in the public interest.

Rulings on proposed findings and conclusions. The period ending January 10, 1949, was set by the presiding officer at the hearing as the date by which briefs must be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. Such briefs were filed on behalf of the proponents of the proposed regulatory program, the United States Brewers Foundation, Inc.; S. S. Steiner and Hugo V. Loewi (dealers); George Segal (dealer), and Acme Breweries. These briefs contained proposed findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was considered carefully along with the evidence in the record in making the findings and reaching the conclusions hereinabove set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, are denied on the basis of the facts found and stated in connection with this decision.

Rulings on certain rulings of the presiding officer. Near the close of the hearing at Santa Rosa, the attorney for the United States Brewers' Foundation, an organization of brewers, offered in evidence 28 affidavits which had apparently been executed by officers of brewing companies located over the country. All of these affidavits related to the proposed provisions which would fix minimum standards of quality and/or maturity for hops. Objection was made to the admittance of these affidavits in evidence, which objection was sustained by the presiding officer. His action in doing so is hereby sustained and confirmed. The notice of hearing in this instance was published in the FEDERAL REGISTER on November 2, 1948 (13 F. R. 6448), specifying that such hearing would begin at Yakima, Washington, on November 29, 1948, or 27 days after publication of such notice. Further, the offer in evidence of the affidavits was not made until December 7, 1948, or 35 days after publication of such notice. It was alleged in support of such proposal that the affiants were unable to attend the hearing by reason of the fact that their time was occupied on other matters, and further, that a letter had been addressed to the Secretary on November 23, 1948, informing him of that fact and that, because of such situation, it would be necessary to offer affidavits, in lieu of oral testimony on the matter.

It is specifically provided in section 7 (c) of the Administrative Procedure Act (5 U. S. C. 1001 et seq.) that, in hearings of this nature: "Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts." Under the circumstances, the admittance of the affidavits in evidence in the absence of the affiants would have denied interested parties any opportunity to conduct any cross-examination of such affiants, and would have been violative of their rights in that regard. As was pointed out at the hearing, the affidavits were all of a general nature and it seems that, if a reasonable effort had been made, the Foundation could have had at the hearing capable representatives from its membership on the west coast who could have testified personally on the matter, and answered questions asked them on cross-examination.

At the time of the presiding officer's ruling that the aforementioned affidavits were not admissible in evidence, it was moved by the attorney for the Foundation that depositions on the matter be taken from the presidents of two brewing companies "in the next few days or the next few weeks at some convenient place in the mid-west or the east." It was stated that affidavits from these two officials were included in the 28 affidavits which were refused admission in evidence, and that such motion was made because the proponents of the regulatory program "want the presence of the witnesses for the purposes of cross-examination." The granting of such motion was objected to by the said proponents of the program on the grounds that the taking of the depositions would delay unduly the taking of final action with respect to the program which because of economic conditions, should be put into effect as soon as practicable, that the Foundation had delayed action unduly, and that it was unreasonable to expect the proponents to incur the extra labor and expense which would be incurred in taking the depositions at such a distant point or points, particularly since the Foundation could have had capable witnesses appear and testify orally at the hearing. Hearings on the promulgation of marketing agreements and orders are public hearings and all interested parties have the right to be heard and cross-examine witnesses. The taking of depositions with the attendant right to submit cross-interrogatories by interested parties, all of whom could not be known with certainty for the purpose of giving notice, is not a method of adducing evidence which would be appropriate to such public hearings. Moreover, the applicable rules of practice and procedure do not provide for the taking of such depositions. The presiding officer's action in denying that motion is, therefore, hereby confirmed for the reasons stated above.

Recommended marketing agreement and order. The following proposed marketing agreement and order (the provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order) are recommended as the detailed means by which the aforesaid conclusions may be carried out.

§ 986.1 *Definitions.* As used herein, the following terms have the following meanings:

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

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 208, 707).

(c) "Person" means any individual, partnership, corporation, association, or any other business unit.

(d) "Hops" means, except as otherwise specifically indicated herein, the pistillate cones, either in the green or the dried state, of the vine Humulus lupulus or Humulus americanus grown in the States of Oregon, California, Washington, or Idaho.

(e) "Hop product" means any substance which is (1) derived, either in whole or in part, from hops, including, but not limited to, any form of lupulin, lupulin sweepings, hop oil, or hop extracts or concentrates, and (2) capable of being used for a purpose for which hops are used.

(f) "Grower" is synonymous with "producer" and means any person who is engaged, in a proprietary capacity, in the commercial production of hops.

(g) "Dealer" means any person, other than a grower or brewer, who is a handler of hops or hop products for his or its own account.

(h) "Grower-dealer" means any grower, other than a brewer, who is a handler for his or its own account of any hops or hop products other than those of his or its own production: *Provided*, That handling transactions pursuant to § 986.6 (f) shall not be within this definition.

(i) "Brewer" means any person who uses hops or any hop product in manufacturing any malt beverage for commercial purposes.

(j) "Handler" means any person who, either personally or through another person, handles hops or any hop product. *Provided*, That a person who handles hops which have been previously certificated and handled by another person shall not thereby be deemed to be a handler with respect to such hops.

(k) "Handle" means, except as provided in § 986.6 (f), (1) to market, ship, or transport (except as a common or contract carrier for others) to or for market, or to use, any hops or hop product, or (2) to purchase, take consignment of, accept delivery of (except as a common or contract carrier) in connection with a purchase or sale or otherwise acquire, within the States of Oregon, California, Washington, or Idaho, hops or any hop product from a grower or any other person.

(l) "Consumptive demand" means that quantity of hops and hop products (expressed in terms of dried hops) which it is anticipated will be required in all trade outlets, both domestic and foreign, during the period September 1 of the respective year through the following August 31.

(m) "Marketing season" means the 12 months from August 1 to the following July 31, both dates inclusive.

(n) "Federal-State inspection service" means that inspection service on hops or hop products which is performed Washington, or Idaho by the United

States Department of Agriculture or by said Department under a cooperative arrangement with any of such States pursuant to authority contained in any act of Congress.

§ 986.2 *Control Board*—(a) *Establishment.* A Control Board consisting of eighteen members, with an alternate member for each such member, is hereby established to administer the terms and provisions hereof, of whom, with their respective alternates, nine shall represent growers of hops, two shall represent grower-dealers, three shall represent dealers, and four shall represent brewers. The grower members of the Control Board shall be growers of hops who are not grower-dealers, of whom three shall be growers of hops in and residents of the States of Oregon or Idaho, three shall be growers of hops in and residents of the State of California, and three shall be growers of hops in and residents of the State of Washington. One of the grower-dealer members of the Control Board shall be a grower-dealer having his or its principal office in that regard in the States of Oregon, California, Washington, or Idaho, and the other grower-dealer member shall be a grower-dealer having his or its principal office in that regard outside of such States. Each of the four brewer members of the Control Board shall be a brewer. Each of the three dealer members of the Control Board shall be a dealer in hops. An officer, agent, or employee of a business unit other than an individual person shall be eligible for membership or alternate membership on the Control Board in the category in which such business unit belongs pursuant to the provisions hereof. No person shall be selected as a member or alternate member of the Control Board who is not actively engaged, as his principal business occupation, in the business of the group which he represents, and may be an officer, agent, or employee of a business unit engaged in such business.

(b) *Designation of original members and alternates.* The original members of the Control Board, and their respective alternates, shall be selected by the Secretary, subject to the requirements as to district representation, occupation, and residence which are set forth in paragraph (a) of this section, and shall serve for a term ending on March 31, 1950, except that, if the respective successor to such original member or alternate member has not been selected and qualified by March 31, 1950, such original member or alternate member shall serve until his respective successor has been selected and has qualified. For the consideration of the Secretary in making such selection, nominations for original members and alternate members of the Control Board may be submitted to him not later than the date on which this order is issued by the Secretary, but may be submitted prior thereto. Nominations for the original nine grower members and their alternates may be made by any grower, or by any association or other group of growers. Nominations for the original two grower-dealer members and their alternates may be made by any grower-dealer, or by any group of grower-dealers. Nominations for the original four brewer members and their alternates may be made by any brewer, or by any organization of brewers. Nominations for the original three dealer members and their alternates may be made by any dealer, or by any group of dealers. However, the Secretary, in making his selection of the original members and their alternates shall not be bound to make such selections from nominations thus received, but he shall make such selections in his discretion.

(c) *Nomination and selection of successor members and alternates* — (1) *General.* Members and alternates of the Control Board selected for terms commencing April 1, 1950, and thereafter, shall serve for terms of two years ending March 31 or until such time thereafter as their successors have been selected and have qualified. Selection of successor members of the Control Board and their alternates shall be made by the Secretary for each of the aforementioned groups from the nominations submitted for that purpose by the respective groups and/or from among other qualified persons. Such nominations for each respective group shall be made to the Secretary on or before March 1 of each election year in the manner hereinafter described.

(2) *Grower members.* Each of the growers Advisory Committees, established pursuant to § 986.4, shall nominate to the Secretary the names of three qualified persons as grower members, and three qualified persons as their alternates, from the State or States represented by the respective committee. The persons receiving in consecutive order the highest number of votes for members shall be the nominees for members of the respective committees, and a corresponding provision shall apply to nominees for alternate members.

(3) *Grower-dealer member, Western.* The grower-dealers whose principal offices are within the States of Oregon, California, Washington, or Idaho, shall nominate to the Secretary, by means of an election in which all (and only) such grower-dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as the grower-dealer member, and one qualified person as his alternate.

(4) *Grower-dealer member, Eastern.* The grower-dealers whose principal offices are outside the States of Oregon, California, Washington, or Idaho, shall nominate to the Secretary, by means of an election in which all (and only) such grower-dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as grower-dealer member, and one qualified person as his alternate.

(5) *Dealer members.* The dealers shall nominate to the Secretary by means of elections in which all (and only) dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular dealer, as the first handler thereof, other than a grower, and for that dealer's own account, during the next preceding marketing season, three qualified persons as dealer members and three qualified persons as their alternates. Nominations for one of such members and his alternate shall be made by each of the following categories of dealers: (i) Those handling less than 10,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season; (ii) those handling between 10,000 and 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceeding marketing season; and (iii) those handling over 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season.

(6) *Brewer members.* Of the four qualified persons to be nominated by the brewers for selection as brewer members of the Control Board, and their respective alternates, two of such nominations for members and their respective alternates may be made to the Secretary by The United States Brewers Foundation, Inc., whose present office address is 21 East Fortieth Street, New York, N. Y., and two such nominations for members, and their respective alternates, may be made by the Small Brewers' Association, whose present office address is 188 West Randolph Street, Chicago, Ill. However, nominations may also be made by any individual brewer or by any other associations or groups of brewers.

(7) *Elections of nominees for membership.* Each election for the purpose of nominating grower, grower-dealer and dealer members or alternates of the Control Board to succeed those whose terms of office expire on March 31 of any year, shall be held on or before the preceding March 1, and shall be conducted and supervised by the Control Board. Regulations prescribing the method or methods for, and the rules governing the election of nominees as hereinbefore provided, and which shall assure to all persons eligible to take part in such elections reasonable opportunity to select candidates and to vote for nominees, shall be adopted by the Control Board and submitted to the Secretary on or before November 1, 1949; and such regulations as shall be approved by the Secretary shall govern each such election. Reports of the results of elections of nominees shall be submitted to the Secretary by the Control Board.

(8) *Time limitation on nominations.* In the event any of the group nominations are not submitted to the Secretary within twenty days after the time hereinbefore specified, the Secretary may select each such member or alternate without waiting for the nomination or nominations to be made. If no qualified person is available from any category in any such group, the Secretary may appoint such member or alternate from another category within such group.

(9) *Qualification of members and alternates.* Each person selected as a member or alternate of the Control Board, including original members and

alternates, shall promptly qualify by filing with the Secretary a written acceptance of the appointment. The failure of an appointee to qualify within twenty days after the appointment of such person shall be cause for the Secretary to appoint another person in his stead.

(10) *Qualifications requirements for alternates.* Each alternate shall meet the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board shall, in the event of that member's absence, act in the place and stead of that member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for such member shall act in the place and stead of said member until a successor for the unexpired term of said member has been selected.

(11) *Substitutes for members or alternates.* In the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member of the same group as that represented by the absent member may be designated by the absent member to serve in the stead of the absent member, or pending such designation the Secretary may designate such temporary substitute.

(d) *Vacancies.* To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Control Board or as an alternate member thereof, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate member of the Control Board, a successor for his unexpired term of office shall be nominated and selected (insofar as is appropriate) in the manner herein specified, for the nomination and selection of successors to the initial members and alternate members of the Control Board representing the same industry group as was represented by the respective member or alternate member thus to be succeeded. In the event such nomination for vacancy is not made within thirty days after the beginning of the vacancy, the Secretary may select a person to fill such vacancy without waiting for the nomination to be made.

(e) *Compensation.* The members of the Control Board, and their respective alternates, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties hereunder.

(f) *Powers.* The Control Board shall have the following powers:

(1) To administer the provisions hereof in accordance with their terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(g) *Duties.* The duties of the Control Board shall be, among others, as follows:

(1) *Intermediary.* To act as intermediary between the Secretary and any grower, handler, dealer, grower-dealer, or brewer;

(2) *Minutes, books and records.* To keep minutes, books, and other records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary or his designated representative;

(3) *Scientific studies and research.* To provide, subject to prior approval by the Secretary, for the making of scientific and other studies and for the conducting of research appropriate in connection with the performance of its official duties;

(4) *Assembling data.* To gather and assemble data on the growing, handling, shipping and marketing conditions relative to hops and hop products, appropriate or desirable in connection with the performance of its official duties;

(5) *Information.* To furnish to the Secretary such available information with respect to hops as the Board may deem appropriate or as the Secretary may request;

(6) *Audit.* To cause the books and other records of the Control Board to be audited by one or more competent accountants at least once each marketing season and at such other times as the Control Board may deem necessary, or as the Secretary may request, and to file with the Secretary a copy of each audit report made:

(7) *Managing agent.* To employ a Managing Agent who, during his employment as such, shall not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof or financially interested in the production of, dealing in, or use of hops or hop products, and who shall serve as the Secretary of the Control Board and the secretary of the Growers Allocation Committee, and shall have such other duties as are specified for him herein or by the Control Board; and to employ or retain such other employees, agents, and representatives as the Control Board may deem necessary; and to determine the salaries and define the duties of such Managing Agent, employees, agents and representatives;

(8) *Notice to Secretary of meetings.* To give to the Secretary the same notice of meetings of the Control Board as is given to the members of the Control Board; and

(9) *Issuance of necessary regulations.* To issue, with the approval of the Secretary, any regulations which are necessary and appropriate for the carrying out of the provisions hereof in accordance with their terms.

(h) *Procedure*—(1) *Rules and officers.* The Control Board shall adopt rules governing the performance of its powers and duties hereunder, and shall select a chairman and such other officers as it may deem advisable.

(2) *Quorum.* A quorum shall consist of twelve members, or alternate members or substitutes then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Board shall be made by not less than ten affirmative votes.

(3) *Permissive methods of voting.* The Control Board may vote by mail or telegraph upon due notice to all members and when any proposition is submitted for polling by such method, one dissenting vote shall prevent its adoption until submitted to a meeting of the Control Board.

(i) *Funds and other property*—(1) *Uses.* All funds received by the Control Board pursuant hereto shall be used solely for the purposes specified herein; and the Secretary may require the Control Board and its members to account for all receipts and disbursements.

(2) *Accountability of members.* Whenever any person ceases to be a member or alternate member of the Control Board, such person shall account for all receipts and disbursements hereunder and deliver all property, funds, books, and other records (in his possession or control) of the Control Board, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all of the property, funds or claims vested in such member.

(3) *Legal action for collection of assessments.* The Control Board, with the approval of the Secretary, may maintain in its own name, or in the names of its members, a suit against any handler subject to the provisions hereof for the collection of such handler's pro rata share of expenses.

§ 986.3 *Growers Allocation Committee*—(a) *Members.* The grower members and the grower-dealer members of the Control Board shall constitute the Growers Allocation Committee. Said committee shall have such duties and powers as are expressly specified herein for that committee and such other duties and powers as may be incident thereto. The Growers Allocation Committee may incur only such expenses as from time to time are authorized by the Control Board.

(b) *Procedure.* The Growers Allocation Committee shall select one of its members as its chairman and such other officers as it may deem advisable. It shall keep proper records of all its proceedings, and shall adopt regulations governing its procedure. It may provide for voting by mail or telegraph upon due notice to all members and when any such proposition is submitted for polling by such method, one dissenting vote shall prevent its adoption until submitted to a meeting of the Growers Allocation Committee.

(c) *Alternates.* The alternate of each grower member or grower-dealer member of the Control Board shall have the same right to serve in lieu of a member of the Growers Allocation Committee as such alternate has to serve in lieu of a member of the Control Board.

§ 986.4 *Growers Advisory Committees*—(a) *Establishment and membership.* A Growers Advisory Committee of 12 members is hereby established for each of the States of Washington and California, and of 13 members for the combined States of Oregon and Idaho. Each of the said committees shall consist of members who shall be growers or grower-dealers, or officers or employees of growers or grower-dealers,

engaged in growing hops in and shall be residents of the State or States for which the respective committee is established; one of the members of the Advisory Committee for the States of Oregon and Idaho shall be a grower, or an officer or employee thereof, engaged in growing hops in and a resident of the State of Idaho.

(b) *Original members.* The original members of the Growers Advisory Committees shall be the members of the existing advisory committees organized by the United States Hop Growers Association, an association of hop growers whose present address is Mills Building, San Francisco, California. Each of the original members shall serve for a term ending on January 31, 1950, and in the event that the respective person's successor has not been selected by February 1, 1950, such person shall serve until his successor has been selected.

(c) *Election of successor members.* Successor members of Growers Advisory Committees, beginning with those elected for terms beginning on and after February 1, 1950, shall serve a two year term ending January 31. Election shall be at meetings held, under the supervision of the Managing Agent or his designated representative, by the growers and grower-dealers in each of the hereafter designated districts. In such election each grower and each grower-dealer residing or producing hops in the district shall have an opportunity to participate, and at such election shall, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one vote to fill the vacancy or vacancies occurring in his district. No grower or grower-dealer shall vote in more than one district in any one State. Voting shall be by ballot; there shall be no voting by proxy. The nominee having the highest number of votes shall be the member for the district or, in the districts electing more than one member, the nominees receiving in consecutive order the highest number of votes shall be the members for that district. In the case of a tie vote, where vacancies are insufficient to give membership to each, a runoff election shall be held on the vacancy in question.

(d) *Washington Advisory Committee.* The State of Washington is hereby delimited into four election districts, as follows:

District No. 1: That portion of Yakima County lying east of the Yakima River and north of Parker Ridge, and all counties of the State of Washington not delineated in other districts.

District No. 2: Benton County, Klickitat County, and that portion of Yakima County lying south of Parker and Ahtanum Ridges.

District No. 3: That portion of Yakima County lying north of Ahtanum Ridge and west of the Yakima River.

District No. 4: All counties of the State of Washington lying west of Districts 2 and 3, or lying west of the Cascade Mountains.

Growers and grower-dealers who reside or produce hops in any such district shall be entitled to vote for and select for that district three members of the Advisory Committee.

(e) *California Advisory Committee.* The State of California is hereby delimited into three election districts, as follows:

District No. 1: Sacramento County and all other counties of the State of California not delineated in other districts.

District No. 2: Sonoma, Napa and Marin Counties.

District No. 3: Mendocino and Lake Counties.

Growers and grower-dealers who reside or produce hops in any such district shall be entitled to vote for and select for that district four members of the Advisory Committee.

(f) *Oregon-Idaho Advisory Committee.* The States of Oregon and Idaho are hereby delimited into twelve election districts, as follows:

District No. 1 (Grants Pass): Douglas, Jackson, Josephine, Coos, and Currie Counties.

District No. 2 (Eugene, etc.): Lane County and that portion of Linn County not delineated in District 3.

District No. 3 (Albany, Corvallis, etc.): Benton County and those areas of Marion and Linn Counties described as follows: Beginning at Jefferson, Oregon, thence north along U. S. Highway 99 East to a point east of Tice Island in the Willamette River, thence due west along a straight line to Tice Island, thence south along the meanderings of the Willamette River to the confluence of the Luckiamute and Willamette Rivers, thence due southwest to the northeast corner of Benton County, thence south along the boundary of Benton and Linn Counties to a point due west of Brownsville, Oregon, thence in an easterly direction to Brownsville to include all growers operating hop yards in the Brownsville area, thence continuing to the eastern boundary of Linn County to include all growers operating yards in Linn County north of the line as described.

District No. 4 (Independence, Dallas, etc.): All of Polk County not delineated in District 6, all of that portion of Marion County adjacent to Independence and not delineated in Districts 3, 5 and 6, and that portion of Yamhill County not delineated in Districts 10 and 11.

District No. 5 (Silverton, etc.): Beginning at the North Howell Grange building in Marion County, Oregon, thence due south along a straight line to Stayton, Oregon, thence due east along a straight line to the headwaters of the Abiqua River, thence following the meanderings of the Abiqua River in a northwesterly direction to a point due east of the North Howell Grange, thence due west along an imaginary line to point of beginning.

District No. 6 (Salem, etc.): Beginning at Rickreall, Oregon, thence north along west side of U. S. Highway 99W, to a point due west of Wheatland, thence due east along a straight line to Wheatland to include all growers in the area in the vicinity of Wheatland, Oregon, thence northeast along a straight line to Fairfield, thence east following the Fairfield road to Aral Corners, thence due north from Aral Corners to the St. Louis Road to the corner of the "Old Miller Place", thence east to the Southern Pacific Railway and continuing east to U. S. Highway 99 East, thence south following U. S. Highway 99 East, to the intersection of U. S. Highway 99 East and the Parkersville Road, known as the "Manning Corner", thence east to Parkersville, thence south to the Central Howell School, thence due south following a straight line to the Santiam River, thence north and west following the meanderings of the Santiam River to Jefferson, thence due north following U. S. Highway 99 to Sunnyside, thence due west following a straight line to the Willamette River to a point south of Roberts' Station, thence north following the meanderings of the Willamette River to Salem, thence west following the Dallas-Salem Highway to Rickreall, point of beginning.

District No. 7 (Wilder, Ontario, etc.): The State of Idaho and Malheur County in the State of Oregon.

District No. 8 (Mt. Angel, etc.): Beginning at the North Howell Grange, thence south and east following the meanderings of the Abiqua River to the foothills of the Cascade Mountains to a point due south of Molalla, thence due north following a straight line to Molalla, thence west following the Woodburn-Molalla highway to its intersection with U. S. Highway 99 East, thence south following U. S. Highway 99 East to Gervais, thence south from Gervais to the Manning Corner, thence east to Parkersville, thence south to the North Howell Grange, the place of beginning.

District No. 9 (Donald, Woodburn, Aurora, etc.): Beginning at Oregon City, thence south along the Oregon City-Molalla highway to Molalla to include all growers operating hop yards within a one-mile radius of Mulino, thence west following the Woodburn-Molalla Highway to its intersection with U. S. Highway 99 East, thence south following U. S. Highway 99 East to Gervais, thence west following the direct highway to St. Louis, thence north following the meanderings of Champoeg Creek to its confluence with the Willamette River, thence in a northerly direction following the meanderings of the Willamette River to Wilsonville, thence continuing in a north and easterly direction along the meanderings of the Willamette River to the place of beginning.

District No. 10 (St. Paul, etc.): Beginning at Wilsonville, thence north following U. S. Highway 99 West to Jurgens Park on the Tualatin River, thence northwesterly following a straight line to the southwest corner of Multnomah County, thence southwesterly following a straight line to Laurel, thence southwest following a straight line to McMinnville, thence south following the west side of U. S. Highway 99 West to a point due west of Wheatland, thence due east following a straight line to Wheatland, thence northeast to Fairfield, thence continuing east to Aral Corners, thence north to Champoeg Creek, thence continuing in a northerly direction and following the meanderings of Champoeg Creek to the Willamette River, thence continuing in a northeasterly direction following the meanderings of the Willamette River to Wilsonville, the point of beginning.

District No. 11 (Hillsboro, Forest Grove, etc.): Beginning at the southwest corner of Multnomah County, thence in a southwesterly direction following a straight line to Laurel, thence southwesterly following a straight line to McMinnville, thence west following a straight line to the western boundary of Yamhill County. Close any short gap by a straight line and follow County line to the point of beginning.

District No. 12 (Portland, Hermiston, etc.): Umatilla, Morrow, Gilliam, Sherman, Wasco, Hood River and Multnomah Counties, and that portion of Clackamas County described as follows: Beginning at Sellwood, Oregon, thence south following the meanderings of the Willamette River to Oregon City, thence south following the Oregon City-Molalla Highway to Lewis Station due east of Canby thence due east along a straight line to the Cascade Mountains, thence north along the eastern boundary of Clackamas County to the northern boundary of Clackamas County, thence due west to place of beginning, and all other Counties or portion of Counties of Oregon not delineated in other districts.

Growers and grower-dealers who reside or produce hops in the district which includes the State of Idaho shall be entitled to vote for and select for that district two members of the Advisory Committee, one of whom shall be a grower of hops in the State of Idaho; and growers and grower-dealers who reside or pro-

duce hops in any of the other districts shall be entitled to vote for and select for that district one member of the Advisory Committee.

(g) *Changes in districts.* The number of districts or the area covered by each in any state or states may be changed by the Secretary in an equitable manner giving consideration to quantity of hops produced, number of growers, geographical characteristics or other factors and upon recommendation of the Control Board or of the Advisory Committee for such state or states.

(h) *Alternates.* Each member of an Advisory Committee may designate, in writing addressed to the Managing Agent, an alternate having the same membership qualifications as are applicable to the member. Such alternate may act at any meeting of the Advisory Committee at which the member is not present.

(i) *Vacancies.* A vacancy in the membership of an Advisory Committee shall be filled, for the balance of the term of the member whose place is vacant, by a person of the membership qualifications of the former member, selected by majority vote of the remaining members of that committee.

(j) *Expenses.* The members of each Advisory Committee may be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

(k) *Functions*—(1) *Nomination of successor Control Board members.* Each Advisory Committee shall promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate shall expire or whose place on the Control Board for any reason may become vacant. Grower members of an Advisory Committee, as well as other growers, shall be eligible for nomination by that Advisory Committee to serve on the Control Board.

(2) *Officers and other functions.* Each Advisory Committee shall select from its membership a chairman and such other officers as the respective committee may deem advisable, and shall keep proper records of all of its proceedings. It shall hold meetings after notice to its members, upon the call of four members, or upon the call of its chairman, or the Control Board, or the Managing Agent. Each Advisory Committee shall serve the Control Board in an advisory capacity concerning the administration hereof in the State or States for which such committee is established, and in general shall perform such ministerial functions as the Control Board may, from time to time, specify. Each Advisory Committee may incur only such expenses as are authorized by the Control Board.

§ 986.5 *Control of quality*—(a) *Minimum standards of quality and grading and inspection requirements*—(1) *Establishment.* In order to effectuate the declared policy of the act, the Secretary shall, after consideration of the Control Board's recommendations, prescribe minimum standards of quality for hops with respect to their leaf and stem content, or other factors of quality and maturity for which grading and inspection procedure has been developed by the Grain Branch, Production and Marketing Administration, United States Department of Agriculture and is in general use; and shall prescribe grading and inspection requirements therefor. The term "leaves and stems", as used herein, shall include all leaves and stems of the hop plant, except the stems (petioles) which bear the individual cones, and all extraneous matter. Hop seeds which are naturally within the hops under inspection shall not be considered as extraneous matter. To aid the Secretary in prescribing minimum standards and requirements, the Control Board shall furnish to the Secretary the information upon which it acted in recommending such standards and requirements, and shall furnish such other available data pertaining thereto as the Secretary shall request.

(2) *Initial standards and requirements.* Until such time as other standards and requirements for leaf and stem content are prescribed under this section, no hops shall be deemed merchantable or entitled to certification which contain over fifteen percent by weight, of leaves and stems as defined in subparagraph (1) of this paragraph and as determined by the Federal-State inspection service.

(3) *Operation irrespective of price.* The provisions hereof relating to minimum standards of quality and maturity, and to grading and inspection requirements, within the meaning of section 2 (3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the season average price for hops is in excess of the parity level specified in section 2 (1) of the act.

(b) *Inspection and certification.* Each grower shall be entitled, upon application to the Control Board or its representative, and subject to the meeting by him of any applicable provisions of this section and § 986.6, to the certification of hops harvested after the effective date hereof: *Provided,* That such hops have been inspected by the Federal-State Inspection Service within the States of Oregon, California, Washington, or Idaho, and their official certificate presented by such grower showing such hops to meet said standards and requirements. No person shall handle any hops harvested after the effective date hereof unless such hops have been so certificated by the Control Board.

(c) *Regulations.* Such certification as to minimum quality shall be based on information on a Federal-State Inspection Certificate and shall include substantially the following wording: "Hops covered by this certificate are of the ____ (year) crop and are covered by Federal-State Inspection Certificate No. ___ as meeting minimum standards of quality prescribed pursuant to applicable Federal-Marketing Agreement and Order." Such certification shall be executed by authorized representatives of the Control Board, the grower and the handler. The bale or other container shall also be marked or tagged to furnish proper identification as to producer and lot. Such marking or tagging shall comply with the requirements for marking included in § 986.6 (d) (1). This method of marking may be changed by the Control Board, subject to the approval of the Secretary.

§ 986.6 *Control of surplus*—(a) *Application.* The provisions of this section shall apply only during marketing seasons in which the estimated season average price of hops to growers is at or below the parity level specified in section 2 (1) of the act.

(b) *Determination of salable quantity*—(1) *Total carryover.* As early in the respective year as it shall find it to be feasible, but not later than August 1, the Control Board shall ascertain or estimate the total carryover, within the United States, of hops and hop products expressed in terms of dry hops, produced in or outside the area covered hereby prior to that year and which, if produced within such area, are eligible for handling pursuant to the terms hereof.

(2) *Consumptive demand.* At the same time, the Control Board shall estimate the total consumptive demand for hops produced during the respective year. In estimating such consumptive demand, there shall be included the quantity of such hops estimated to be used as hops and the quantity estimated to be used in the form of hop products.

(3) *Recommendation by Control Board.* Immediately thereafter, and based upon its aforesaid estimates and findings, the Control Board shall make and transmit to the Secretary its recommendation of the maximum quantity of hops (net dry weight), produced during that respective year which should, in order to effectuate the declared policy of the act, be handled in the form of hops or in the form of any hop product, and, with such recommendation, shall transmit to the Secretary its estimates and findings on which its recommendation is based.

(4) *Determination by Secretary of salable quantity.* On the basis of the aforesaid estimates, data, and recommendations of the Control Board submitted pursuant to this paragraph, and such other pertinent information as the Secretary may have, the Secretary shall determine, fix, and announce such maximum quantity of hops produced during that respective year which may be handled in the form of hops and in the form of any hop product. Such maximum quantity of hops which shall be fixed by the Secretary as aforesaid shall be known, and is referred to hereinafter, as the salable quantity of that respective year's crop of hops.

(5) *Increase of salable quantity.* The Secretary may at any time increase the salable quantity for the crop of any year in which the continued withholding of surplus would result in a season average price to growers in excess of the parity level specified in section 2 (1) of the act, or upon due consideration of either the needs of brewers or a recommendation of the Control Board that the salable quantity be increased. The Secretary may not decrease said salable quantity.

(6) *Conversion ratios.* In computing the hops equivalent of hop products, and unless changed as hereinafter provided,

one pound of lupulin shall be considered equivalent to 20 pounds of dry hops and one pound of hop oil to 400 pounds of dry hops. In the case of hop extracts or concentrates for which conversion ratios are not established herein, the Control Board, or its authorized representative may temporarily establish such conversion ratios for a period not exceeding 90 days. Conversion factors referred to herein may be changed by regulation of the Control Board, subject to approval of the Secretary.

(c) *Apportionment of salable quantity among growers*—(1) *Determination of quantity available for market*—(i) *Determination by Growers Allocation Committee.* As the basis for apportioning equitably among growers the salable quantity of each year's crop, the Growers Allocation Committee each year as early as practicable during or after harvest, shall determine, or cause to be determined under its supervision, the total quantity of hops (net dry weight), meeting the requirements of § 986.5, available for market by each grower from his production of hops during that year. Such determination shall include the quantity, if any, of such hops found to have been converted into hop products, except lupulin sweepings shall be included, in the computation, only to the extent of the pounds of lupulin found to be in such quantity of lupulin sweepings. Unharvested hops shall be included only if grown to maturity and remaining unharvested on living vines which remain strung or trained and from which hops have not been picked, and which have not been removed from the wires or poles. In the event any grower does not permit the Growers Allocation Committee, or its representatives, access to any hops grown by that grower, or to any product thereof, or shall fail or refuse to make available to said committee, or its representatives, information relative to such hops or hop products which the Growers Allocation Committee finds to be desirable in order properly to make such determination in accordance with the provisions hereof, the Growers Allocation Committee shall determine or cause to be determined, on the basis of an estimate of the grower's acreage, the average crop conditions in the area, and the probable yield per acre on the grower's acreage, the respective grower's total production as aforesaid. After completing its determination of production by each individual grower, the Growers Allocation Committee shall, by means of addition, compute the production by all growers.

(ii) *Preliminary estimates.* The Growers Allocation Committee each year, prior to the start of harvest, or as soon thereafter as practicable, shall determine, or cause to be determined under its supervision, a preliminary estimate of said total quantity of hops which will become available for market by each such grower and by all growers, during that year. Said preliminary estimate shall be based upon physical examination of the hop yards, upon the historical production thereof, upon official crop estimates or upon such other revelant data as is available.

(iii) *Determinations for and protests by members of committee.* The determinations pursuant to subdivisions (i) and (ii) of this subparagraph for each member or alternate member of the Growers Allocation Committee shall not be made by any member or alternate member of such committee, but shall be made, and reported in writing to the Secretary and to the Growers Allocation Committee, by such other qualified person or persons as the Control Board or its authorized representative shall designate for that purpose. Any protest by a member or alternate member of the Growers Allocation Committee concerning such determination shall be made directly to, and be determined by, the Secretary.

(iv) *Notice to growers.* The Growers Allocation Committee shall cause to be mailed to each grower notice of the determination pursuant to subdivisions (i) and (ii) of this subparagraph of the respective grower's production for the respective year, and also, the computation of the total quantity determined pursuant to subdivisions (i) and (ii), of this subparagraph, respectively, produced by all growers during that year. The committee shall also publicly announce said computations of said total quantity, both estimated and final.

(v) *Protests by growers.* Any grower who may be dissatisfied with the determinations pursuant to subdivisions (i) or (ii) of this subparagraph or pursuant to subparagraph (2) of this paragraph, may protest in writing to the Growers Allocation Committee within 10 days of the date of mailing of the notice and if dissatisfied with the decision in regard to such protest may appeal in writing to the Secretary.

(vi) *Determination by Secretary.* Upon expiration of the time for protest specified in subdivision (v) of this subparagraph, and after completion of action by that committee upon all protests, the Growers Allocation Committee shall report to the Secretary all findings, determinations, and computations made by or for it pursuant to subdivision (i) of this subparagraph, together with the data on which the same were based. On the basis of such findings, determinations, computations, data, and other pertinent information which the Secretary may have, the Secretary shall determine and notify the Growers Allocation Committee of the total quantity of hops (net dry weight) meeting the requirements of § 986.5 available for market by each grower from his production of hops during that year: *Provided*, That such determinations shall include the quantity, if any, of such hops converted into hop products except that insofar as lupulin sweepings are concerned there shall be included, in the computation, only the pounds of lupulin in such quantity of lupulin sweepings, and insofar as unharvested hops are concerned, shall include (net dry weight) only hops of that respective year's crop grown to maturity and remaining unharvested on the living vines. The Secretary, after having determined each grower's production, as aforesaid, shall, by means of addition, determine the production by all growers; such production by all growers is hereinafter referred to as the "aggregate production" for that respective year. Immediately upon receipt of notice thereof from the Secretary, the Growers Allocation Committee shall publicly announce the aforesaid determination by the Secretary.

(2) *Computation of growers' allotments* — (i) *Salable percentage.* The "salable percentage" of the aggregate production, determined pursuant to subparagraph (1) of this paragraph, shall be computed by dividing the salable quantity of that year's crop, determined pursuant to paragraph (b), of this section, by the aforesaid aggregate production, and multiplying the quotient by 100. After computing the growers' salable percentage on this basis, the percentage shall be adjusted to the nearest tenth of a percent. Each grower's allotment of the salable quantity of that year's crop shall be that same salable percentage applied to that grower's production as determined pursuant to subparagraph (1) of this paragraph: *Provided*, That, in lieu of the method of computing growers' allotments described in the preceding sentence, the Secretary may make effective, at the beginning of any marketing season, the following procedure pursuant to a recommendation of the Control Board to that effect (such recommendation of the Board to be pursuant to and in accordance with a prior recommendation to it by the Growers Allocation Committee): each grower's allotment of the salable quantity of that year's crop shall be computed by first subtracting from said growers' poundage of merchantable production, the leaf and stem content thereof and applying the salable percentage to the remainder, then dividing the resulting quantity by the average percentage of clean hops (hops exclusive of leaf and stem content) in the aggregate production of hops for the preceding marketing season. The quotient will be the grower's allotment of the salable quantity, in pounds of hops as prepared for market by him. The Board shall include in any recommendation pursuant to this proviso full information and data on which such recommendation is based. Said recommendation shall specify in regard to the "percentage of clean hops" to be used in the computation, whether such percentage shall be computed and applied for the production area as a whole or separately by States, and the Secretary if he approves the Board's recommendation shall state in his approval which procedure in regard thereto, shall be followed: *And provided further*, That, if this substitute method of computing growers' allotments is made effective, the Board may recommend (following a recommendation to it by the Growers Allocation Committee) to the Secretary the readoption of the original method at the beginning of any subsequent marketing season, supplying full information and data upon which such recommendation is based, and the Secretary may make such original method again effective.

In any year in which the salable percentage, determined pursuant to this section, exceeds 98 percent, each grower's allotment shall be the total quantity produced by such grower, determined pursuant to subparagraph (1) of this paragraph. Each allotment determined hereunder shall be expressed in pounds.

net dry weight of hops, and shall be known as the respective grower's "salable allotment" of that respective year's crop.

(ii) *Preliminary and supplementary allotments*—(*a*) *Preliminary.* In order to assist growers to avoid delays in their individual harvesting and marketing, the Control Board or its authorized representative shall compute an "estimated salable percentage" of estimated aggregate production and shall compute and issue, or cause to be computed and issued for each grower a preliminary allotment. The estimated salable percentage shall be computed by dividing the salable quantity of that year's crop, determined pursuant to paragraph (b) of this section by the estimated aggregate production, as determined pursuant to subparagraph (1) (ii) of this paragraph, and multiplying the quotient by 100. Each grower's preliminary allotment of the salable quantity of that year's crop shall be 50 percent, or such lower percentage as the Control Board may establish with the approval of the Secretary, of that same estimated salable percentage applied to that grower's estimated production as determined pursuant to subparagraph (1) (ii) of this paragraph.

(*b*) *Supplementary.* The Control Board shall each year issue or cause to be issued, prior to the issuance of final allotments applicable to that year's crop, to any grower who may apply therefor to the Growers Allocation Committee, a supplementary allotment representing such proportion of that grower's total production of hops during that year as the Growers Allocation Committee or its authorized representatives shall determine will not be in excess of 80 percent (or such higher percentage as the Control Board, with the approval of the Secretary, may specify for the computation of supplementary allotments) of that grower's probable salable allotment for that year's crop.

(*c*) *Eligibility for certification.* After issuance to a grower of such preliminary or supplemental allotment, the hops covered thereby, and any hop product derived from such hops, shall be eligible for certification, marking, and handling as though the final allotment had been issued, and subject to the same terms, conditions, and regulations as are applicable to such certification, marking, and handling of hops and hop products under a final salable allotment.

(iii) *Notice to growers.* The Growers Allocation Committee shall mail to each grower notice of his preliminary, of his supplementary and of his final salable allotment computed by that committee as herein provided. A list of the salable allotments of all growers for each year's crop shall be compiled and maintained by the Growers Allocation Committee at each of its offices, where the same shall be available during all reasonable hours for inspection by any interested person.

(3) *Joint allotment*—(i) *Joint ownership.* In the event that more than one grower shall participate jointly in the production of hops, whether as landlord and tenant, as partners, or otherwise, and said growers report that fact to the Growers Allocation Committee, then a single salable allotment shall cover such joint production. In the event that thereafter the interests of those growers in the crop produced or being produced are segregated, the Growers Allocation Committee, or its authorized representative, upon written application signed by all of said interested growers shall segregate and distribute said salable allotment among said growers in accordance with their respective segregated interests in the crop.

(ii) *Associations.* Upon application of any bona fide incorporated cooperative association of growers which is authorized to market hops or hop products included within the salable allotments of those of its members who have authorized the association to sell and pool their hops for them, the individual salable allotments of such members shall be pooled and hops produced by those members during that season, and hop products derived from such hops, may be certificated and handled by that association without regard to the limits of the individual allotments of the members: *Provided,* That, (*a*) any such application is made in writing by the association to the Growers Allocation Committee prior to determination of the salable allotments to which it is to apply, (*b*) such application is signed by the duly authorized officers of the association, (*c*) such application is accompanied by satisfactory evidence that the submission of it has been approved by the membership of the association, by official action at a meeting or otherwise during the particular calendar year, and (*d*) such application is also accompanied by satisfactory evidence that each of the individual members who will be affected by the pooling arrangement has authorized the association to handle his hops under such a pooling arrangement.

(4) *Revision of allotments*—(i) *Revisions and new allotments.* In the event that at the normal time, no determination, pursuant to subparagraph (1) of this paragraph has been made as to a particular grower entitled thereto pursuant to the provisions hereof, or a previous determination as to a particular grower is substantially in error, the Growers Allocation Committee shall make the determination or correct the erroneous determination, or shall cause such determination or correction to be made. The same requirements of determination and approval by the Secretary, notice to the grower and rights of protest and appeal, shall be effective with respect to such determination, as in the case of a timely or original determination.

(ii) *Correction of clerical errors.* In the event that the Growers Allocation Committee or the Managing Agent shall find, at any time, that the salable allotment previously issued to a grower was incorrectly computed or is erroneous by reason of mathematical or clerical error, the Growers Allocation Committee or the Managing Agent shall correct and revise said allotment to the extent found to be proper, and shall notify the respective grower and the Secretary of such correction.

(d) *Certification*—(1) *Hops harvested during effective period of order.* Each grower for whom a salable quantity is determined may, upon application to the Control Board or its representative and subject to the limitations of § 986.5, have the eligible quantity of hops or hop products certificated for handling. Such certification shall consist of the indelible marking of each bale or other container of such hops or hop products by an authorized representative of the Control Board and the issuance and delivery of a "handling certificate." Such marking sha'l be placed on the bale cover or other container or on a tag securely attached to such other container, and shall show the year of production, the handling certificate number, and the words "Certificated, Hop Control Board." This method of marking may be changed by the Control Board, subject to the approval of the Secretary. Such handling certificate shall certify that pursuant to the provisions hereof a specified quantity of hops or hop products has been duly certificated, for the grower and handler named in said certificate, as being eligible for handling pursuant to the terms hereof, and shall be executed by authorized representatives of the Control Board, the grower, and the handler. Such certification may exceed any grower's salable quantity by not over 100 pounds, provided such excess quantity is included entirely within the weight of the last bale or container certificated for said quantity.

(2) *Hops harvested prior to effective date of order.* Any person who owns or is in the possession of, hops harvested or hop products from hops harvested prior to the effective date of this order, is entitled upon application, within 30 days after the effective date hereof, to the Control Board or its representatives, to have such hops or hop products certificated free of charge without regard to any salable quantity, or minimum standard of quality. The Control Board may extend such time for good cause.

(e) *Limitation of handling to certificated hops or hop products.* No person, as principal, agent, broker, legal representative, or otherwise, shall handle any hops harvested or hop products from hops harvested subsequent to the effective date hereof, unless: (1) Prior to such handling, the Control Board shall have issued a "handling certificate" pursuant to paragraph (d) of this section applicable to such hops or hop products; (2) each bale or other container of said hops or hop products shall have been duly marked or tagged as prescribed herein, for the purpose of identifying such hops or hop products as being covered by a duly issued salable allotment or as being properly certificated. However, hops harvested prior to the effective date hereof and hop products produced from such hops may be certificated for handling without regard to the salable allotment or the quality restriction.

(f) *Diversion privileges.* In the event hops produced subsequent to the effective date hereof, whether harvested or unharvested, in the control of the respective grower thereof, are destroyed, or are so damaged or deteriorated as in the judgment of the grower to be unmarketable, or if because of quality or type such hops are unsatisfactory to the grower, the grower thereof may, if the lupulin has not been removed from such hops, re-

place such hops, within the limits of his salable allotment for that respective year, by acquiring uncertificated hops of that year's crop from the growers thereof: *Provided*, That such purchasing grower shall first submit a written statement to the Growers Allocation Committee setting forth the year of production, location, and the quantity of hops which such grower desires so to replace (and, if the hops to be replaced have been destroyed, the time, place, and cause of such destruction, together with proof of such destruction satisfactory to the Growers Allocation Committee, or its authorized representatives, and the name and address of each grower from whom he proposes to acquire uncertificated hops for that purpose, and makes arrangements with the Growers Allocation Committee or its authorized representatives whereby the unmarketable or unsatisfactory hops which are thus to be replaced will be effectively diverted from or disposed of out of the normal channels of trade, and such disposal or diversion shall be in such manner as may be prescribed by the Control Board: *And provided further*, That such hops shall not be diverted or disposed of into hop products, as defined in § 986.1 (e). The selling grower as herein defined shall not be regarded as handling hops within the meaning of this order nor shall the hops sold be considered a part of the selling grower's allotment. The Growers Allocation Committee shall prepare, and from time to time shall revise, a list of the names and addresses of growers known to have uncertificated hops for sale pursuant to the provisions of this paragraph; and a list of the names and addresses of growers who report to the Growers Allocation Committee that they desire to purchase or acquire uncertificated hops pursuant to this paragraph. The Growers' Allocation Committee shall make such lists available to any grower of hops at each office of the Control Board.

§ 986.7 *Expenses and assessments*—(a) *Expenses.* The Control Board (including, but not limited to, the Growers Allocation Committee and the several Growers Advisory Committees) is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each marketing season for the maintenance and functioning by it and for such purposes as the Secretary may, pursuant to the provisions hereof, determine to be appropriate. Such expenses shall be paid from the funds acquired pursuant to this section. The recommendation of the Control Board as to its expenses for each such marketing season, or a portion thereof, together with all data supporting such recommendation, shall be submitted to the Secretary within 45 days from the effective date hereof and in succeeding marketing seasons on or before September 15 of the marketing season for which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as hereinafter provided. The expenses to be incurred during the partial marketing season immediately following the effective date of this order may be included with the expenses for the 1949 season.

(b) *Assessments*—(1) *Requirement for payment.* Each handler shall pay to the Control Board the assessment provided hereinafter with respect to all hops and hop products which are handled or to be handled by that handler as the first handler thereof, except (i) such hops or hop products as are duly certificated pursuant to § 986.6 (d) (2), and (ii) such hop products as have been derived from duly certificated hops with respect to which such assessment previously had been paid: *Provided, however*, That any grower who markets or transports to market within the State of production hops produced by that grower, or any hop product produced by that grower from hops produced by that grower or hops acquired pursuant to § 986.6 (f), shall not be deemed to be the first handler thereof insofar only as payment of assessments pursuant to the provisions of this paragraph may be concerned. The person who handles such hops or hop products next following such handling by said grower shall be considered the first handler thereof within the provisions of this section. Said assessment shall be paid to the Control Board prior to or at the time of such handling, or at such subsequent time as the Control Board may specify.

(2) *Rate of assessment.* Beginning with the effective date hereof, the aforesaid assessment shall be at the rate of one-fourth of one cent per pound, net dry weight, of hops handled, and said rate shall continue in effect until changed by the Control Board with the approval of the Secretary; and the assessment rate of any hop product shall be based upon the assessment rate for hops, and shall be computed at such conversion ratio or ratios between hops and the respective hop product as determined pursuant to § 986.6 (b) (6).

(c) *Refunds.* Any money collected as assessments during any marketing season and not expended in connection with that season's operations, may be used by the Control Board during a period of five months subsequent to such marketing season in paying the expenses of the Control Board incurred in connection with the new marketing season. The Control Board shall, however, from funds on hand, including assessments collected during the new marketing season, credit or upon request make available, within six months after the beginning of the new marketing season, the aforesaid excess carried into the new season, to each handler from whom an assessment was collected in the preceding marketing season, in the proportion that the amount of the assessment paid by the respective handler bears to the total amount of the assessments paid by all handlers during said preceding marketing season.

§ 986.8 *Compliance.* Each handler shall comply strictly with all provisions hereof and all regulations duly effective hereunder. No handler shall handle any hops or any hop product in violation of any of the provisions hereof or in violation of any regulation effective pursuant hereto.

§ 986.9 *Reports, books, and records*—(a) *Books and records.* Each handler and each subsidiary or affiliate thereof shall keep books and other records which will clearly show the details of its handling of hops and hop products.

(b) *Reports by handlers.* To enable the Control Board, the Growers Allocation Committee, and each Advisory Committee to perform its functions hereunder, each handler shall furnish to the Managing Agent, (1) on June 1, or as of that date and within 15 days thereafter, or on any other date or dates which the Control Board may specify, complete information as requested by the Control Board relating to the total quantity of hops and hop products owned by the respective handler; and (2) on or before December 1, or on any other date or dates which the Control Board may specify, complete information relating to (i) the volume of hops and hop products handled during the next preceding marketing season; (ii) the names and addresses of the growers and other persons from whom such hops or hop products were acquired; and (iii) the quantity of hops grown by that handler during such period. Such information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, or to such person as the Secretary may specify: *Provided*, That the Managing Agent may compile such information in such form as will not reveal the identity of individual informants and may make such compilations available to the Control Board, Growers Allocation Committee, any Advisory Committee, or to the public. The Managing Agent shall not disclose any information acquired under this section, except as herein expressly authorized.

§ 986.10 *Amendments.* Amendment hereof may from time to time be proposed by the Control Board or by the Secretary.

§ 986.11 *Agents.* The Secretary may, by a designation in writing, name any person, including but not being limited to, any officer or employee of the United States Department of Agriculture, or any Division thereof, to act as his agent or representative in connection with any of the provisions hereof.

§ 986.12 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare, and shall continue in force unless terminated or suspended in one of the ways hereinafter specified, so long as the provisions of the act authorizing the same are in effect.

(b) *Termination, or suspension.* (1) The Secretary may, at any time, terminate or suspend the provisions hereof whenever he finds that the provisions hereof obstruct or do not tend to effectuate the declared policy of the act; and such notice of the termination or suspension shall be given as the Secretary deems proper.

(2) The Secretary shall terminate the provisions hereof whenever he finds that such termination is favored by the majority of the growers of hops who, during such representative period as may be determined by the Secretary, have been engaged in the production of hops within said States for market: *Provided*, That such majority have, during such period, produced for market more than fifty percent of the total volume of hops produced for market in said area during such period. Such termination shall become and be effective on and after the first day of July subsequent to the announcement thereof by the Secretary.

(3) The provisions hereof shall terminate in any event whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* Upon the termination of the provisions hereof, the members of the Control Board then functioning shall continue as trustees (for the purpose of liquidating the affairs of said Control Board) of all funds and property then in the possession or under the control of the Control Board, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination; but the procedural rules governing the activities of said trustees; including, but not limited to, the determination as to whether action may be taken by only a majority vote of the trustees, shall be prescribed by the Secretary. Said trustees shall continue in such capacity until discharged by the Secretary, and from time to time shall account for all receipts and disbursements, and deliver all funds and property on hand, together with all books and records of the Control Board and the trustees, to such person as the Secretary may direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person the right to all of the funds or claims vested in the Control Board or the trustees pursuant hereto. Any funds collected for expenses pursuant to § 986.7 and held by such trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the trustees or such other person, in the performance of their duties hereunder, shall, as soon as practicable after the termination of the provisions hereof, be disbursed among the handlers pro rata in proportion to their contributions pursuant hereto. Any person to whom funds, property, or claims have been delivered by the Control Board or its members, upon direction of the Secretary as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said Board or upon said trustees.

§ 986.13 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue hereof shall cease upon termination hereof except with respect to acts done under and during the existence hereof; and the benefits, privileges, and immunities conferred hereby upon any party signatory hereto shall cease upon the termination hereof as to such party except with respect to acts done under and during the existence hereof.

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

§ 986.15 *Derogation.* Nothing contained herein 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.

§ 986.16 *Right of the Secretary.* Each member of the Control Board, Growers Allocation Committee, and Growers Advisory Committee, including successors and alternates, and any agent, representative or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Control Board, Growers Allocation Committee, or any Growers Advisory Committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 986.17 *Liability of Control Board members.* No member of the Control Board, Growers Allocation Committee, or any Advisory Committee, nor any agent, representative, or employee, shall be held liable individually in any way whatsoever to any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member, employee, representative, except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

§ 986.18 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, 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 prior thereto, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or of the Secretary, or of any other person with respect to any such violation.

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

§ 986.20 *Additional parties.* After this agreement first takes effect, any handler or dealer may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.*

§ 986.21 *Request for order.* Each signatory handler and dealer hereto requests the Secretary to issue an order pursuant to the act regulating the handling of hops and hop products in the same manner as provided in this agreement.*

Filed at Washington, D. C., this 30th day of March 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-2481; Filed, Apr. 1, 1949; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Parts 20, 21, 26, 35, 40, 41, 43, 44, 60, and 61]

PERSONNEL LICENSING STANDARDS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments of Parts 20, 21, 26, 35, 40, 41, 43, 44, 60, and 61 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received within 15 days from the date of this publication will be considered by the Board before taking further action on the proposed rule.

The principal reasons for proposing amendments of Parts 20, 21, 26, 35, 40, 41, 43, 44, 60, and 61 of the Civil Air Regulations are explained in the Explanatory Statement attached hereto.

The proposed amendments are set forth in the attached proposed amendments.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Secs. 205 (a), 601-610; 49 U. S. C. 425 (a), 551-560)

Dated: March 28, 1949, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

EXPLANATORY STATEMENT

IMPLEMENTATION OF ANNEX 1 "STANDARDS AND RECOMMENDED PRACTICES FOR PERSONNEL LICENSING" TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

On April 14, 1948, the ICAO Council adopted Annex 1 (Personnel Licensing)

as an international standard. As provided in the Convention on International Civil Aviation, adoption of this document followed the democratic procedure of submission to vote of the member States on the Council and was favored by more than the required two-thirds of such States. It was then submitted for consideration by each of the member States of the organization, none of whom signified their disapproval of the entire document by September 15, 1948.

In accordance with ICAO procedures the United States was afforded an opportunity to file notice of intent to deviate from many parts of the standards which in its judgment were not suitable for domestic implementation. Such notice was to be filed by January 1, 1949. In order to determine which parts of the standards were not so suitable, the Bureau of Safety Regulation on October 25, 1948, circulated Civil Air Regulations Draft Release 48–6 which explained the differences between Annex 1 and the Civil Air Regulations and solicited the opinion and recommendations of all interested persons with respect to the appropriate action to be recommended by the Board.

The comments received were analyzed and evaluated. Consideration was given to the fact that the fewer differences from international standards which are incorporated in our regulations the less burdensome would be compliance with international standards by the many pilots in our country who are accustomed to fly over our thousands of miles of international borders relatively without restrictions. Accordingly, it was recommended that only 3 differences from the International Personnel Licensing Standards be continued in the Civil Air Regulations. A copy of the Notice of Differences filed with ICAO is attached for the information of the aviation industry.

In view of this determination, it is now desirable to amend the Civil Air Regulations in several particulars in order that they may be brought into accord with the international requirements. The amendments herein published for comment are those necessary for this purpose.

It will be noted, as explained in Draft Release No. 48–6, that with but minor exceptions the changes required in the Civil Air Regulations are not of a substantial substantive nature.

The Bureau wishes to point out that the Convention on International Civil Aviation provides that the holder of a certificate not meeting the international standards shall not participate in international air navigation, except with permission of the State or States whose territory is entered. However, it is also provided that where individuals possess certificates issued prior to April 14, 1949, they will for a period of 5 years from the date of adoption of the Annex by the Council (April 14, 1948) be accorded the privileges granted by the issuing State irrespective of whether or not the requirements under which the certificate was issued meet the international standards. The Bureau intends to provide a means whereby certificates issued prior to the effective date of the amendments herein proposed may be validated, indicating that the holder thereof has met the international standards.

DIFFERENCES WHICH THE UNITED STATES EXPECTS WILL EXIST BETWEEN THE CIVIL AIR REGULATIONS AND ANNEX 1 TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION ON MAY 1, 1949

The first difference between the International Personnel Licensing Standards and the Civil Air Regulations arises from the requirement of 10 hours of night flight for the commercial pilot license contained in Paragraph 2.4.1.3 (c) of Annex 1. The United States has always believed that requirements for a specialized kind of flying such as night flight are not properly a part of the basic requirements for a pilot license, but rather should be made operational requirements applicable only to pilots desiring to fly at night. While the third session of the Personnel Licensing Division has recommended that the Annex 1 requirement be reduced to 5 hours, the United States believes that, as a matter of principle, there should not be any such requirement and therefore will not amend its Civil Air Regulations in accordance with Annex 1.

Another difference exists because of the provisions of Paragraph 2.4.2 (c) (i) and (ii) of Annex 1, which restrict the holder of a commercial license to the carriage of passengers for remuneration under visual flight rules only, even though he may hold an instrument rating. The third session of the Personnel Licensing Division has recommended that this restriction be removed, and it is hoped that the Council will adopt this recommendation before the effective date of Annex 1. The United States now permits the commercial pilot with an instrument rating to carry passengers for remuneration under instrument flight rules and will not amend its Civil Air Regulations in this regard.

The third difference is with respect to the requirements for the aircraft maintenance engineer as contained in Paragraph 4.1. The United States has taken the position that a license should be established which would give the holder the authority to return an aircraft to service after major repair or overhaul. It was intended that the aircraft maintenance engineer be given that privilege. However, the International Civil Aviation Organization Council, before adopting Annex 1, sharply reduced the privileges of such license holder. Following the adoption of Annex 1 the third session of the Personnel Licensing Division has again recommended the establishment of a license as originally conceived by the Division. The effect of the Division's recommendation would be to redesignate as Class II the aircraft maintenance engineer license adapted by the Council. The requirements for this license correspond to a considerable degree with the aircraft and engine mechanic certificate requirements now in force in the United States Civil Air Regulations. In view of the recommendations of the Personnel Licensing Division, it does not appear appropriate at this time for the United States to take any action to amend its Civil Air Regulations in this respect.

PROPOSED AMENDMENTS

I. It is proposed to amend Part 20 as follows:

1. By deleting the word "type" from every section in which it appears in this part and inserting the word "category" in lieu thereof.

2. By deleting the words "model," "models," "make," or "make and model" from every section in which any or all of such words appear in this part and inserting the word "type" in lieu thereof.

3. By deleting the words "dual flight time" from every section in which they appear in this part and inserting the words "dual instruction time" in lieu thereof.

4. By amending § 20.10 to read as follows:

§ 20.10 *Issuance.* A pilot certificate shall be issued to an applicant who meets the minimum requirements prescribed herein. A private or commercial pilot rating, aircraft category, type, and class ratings, instrument rating, flight instructor rating, and any other necessary special ratings for which the pilot has been found qualified shall be issued in connection with a pilot certificate.

5. By amending § 20.35 (a) to read as follows:

§ 20.35 *Aeronautical experience*—(a) *Powered aircraft.* An applicant for a commercial pilot rating shall have a total of at least 200 hours of flight time. This total flight time shall include at least 100 hours of flight time as pilot in command of which 5 hours shall have been flown within 60 days immediately preceding the date of application and 20 hours shall have been cross-country flight time. The cross-country flight time shall include at least one flight of not less than 350 miles in the course of which 3 full-stop landings are made at different points.

(1) Not more than 25 percent of the flight time required to be flown as pilot in command may be had in gliders provided the applicant holds a private or commercial glider rating.

6. By amending § 20.40 to read as follows:

§ 20.40 *Aircraft rating competence.* Applicant for additional aircraft ratings subsequent to the original issuance of a pilot certificate shall demonstrate competence appropriate to the pilot rating held in aircraft of the category and class and, if the aircraft has a maximum certificated take-off weight of 12,500 lbs. or more, of the type for which a rating is sought. A pilot limited by his rating to nonspinnable airplanes, when applying for removal of this restriction, shall have had at least 30 solo hours, and shall have had at least 3 hours of certified dual instruction on spinnable airplanes. A pilot limited by his rating to gliders, when applying for powered aircraft ratings, shall meet the aeronautical knowledge, experience, and skill requirements for powered aircraft applicable to the pilot rating sought.

7. By adding a new § 20.402 to read as follows:

§ 20.402 *Aircraft type ratings.* An aircraft type rating shall be issued for each type of aircraft having a maximum certificated take-off weight of 12,500 lbs. or more.

8. By amending § 20.420 to read as follows:

§ 20.420 *Knowledge.* Applicant shall pass a written examination demonstrating his familiarity with the use of such instruments and other navigational aids, both in the aircraft and on the ground, as are necessary for the navigation of aircraft by instruments, with instrument flight rules, and with flight planning in relation to air traffic control services and aircraft performance. In addition, an applicant who is a private pilot shall meet the knowledge requirements of § 20.34 (a) except those pertinent to the maintenance of aircraft and aircraft engines.

9. By amending § 20.421 to read as follows:

§ 20.421 *Experience.* An applicant shall hold a private or commercial pilot rating and shall have at least:

(a) 150 hours of flight time as pilot in command, of which not less than 50 hours shall be cross-country flight time; and

(b) 40 hours of instrument time under actual or simulated instrument flight conditions, of which not less than 20 hours shall have been in actual flight.

10. By amending § 20.563 to read as follows:

§ 20.563 *Aircraft category, class, and type ratings based on military competence.* An applicant for a particular rating, who holds a pilot certificate issued on the basis of military competency or otherwise, shall be issued appropriate aircraft category, class, and type ratings upon the presentation of reliable documentary evidence that he has within the preceding 12 months had at least 10 hours of flight time in military aircraft during which he was first pilot or the sole manipulator of the controls of an aircraft of the category, type, and class for which a rating is sought.

11. By adding new §§ 20.9 and 20.91 to read as follows:

§ 20.9 *Definitions.*

§ 20.91 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

(2) *Class.* Class shall indicate a difference in basic design of aircraft within a category, such as single-engine land, multiengine sea, etc.

(3) *Copilot.* Copilot shall mean a pilot serving in any piloting capacity other than as pilot in command on aircraft requiring two pilots for normal operations, but excluding a pilot who is on board the aircraft for the sole purpose of receiving dual instruction.

(4) *Dual instruction time.* Dual instruction time shall mean that portion of the flight time during which a person is receiving flight instruction from a certificated flight instructor on board the aircraft.

(5) *Flight instructor.* Flight instructor means a pilot who is qualified to instruct other pilots and who has received a flight instructor rating.

(6) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(7) *Maximum certificated take-off weight.* Maximum certificated take-off weight shall mean the maximum take-off weight authorized by the terms of the aircraft airworthiness certificate.

(8) *Pilot.* A pilot is an individual who manipulates the controls of an aircraft during the time defined as flight time.

(9) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(10) *Solo flight time.* Solo flight time shall mean the flight time during which a pilot is the sole occupant of an aircraft.

(11) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

II. It is proposed to amend Part 21 as follows:

1. By deleting the word "type" from every section in which it appears in this part and inserting the word "category" in lieu thereof.

2. By deleting the words "model," "models," "make," or "make and model" from every section in which any or all of such words appear in this part and inserting the word "type" in lieu thereof.

3. By adding §§ 21.1511 (l) and 21.-1512 (m) to read as follows:

§ 21.1511 (l). Radio communication procedure as applied to aircraft operation.

§ 21.1512 (m) The basic principles of loading and weight distribution and effect on flight characteristics.

4. By amending §§ 21.16 through 21.-163 (d) to read as follows:

§ 21.16 *Aeronautical experience.* An applicant for an airline transport pilot rating shall hold a valid commercial pilot rating, or equivalent as determined by the Administrator, and shall have logged at least 1,200 hours of flight time as pilot within the last 8 years, of which:

(a) 5 hours shall have been logged within 60 days immediately preceding the date of application;

(b) 500 hours shall have been cross-country flight time;

(c) 100 hours shall have been night flight time;

(d) 75 hours shall have been instrument time under actual or simulated instrument flight conditions of which not less than 50 hours shall have been in actual flight; and

(e) 250 hours of the preceding requirements shall have been as pilot in command, of which 100 hours shall have been cross-country flight time and at least 25 hours shall have been night flight time.

5. By deleting the words "in solo flight" from § 21.17.

6. By amending § 21.175 (f) to read as follows:

§ 21.175 (f) Emergency maneuvers such as simulated forced landings, spirals, side slips, and climbing turns, recovery from stalls entered from both level and steeply banked attitudes, maneuvers in multiengine equipment with authorized load and with one engine inoperative, if rating is sought on such equipment, all normal maneuvers executed solely by reference to instruments, and such other maneuvers as the examining inspector of the Administrator may deem necessary to demonstrate the competency of the applicant.

7. By amending § 21.178 to read as follows:

§ 21.178 *Radio skill.* An applicant shall demonstrate his ability to interpret Morse code signals, and shall accomplish a satisfactory flight test in a hooded cockpit with respect to the following:

8. By deleting the following words from § 21.20, "a type, weight, and engine classification rating" and inserting the words, "a category, type, and class rating" in lieu thereof.

9. By deleting the following words from § 21.20, "type and, in the case of an airplane, an airplane class and horsepower rating" and inserting the words "category, type, and class rating" in lieu thereof.

10. By amending § 21.200 to read as follows:

§ 21.200 *Aircraft rating.* The aircraft which the applicant is deemed competent to pilot as pilot in command shall be prescribed on his certificate by category, type, and class and, in the case of unconventional airplanes, such description as is appropriate to define clearly the competence of the applicant. Competence to pilot aircraft as pilot in command shall be demonstrated in aircraft of the category, type, and class for which rating is sought.

11. By deleting the following words from § 21.222, "aircraft of a type, and, in the case of an airplane, the airplane class and horsepower" and inserting the words "aircraft of a category, type, and class" in lieu thereof.

12. By amending § 21.35 to read as follows:

§ 21.35 *Airplane class and type rating.*

13. By amending § 21.351 to read as follows:

§ 21.351 *Type rating.* An aircraft type rating shall be issued for each type of aircraft having a maximum certificated take-off weight of 12,500 lbs. or more.

14. By rescinding § 21.352.

15. By rescinding § 21.421.

16. By amending § 21.422 to read as follows:

§ 21.422 *Passenger flight (day and night).* A certificated airline transport pilot shall not pilot an aircraft carrying any person other than the members of the crew thereof, certificated airmen carried in air carrier aircraft in furtherance of their official duties, or a certificated instructor rated for the aircraft operated, unless within the preceding 3 calendar months, he shall have made

and logged at least 3 take-offs and landings to a full stop in an aircraft of the same category, type, and class as that of the aircraft in which such person is carried. A certificated airline transport pilot shall not pilot such aircraft between sunset and sunrise unless he has made at least one of the 3 required take-offs and landings between sunset and sunrise.

17. By amending § 21.423 to read as follows:

§ 21.423 *Instrument flight.* A certificated airline transport pilot who within the preceding 6 calendar months has not flown and logged at least 2 hours of flight time solely by reference to instruments under either actual or properly simulated instrument flight conditions shall not pilot an aircraft under such conditions until he has flown and logged at least 2 hours of such flight time accompanied by a certificated pilot of at least private grade holding an appropriate category, type, and class rating for the aircraft and authorized to operate aircraft under instrument conditions.

18. By amending § 21.441 to read as follows:

§21.441 *Contents.* The logbook shall contain the date of flight, the category, type, and class of aircraft flown, the aircraft certificate number, a statement of pilot in command, dual instruction, instrument, and night flight time, the duration of the flight, the points between which such flight was made, and, in addition, when any flight results in serious damage to the aircraft, a notation to this effect. Flying instruction time shall be logged in the same manner and, in addition, the instructor shall make complete entries in the logbook of his student showing the nature of each maneuver in which instruction was given and the time spent thereon. The instructor shall attest each such entry with his initials, pilot certificate number, and pertinent rating. This logbook shall be presented for inspection, upon demand and reasonable notice, to any authorized representative of the Administrator or Board or State or municipal officer enforcing local regulations or laws involving Federal compliance.

19. By deleting the following words from § 21.442, "The holder of an airline transport pilot certificate may log as solo flight time" and inserting the words, "The holder of an airline transport pilot certificate may log flight time as pilot in command" in lieu thereof.

20. By adding a new § 21.50 to read as follows:

§ 21.50 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

(2) *Class.* Class shall indicate a difference in basic design of aircraft within a category, such as singleengine land, multiengine sea, etc.

(3) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(4) *Maximum certificated take-off weight.* The maximum certificated take-off weight shall mean the maximum take-off weight authorized by the terms of the aircraft airworthiness certificate.

(5) *Night.* Night is the time between the ending of evening twilight and the beginning of morning twilight as published in the Nautical Almanac converted to local time for the locality concerned.[1]

(6) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(7) *Solo flight time.* Solo flight time shall mean the flight time during which a pilot is the sole occupant of an aircraft.

(8) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

III. It is proposed to amend Part 26 as follows:

1. By amending § 26.20 (a) to read as follows:

§ 26.20 *Qualifications for junior rating.* * * *

(a) Local airport rules and characteristics of local air traffic of the airport for which the rating is sought;

2. By amending § 26.20 (c) to read as follows:

(c) Teletype symbols and weather sequences of the airways converging on the airport and other pertinent data regarding meteorological reports available within a circular area of a radius of 125 miles measured from the airport for which the rating is sought;

IV. It is proposed to amend Part 35 as follows:

1. By amending § 35.05 to read as follows:

§ 35.05 *Experience.* Each applicant for a flight engineer certificate shall:

(a) Have had at least 3 years of diversified practical experience in the maintenance and repair of aircraft and aircraft engines, of which one year shall have been in the maintenance and repair of multiengine transport category aircraft having engines of at least 1,680 horsepower; or

(b) Be a graduate of at least a two-year specialized aeronautical training course in the maintenance, repair, and overhaul of aircraft and aircraft engines, of which at least six months shall be in the maintenance and repair of multiengine transport category aircraft having engines of at least 1,680 horsepower; or

(c) Have had at least 200 hours of flight experience in the duties of a flight engineer, or

(d) Have satisfactorily completed a course of ground and flight instruction in at least the items specified in § 35.06 which the Administrator has found adequate for the training of a flight engineer, or

(e) Have had at least 200 hours as pilot in command of an aircraft having 4 engines or more.

2. By adding §§ 35.3 and 35.31 to read as follows:

§ 35.3 *Definitions.*

§ 35.31 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(2) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(3) *Transport category aircraft.* Transport category aircraft are aircraft which have been type certificated in accordance with the requirements of Part 4b, or under the transport category performance requirements of Part 4a.

(4) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

V. It is proposed to amend Part 40 as follows:

1. By deleting the word or words, "model," "models," "make," or "make and model" from every section in which any or all of these words appear in this part and inserting the word "type" in lieu thereof.

2. By deleting the words "solo flying time" from every section in which they appear in this part and inserting the words "flight time as pilot in command" in lieu thereof.

3. By adding a new § 40.60 to read as follows:

§ 40.60 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

(2) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(3) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(4) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

VI. It is proposed to amend Part 41 as follows:

[1] The Nautical Almanac containing the ending of evening twilight and the beginning of morning twilight tables may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Information concerning such tables is also available in the offices of the Civil Aeronautics Administration or the U. S. Weather Bureau.

1. By deleting the words "model," "models," "make," or "make and model" from every section in which any or all of such words appear in this part and inserting the word "type" in lieu thereof.

2. By adding paragraphs (r) and (s) to § 41.99 to read as follows:

§ 41.99 *Definitions.* * * *

(r) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

(s) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

VII. It is proposed to amend Part 43 as follows:

1. By deleting the word "type" from every section in which it appears in this part and inserting the word "category" in lieu thereof.

2. By deleting the word or words, "model," "models," "make," or "make and model" from every section in which any or all of these words appear in this part and inserting the word "type" in lieu thereof.

3. By adding the words "pilot in command," after the word "solo" in § 43.404 (d).

4. By amending § 43.405 (b) to read as follows:

§ 43.405 *Logging of flight time.* * * *

(b) *Private and commercial* — (1) *Pilot in command.* A private or commercial pilot may log flight time as pilot in command that flight time during which he is the sole manipulator of the controls of an aircraft for which he is rated or that flight time during which he is the sole occupant of the aircraft. A flight instructor may log the flight time as pilot in command that flight time during which he is serving as flight instructor.

(2) *Copilot.* (i) A private or commercial pilot may log not more than 50% of the total flight time during which he is performing the duties of a copilot in computing flight time as copilot.

(ii) A commercial pilot shall be entitled to credit the total flight time logged as copilot toward the total flight time required for a higher grade of pilot certificate, but in no event shall a private pilot be entitled to credit more than 50 hours of flight time logged as copilot toward the total flight time required for a higher pilot rating.

5. By amending § 43.50 to read as follows:

§ 43.50 *General limitations.* No student shall pilot an aircraft carrying a passenger, or on an international flight, or for hire, reward, or in furtherance of a business.

6. By amending § 43.642 to read as follows:

§ 43.642 *Endorsement of student pilot certificates.* A flight instructor shall endorse the certificate of any student pilot for solo flight or flight in different categories or types of aircraft only if he has determined that the student is competent to exercise such privileges with safety, and for cross-country flight only if he has additionally determined that the student has an elementary knowledge of aeronautical charts, meteorological data, and the use of a magnetic compass.

7. By deleting the words "type and class" from § 43.63 and inserting the words "category, type, and class" in lieu thereof.

8. By deleting the words "same type and class" from § 43.680 and inserting the words "same category, type, and class" in lieu thereof.

9. By adding new paragraphs (f), (g), (h), (i), (j), (k), (l), (m), and (n) to § 43.9 to read as follows:

§ 43.9 *Definitions.* * * *

(f) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

(g) *Class.* Class shall indicate a difference in basic design of aircraft within a category, such as single-engine land, multiengine sea, etc.

(h) *Copilot.* Copilot shall mean a pilot serving in any piloting capacity other than as pilot in command on aircraft requiring two pilots for normal operations, but excluding a pilot who is on board the aircraft for the sole purpose of receiving dual instruction.

(i) *Dual instruction time.* Dual instruction time shall mean that portion of the flight time during which a person is receiving flight instruction from a certificated flight instructor on board the aircraft.

(j) *Flight instructor.* Flight instructor means a pilot who is qualified to instruct other pilots and who has received a flight instructor rating.

(k) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(l) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(m) *Solo flight time.* Solo flight time shall mean the flight time during which a pilot is the sole occupant of an aircraft.

(n) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

VIII. It is proposed to amend Part 44 as follows:

1. By deleting the word "model" from § 44.3 and inserting the word "type" in lieu thereof.

2. By amending § 44.1 to read as follows:

§ 44.1 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Category.* Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.

(2) *Type.* Type shall mean all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

(3) *United States.* United States shall mean the continental United States and any outlying territories under its jurisdiction (including the Canal Zone).

IX. It is proposed to amend Part 60 as follows:

1. By adding new §§ 60.930 and 60.931 to read as follows:

§ 60.930 *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

§ 60.931 *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

X. It is proposed to amend Part 61 as follows:

1. By deleting the word "type" from every section in which it appears in this part, excepting § 61.530, and inserting the word "category" in lieu thereof.

2. By deleting the word or words "model," "models," "make," or "make and model" from every section in which any or all of such words appear in this part and inserting the word "type" in lieu thereof.

3. By adding a new § 61.09 to read as follows:

§ 61.09 *Definitions.* (a) As used in this part the words listed below shall be defined as follows:

(1) *Check pilot.* Check pilot is a pilot authorized by the Administrator to examine pilots of an air carrier to determine the pilot's proficiency with regard to procedure and piloting technique, route, and equipment competency, and ability to pilot and navigate by instruments.

(2) *Copilot.* Copilot shall mean a pilot serving in any piloting capacity other than as pilot in command on aircraft requiring two pilots for normal operations, but excluding a pilot who is on board the aircraft for the sole purpose of receiving dual instruction.

(3) *Crew member.* Crew member means any individual assigned by an air carrier for the performance of duty on the aircraft other than as flight crew member.

(4) *First pilot.* First pilot means the pilot in command.

(5) *Flight crew member.* Flight crew member means a pilot, flight radio operator, flight engineer, or flight navigator assigned to duty on the aircraft.

(6) *Flight time.* Flight time shall mean the total time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the end of the flight.

(7) *Instrument flight time.* Instrument flight time means that flight time during which a pilot is piloting an aircraft solely by reference to instruments and without external reference points, whether under actual or simulated instrument flight conditions.

(8) *Pilot.* A pilot is an individual who manipulates the controls of an aircraft during the time defined as flight time.

(9) *Pilot in command.* Pilot in command shall mean the pilot responsible for the operation and safety of the aircraft during the time defined as flight time.

(10) *Second pilot.* Second pilot shall mean copilot.

4. By deleting the words "a type and, in the case of an airplane, the airplane class and horsepower" from § 61.523 (a) and inserting the words "an appropriate" in lieu thereof.

5. By amending § 61.523 (b) to read as follows:

§ 61.523 (b) A second pilot not possessed of an airline transport pilot certificate and an appropriate rating for the aircraft flown may log 50 percent of the total flight time.

6. By amending § 61.530 to read as follows:

§ 61.530 *Responsibility of operator.* In order to maintain a high standard of pilot technique, the air carrier shall be responsible for proper and periodic instruction, in their respective duties, of all first and second pilots employed by such operator. The instruction so given to first pilots shall at least include operation and approach for landing with one engine fully throttled with maximum load authorized for the route or portion thereof, in each type of aircraft to be used by the pilot in scheduled air transportation service, and instrument approach procedures.

[F. R. Doc. 49-2455; Filed, Apr. 1, 1949; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WASHINGTON

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING CERTAIN PUBLIC LANDS IN CONNECTION WITH THE METHOW WINTER RANGE AND WILDLIFE REFUGE [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

J. A. KRUG,
Secretary of the Interior.

MARCH 29, 1949.

[F. R. Doc. 49-2445; Filed, Apr. 1, 1949; 8:45 a. m.]

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE AIR FORCE AS AN AIR FORCE BASE [1]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

J. A. KRUG,
Secretary of the Interior.

MARCH 29, 1949.

[F. R. Doc. 49-2453; Filed, Apr. 1, 1949; 8:46 a. m.]

[1] See F. R. Doc. 49-2444, Title 43, Chapter I, Appendix, *supra*.

[1] See F. R. Doc. 49-2452, Title 43, Chapter I, Appendix, *supra*.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

OFFICE OF THE SOLICITOR

DELEGATIONS OF AUTHORITY

In accordance with the requirements of section 3 (a) (1) of the Administrative Procedure Act (5 U. S. C. 1002 (a) (1)), the following statement of delegations of final authority made by the Secretary of Agriculture in the Office of the Solicitor (14 F. R. 923, 7 CFR 1947 Supp. 2100.11, redesignated as 7 CFR 1.51, 13 F. R. 6703) is published:

The Solicitor and the Associate Solicitors, or persons acting in their stead, are authorized to certify documents as true copies of those on file in the Department pursuant to Title 28, United States Code, section 1733. The same officers and Regional Attorneys, or persons acting in their stead, are authorized to sign releases of claims of the United States against private persons for damage to or destruction of personal property of the Department. The Solicitor and the Associate Solicitor in charge of Forestry and General Legal Services, or persons acting in their stead, are authorized to allow or disallow claims pursuant to Title 26, United States Code, sections 2401 (b), 2671-2680.

Dated: March 30, 1949.

[SEAL] W. CARROLL HUNTER,
Solicitor.

[F. R. Doc. 49-2480; Filed, Apr. 1, 1949; 8:50 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No 2021]

ALASKA AIRLINES, INC.

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith of Alaska Airlines, Inc., over its entire system; and the order to show cause published by the Board on March 17, 1949 (Serial No. E-2590).

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 406 and 1001 of said act, that a hearing in the above-entitled proceeding is assigned to be held on April 5, 1949, at 9:30 a. m. (e. s. t.), in Room 1011, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Richard A. Walsh.

Dated at Washington, D. C., March 30, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2489; Filed, Apr. 1, 1949; 8:53 a. m.]

[Docket No. 3383]

REEVE AIRWAYS

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith of Reeve Airways over its certificated mail routes.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the

above-entitled proceeding is assigned to be held on April 4, 1949, at 9:30 a. m. (eastern standard time) in Room 1011, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner James M. Verner.

Dated at Washington, D. C., March 29, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2456; Filed, Apr. 1, 1949; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

CHANNEL ALLOCATIONS FOR HUTCHINSON, SALINA AND DODGE CITY, KANS.

ORDER AMENDING REVISED TENTATIVE ALLOCATION PLAN FOR CLASS B FM BROADCAST STATIONS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of March 1949;

The Commission having under consideration an amendment of its Revised Tentative Allocation Plan for Class B FM Broadcast Stations, providing that the channels allocated to Hutchinson, Salina and Dodge City, Kansas be reallocated as follows:

General area	Channel No.	
	Delete	Add
Hutchinson, Kans.	289	233
Salina, Kans.	233	253
Dodge City, Kans.	234	289

It appearing, that the proposed amendment to the Allocation Plan is desirable in order to permit the grant of the pending application of Hutchinson Publishing Company to modify its construction permit for a new Class B FM Station (KIMV) at Hutchinson, Kansas, to change its assigned channel from 289 (105.7 mcs) to 233 (94.5 mcs), which application the Commission proposes to grant in a subsequent action; and

It further appearing, that adoption of said amendment will not reduce the present allocation to any area nor require a change in the channel assignment of any other existing station or authorization; and that the operation of a Class B FM station on Channel 233 at Hutchinson, Kansas will not cause interference to any station existing, proposed or contemplated by the FM allocation plan; and that no existing requirements of the Commission will be affected by said amendment; and

It further appearing, that the nature of the proposed amendment is such as to render unnecessary the public notice and procedure set forth in section 4 (a) of the Administrative Procedure Act; and that for the same reasons this order may be made effective immediately in lieu of the requirements of section 4 (c) of said act; and

It further appearing, that authority for the adoption of said amendment is contained in section 303 (c), (d), (f), and (r) and 307 (b) of the Communication Act of 1934, as amended;

It is ordered, That, effective immediately, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations be and it is amended so that the allocations to Hutchinson, Salina, and Dodge City, Kansas, are changed as follows:

General area	Channel No.	
	Delete	Add
Hutchinson, Kans.	289	233
Salina, Kans.	233	253
Dodge City, Kans.	234	289

Commissioners Coy, Chairman, and Sterling not participating. Commissioners Webster and Hennock dissenting.

Released: March 28, 1949.

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

[F. R. Doc. 49-2462; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket No. 9262]

WSAZ, INC. (WSAZ-TV)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of WSAZ, Inc. (WSAZ-TV), Huntington, West Virginia, Docket No. 9262, File No. BMPCT-454; for additional time in which to complete construction of TV station WSAZ-TV at Huntington, West Virginia.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of March 1949;

The Commission having under consideration the above-mentioned application of WSAZ, Inc., (File No. BMPCT-454), for additional time in which to complete construction of TV broadcast station WSAZ-TV, Huntington, West Virginia; and

It appearing, that on July 29, 1948, the Commission granted WSAZ, Inc., a construction permit for a TV broadcast station at Huntington, West Virginia (BPCT-477); and

In further appearing, that the construction of the TV broadcast station authorized on July 29, 1948, has not been completed, and the Commission being fully advised in the premises;

It is ordered, That, pursuant to section 309 and 319 of the Communications Act of 1934, as amended, the above-entitled application (File No. BMPCT-454) is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine whether WSAZ, Inc. has been diligent in proceeding with the construction of the television station at Huntington, West Virginia, as authorized by the construction permit granted July 29, 1948 (File No. BPCT-477).

2. To determine whether it would be in the public interest, convenience and necessity to grant the application of WSAZ, Inc. (File No. BMPCT-454) for additional time in which to construct the TV broadcast station at Huntington, West Virginia, as authorized by the Commission on July 29, 1948 (BPCT-477).

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

[F. R. Doc. 49-2463; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket No. 9265]

ROANOKE BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of E. L. Roberts and J. W. Buttram, d/b as the Roanoke Broadcasting Company, Roanoke, Alabama, Docket No. 9265, File No. BP-6765; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23d day of March 1949;

The Commission having under consideration the above-entitled application for a permit to construct a new standard broadcast station to operate on the frequency 930 kilocycles, with 250 watts power, daytime only in Roanoke, Alabama;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to these areas and populations.

2. To determine whether the operation of the proposed station would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

4. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations, particularly with respect to the assignment of a Class IV station to a regional channel.

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

[F. R. Doc. 49-2464; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket No. 9266]

ROBSTOWN BROADCASTING CO.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of William Solon Snowden d/b as Robstown Broadcasting Company, Robstown, Texas, Docket No. 9266, File No. BP-6690; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23d day of March 1949;

The Commission having under consideration the above-entitled application for permit to construct a new standard broadcast station in Robstown, Texas to operate on the frequency 1480 kc, with 1 kw power, daytime only;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of the proposed station would involve objectionable interference with the station recently authorized for Beeville, Texas, by the grant of the application (File No. BP-4639; Docket No. 7604) of V. L. Rossi and John D. Rossi d/b as Bee Broadcasting Company, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

4. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.

It is further ordered, That V. L. Rossi and John D. Rossi d/b as Bee Broadcasting Company, permittee of the newly authorized station in Beeville, Texas, is made a party to this proceeding.

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

[F. R. Doc. 49-2465; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket No. 9267]

NATIONAL BROADCASTING CO., INC. (KOA)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of National Broadcasting Company, Inc. (KOA), Denver, Colorado, Docket No. 9267, File No. BP-4685; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23d day of March 1949;

The Commission having under consideration the above-entitled application to replace the vertical antenna of Station KOA and to mount the FM antenna on AM tower;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KOA as proposed and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of Station KOA as proposed would involve objectionable interference with stations WHDH, Boston, Massachusetts; WJW, Cleveland, Ohio; WXKW, Albany, New York; WTNB, Birmingham, Alabama; WRUF, Gainesville, Florida; WKBZ, Muskegon, Michigan; WEEU, Reading, Pennsylvania, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast services to such areas and populations.

3. To determine whether the operation of Station KOA as proposed would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

4. To determine whether the installation and operation of Station KOA as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.

5. To determine whether the installation and operation of Station KOA as proposed would constitute a menace to air navigation.

It is further ordered, That Matheson Radio Company, Incorporated, licensee of Station WHDH, Boston, Massachusetts; WJW, Incorporated, licensee of Station WJW, Cleveland, Ohio; Champlain Valley Broadcasting Corporation, permittee of Station WXKW, Albany, New York; Thomas N. Beach, licensee of Station WTNB, Birmingham, Alabama; University of Florida, licensee of Station WRUF, Gainesville, Florida; Ashbacker Radio Corporation, licensee of Station WKBZ, Muskegon, Michigan; and Berks Broadcasting Company, licensee of Station WEEU, Reading, Pennsylvania are made parties to this proceeding.

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

[F. R. Doc. 49-2466; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket Nos. 9268, 9269]

MOSLEY BROTHERS AND MOBILE PRESS REGISTER, INC.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of W. L. Mosley and R. E. Mosley, d/b as Mosley Brothers, Picayune, Mississippi, Docket No. 9268, File No. BP-6840; the Mobile Press Register, Inc., Mobile, Alabama, Docket No. 9269, File No. BP-7017; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration the above-entitled applications of W. L. Mosley, et al. for permit to construct a new standard broadcast station in Picayune, Mississippi, to operate on the frequency 1320 kc, with 1 kw power, daytime only; and the Mobile Press Register, Inc., for permit to change the operating assignment of Station WABB, Mobile, Alabama, from 1480 kc, 5 kw, DA-2, unlimited time, to 1320 kc, 5 kw, unlimited time, and to employ a new directional array for day and night use (DA-2);

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant, partnership and the partners to construct and operate their proposed station and the technical, financial and other qualifications of the corporate applicant, the Mobile Press Register, Inc., its officers, directors and stockholders, to construct and operate Station WABB, as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operations proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operations proposed would involve objectionable interference with any existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operations proposed would involve objectionable interference each with the other or with the services proposed in any other pending applications for broadcast facilities, and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installations and operations proposed would be in compliance with the Commission's rules and Standards of Good Engineering

Practice concerning standard broadcast stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

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

[F. R. Doc. 49-2467; Filed, Apr. 1, 1949; 8:48 a. m.]

[Docket Nos. 8909, 9272]

CHANUTE BROADCASTING CO. AND CENTRAL BROADCASTING, INC. (KIND)

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Galen O. Gilbert, H. Edward Walker, Phil Crenshaw, George A. Rountree and James T. Jackson, a partnership d/b as Chanute Broadcasting Company, Chanute, Kansas, Docket No. 8909, File No. BP-5684; and Central Broadcasting, Inc. (KIND), Independence, Kansas, Docket No. 9272, File No. BP-7068; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration (1) the above-entitled application of Galen O. Gilbert, et al, for permit to construct a new standard broadcast station in Chanute, Kansas, to operate on the frequency 1460 kc, with 250 w power, daytime only; (2) the petition of this applicant requesting that its said application be removed from the hearing docket and granted without hearing, and (3) the above-entitled application of Central Broadcasting, Inc., for a permit to change the operating assignment of Station KIND, Independence, Kansas, from 1010 kc, 250 w, D, to 1450 kc, 250 w, unlimited time, which is contingent upon the granting of the application (File No. BP-7056) of Station WMBH, Joplin, Missouri, to change operating assignment; and

It appearing, that the Commission, on April 29, 1948, designated the above application of Galen O. Gilbert, et al, for hearing in a consolidated proceeding with a mutually exclusive application at Ponca City, Oklahoma; that on October 22, 1948, the Ponca City application was dismissed without prejudice at the request of the applicant; and that the application of Galen O. Gilbert, et al, was retained on the hearing docket to be heard on the issue, among others, pertaining to the assignment of a Class IV station to a regional channel; and

It further appearing, that the above-entitled applications involve mutual serious objectionable interference; and that the said petition fails to show that a grant of the application of Galen O. Gilbert, et al, would be consistent with § 1.382 of the Commission's rules and regulations and section 309 (a) of the Communications Act of 1934, as amended;

It is ordered, That the said petition of Galen O. Gilbert, et al, be denied; and that pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above-entitled application of Central Broadcasting, Inc. (KIND) be designated for hearing in a consolidated proceeding with the application of Galen O. Gilbert, et al, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate Station KIND as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KIND as proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of Station KIND as proposed would involve objectionable interference with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of Station KIND as proposed would involve objectionable interference with the other applications in this proceeding or with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of Station KIND as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the Commission's order of April 29, 1948, designating the application of Galen O. Gilbert, et al, for hearing be amended to include the said application of Central Broadcasting, Inc. (KIND).

It is further ordered, That if the contingent application of Central Broadcasting, Inc. prevails in the above-entitled proceeding, it shall be removed from hearing status and returned to the Commission's pending file until final disposition of the aforesaid parent application is made by the Commission.

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

[F. R. Doc. 49-2468; Filed, Apr. 1, 1949; 8:49 a. m.]

[Docket No. 9273]

RADIO STATION KTBS, INC. (KTBS)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Radio Station KTBS, Incorporated (KTBS), Shreveport, Louisiana, Docket No. 9273, File No. BMP-3981; for modification of construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration the above-entitled application requesting a modification of construction permit (File No. BP-4720) which authorized a change of frequency from 1480 kilocycles to 710 kilocycles, an increase of power from 1 kilowatt to 5 kw-10 kw to local sunset, installation of a new transmitter, change of transmitter location, and installation of a new directional antenna system of Station KTBS, Shreveport, Louisiana, so as to make changes in the directional antenna, to increase the maximum expected operating values of the horizontal pattern toward the service area of Station WOR, New York, New York;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of station KTBS as proposed and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of station KTBS as proposed would involve objectionable interference with station WOR, New York, New York, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the operation of station KTBS as proposed would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

4. To determine whether the installation and operation of Station KTBS as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.

5. To determine whether measurements or adjustments made preliminary to or in connection with the proof-of-performance of the antenna system authorized by a grant of BP-4720 are such that would show that the terms of the construction permit cannot be met in the adjustment of the array or that they cannot be maintained in practice by sta-

tion personnel and the factors responsible therefor.

6. To determine whether the maximum expected operating values specified in the above-entitled application for modification of permit in the direction of Station WOR's secondary service area are based on a comprehensive study of the possible variations in operating parameters or other pertinent factors and whether the values are obtainable in practice and can be maintained by station personnel.

It is further ordered, That Bamberger Broadcasting Service, Incorporated, licensee of Station WOR, New York, New York, be, and it is hereby, made a party to the proceeding.

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

[F. R. Doc. 49-2469; Filed, Apr. 1, 1949; 8:49 a. m.]

[Docket Nos. 9021, 9274]

ATLAS BROADCASTING CO. AND HAMTRAMCK RADIO CORP.

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Atlas Broadcasting Company, Hamtramck, Michigan, Docket No. 9274, File No. BP-7067; Hamtramck Radio Corporation, Hamtramck, Michigan, Docket No. 9021, File No. BP-6746; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration the above-entitled application of Atlas Broadcasting Company requesting a permit to construct a new standard broadcast station to operate on the frequency 1440 kilocycles, with 500 watts power, daytime only at Hamtramck, Michigan;

It appearing, that the Commission on June 9, 1948, designated for hearing in a consolidated proceeding the applications of Frank E. Pelligrin and Lynne C. Smeby d/b as Pelligrin and Smeby and of Hamtramck Radio Corporation, the latter application being dismissed on March 11, 1949; and

It further appearing, that the Commission by order dated November 5, 1948 granted the petition by Bay Broadcasting Company, Incorporated, licensee of Station WBCM, Bay City, Michigan to intervene in the aforementioned proceeding upon the application of Hamtramck Radio Corporation;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application of Atlas Broadcasting Company is designated for hearing in a consolidated proceeding with the application of Hamtramck Radio Corporation to begin March 28, 1949 in Washington, D. C. upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate the proposed station.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with Station WBCM, Bay City, Michigan, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in the other application in this consolidated proceeding, or in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That, the Commission's order of June 9, 1948 designating for hearing in a consolidated proceeding the applications of Frank E. Pelligrin and Lynne C. Smeby d/b as Pelligrin and Smeby and of Hamtramck Radio Corporation is amended in the following respects: to show deletion of issue 7 therefrom; to change the numbering of issue 8 therein to issue 7; to include the above-entitled application of Atlas Broadcasting Company; to show deletion of the application of Frank E. Pelligrin and Lynne C. Smeby d/b as Pelligrin and Smeby from all issues therein; and to make Bay Broadcasting Company, Inc., licensee of Station WBCM, Bay City, Michigan, a party to the proceeding.

It is further ordered, That, the Commission's order of November 5, 1948 granting the petition of Bay Broadcasting Company, Incorporated, licensee of Station WBCM, Bay City, Michigan to intervene in the proceeding upon the application of Hamtramck Radio Corporation is amended to make Bay Broadcasting Company, Incorporated a party intervenor with reference to all applications in this proceeding.

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

[F. R. Doc. 49-2470; Filed, Apr. 1, 1949; 8:49 a. m.]

[Docket No. 8599]

L. W. ANDREWS, INC.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of L. W. Andrews, Inc., Davenport, Iowa, Docket No. 8599, File No. BP-6316; for construction permit.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration the above-entitled application requesting a permit to construct a new standard broadcast station to operate on 1580 kilocycles, 250 watts power, daytime only at Davenport, Iowa.

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing at a place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the legal, technical, financial, and other qualifications of the applicant corporation, its officers, directors and stockholders to construct and operate the proposed station, with particular regard to the extent to which the principal stockholder's past participation in the operation of station KICD, Spencer, Iowa, may affect these qualifications.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station and the character or other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed station would involve objectionable interference with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed station would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations.

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

[F. R. Doc. 49-2471; Filed, Apr. 1, 1949; 8:49 a. m.]

[Docket Nos. 8301, 9275]

BAMBERGER BROADCASTING SERVICE, INC. (WOR) AND RIDSON, INC. (WDSM)

ORDER DESIGNATING APPLICATION FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Bamberger Broadcasting Service, Incorporated (WOR), New York, New York, Docket No. 9275, File No. BP-4575; Ridson, Incorporated (WDSM), Superior, Wisconsin, Docket No. 8301, File No. BP-5638; for construction permits.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 24th day of March 1949;

The Commission having under consideration the above-entitled applications of Bamberger Broadcasting Service, Incorporated, licensee of Station WOR, New York, New York for installation of a new directional antenna and of Ridson, Incorporated, licensee of Station WDSM, Superior, Wisconsin for a permit to change frequency from 1230 kilocycles to 710 kilocycles, increase power from 250 watts to 5 kilowatts, change transmitter location, and install directional antenna;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant corporations, their officers, directors and stockholders to construct and operate Stations WOR and WDSM as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Stations WOR and WDSM as proposed.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of Stations WOR and WDSM as proposed would involve objectionable interference with Stations WKRG, Mobile, Alabama; WHB, Kansas City, Missouri; WGBS, Miami, Florida; KGNC, Amarillo, Texas, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of Stations WOR and WDSM as proposed would involve objectionable interference each with the other or with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of Stations WOR and WDSM as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice concerning standard broadcast stations with particular reference as to the areas and populations to receive satisfactory service from the operation of Station WDSM as proposed.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

8. To determine whether the installation and operation of Station WOR as proposed would constitute a menace to air navigation.

It is further ordered, That Kenneth R. Giddens and T. J. Rester d/b as Giddens and Rester, licensee of Station WKRG, Mobile, Alabama; WHB Broadcasting Company, licensee of Station WHB, Kansas City, Missouri; the Fort Industry Company, licensee of Station WGBS, Miami, Florida; and Plains Radio Broadcasting Company, licensee of Station KGNC, Amarillo, Texas are made parties to the proceeding.

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

[F. R. Doc. 49-2472; Filed, Apr. 1, 1949; 8:49 a. m.]

STATION KVIC

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE [1]

The Commission hereby gives notice that on March 18, 1949, there was filed with it an application (BAL-849) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of station KVIC, Victoria, Texas, from Radio Enterprises, Inc., to KVIC Broadcasting Co., Inc. The proposal to assign the license arises out of a contract of February 3, 1949, pursuant to which J. G. Long, owner of all the stock of Radio Enterprises, Inc., which is the owner and licensee of radio station KVIC, Victoria, Texas, has contracted to sell all the stock of Radio Enterprises, Inc., to KVIC Broadcasting Company, Inc., for the consideration of $190,000.00, to be paid: (1) $40,000.00 in cash at the time of conveyance; (2) $90,000.00 by assuming the obligations of J. G. Long to pay that amount with interest at the rate of 6% per year from May 1, 1948, in annual installments of $30,000.00 plus interest (with an adjustment of interest from May 1, 1948, to date of conveyance); and (3) $60,000.00 in notes to J. G. Long, payable $15,000.00 per year plus interest at 4% per year beginning May 1, 1953. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on March 18, 1949, that starting on March 21, 1949, notice of the filing of the application would be inserted in a newspaper of general circulation at Victoria, Texas, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from March 21, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

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

[F. R. Doc. 49-2473; Filed, Apr. 1, 1949; 8:49 a. m.]

SOUTHLAND BROADCASTING CO.

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL [1]

The Commission hereby gives notice that on February 2, 1949, there was filed with it an application (BTC-733) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Southland Broadcasting Company, licensee of station WLAU, Laurel, Mississippi from Hugh M. Smith to James V. Wilson. The proposal to transfer control arises out of a contract of December 30, 1948, pursuant to which Hugh M. Smith will sell 139 shares of stock in Southland Broadcasting Company to James V. Wilson in consideration for $27,181 and the issuance by the corporation of one share to C. Hubert Leggett in consideration for $181, so that Wilson and Legett will each own 139 shares or control of the outstanding stock. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on February 28, 1949, that starting on February 3, 1949, notice of the filing of the application would be inserted in the Laurel Leader-Call, a newspaper of general circulation at Laurel, Mississippi in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from February 3, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

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

[F. R. Doc. 49-2474; Filed, Apr. 1, 1949; 8:49 a. m.]

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

LACROSSE BROADCASTING CO.

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL [1]

The Commission hereby gives notice that on March 21, 1949, there was filed with it an application (BTC–743) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of LaCrosse Broadcasting Company, licensee of station WKTY, LaCrosse, Wisconsin from Independent Merchants Broadcasting Company and R. E. Nietsch to LaCrosse Tribune Company. The proposal to transfer control arises out of a contract of February 19, 1949, pursuant to which the present stockholders of LaCrosse Broadcasting Company agree to sell all of its capital stock to LaCrosse Tribune Company for the sum of $140,000, subject to an adjustment in the following manner: If at the time of transfer the net worth of the licensee is less than $84,444.07, the difference shall be deducted from the purchase price; if at that time the net worth exceeds $84,444.07, the purchase price shall be increased by the amount of such excess. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on March 21, 1949, that starting on March 21, 1949, notice of the filing of the application would be inserted in The LaCrosse Tribune, a newspaper of general circulation at LaCrosse, Wisconsin, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from March 21, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

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

[F. R. Doc. 49–2475; Filed, Apr. 1, 1949; 8:49 a. m.]

STATION KHBR

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE [1]

The Commission hereby gives notice that on March 21, 1949, there was filed with it an application (BAL–850) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of station KHBR, Hillsboro, Texas from R. W. Calvert and W. N. Furey to William Solon Snowden. The proposal to assign the license arises out of a contract pursuant to which R. W. Calvert and W. N. Furey, both of Hill County, Texas, who own 60% in Radio Station KHBR, a partnership, doing business as Hill County Broadcasting Company, Hillsboro, Texas, each owning 30% interest respectively, are offering to transfer their combined interest to William Solon Snowden, Dallas County, Texas, for a cash consideration of $6,100.00 to be paid to each, or a total of $12,200.00 to be paid for the entire 60%, the said William Solon Snowden agreeing to assume any and all indebtedness of said station which includes balances due on equipment, air conditioning, leases, etc. Further information as to the arrangements may be found with the application and associated papers which are on file at the Offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on March 21, 1949, that starting on March 26, 1949, notice of the filing of the application would be inserted in a newspaper of general circulation at Hillsboro, Texas in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from March 26, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

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

[F. R. Doc. 49–2476; Filed, Apr. 1, 1949; 8:50 a. m.]

[Docket No. 9193]

KMPC, STATION OF THE STARS, INC., ET AL.

ORDER CONTINUING HEARING

In the matter of KMPC, Station of the Stars, Inc., licensee of Radio Station KMPC, Los Angeles, California; WJR, the Goodwill Station, Inc., licensee of Radio Station WJR, Detroit, Michigan; and WGAR Broadcasting Company, licensee of Radio Station WGAR, Cleveland, Ohio; Docket No. 9193.

It appearing, that additional time being required by counsel for the Commission and other counsel for preparation in the above-entitled proceedings, a postponement of the date for the public hearing in this matter, now set for March 16, 1949, is necessary;

It is ordered, On the Commission's own motion, that said public hearing is continued until 10:00 a. m., March 23, 1949, in the Court Room of the United States Court of Appeals on the Eighth Floor of the Federal Building in Los Angeles, California.

Dated: March 4, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] E. M. WEBSTER,
Commissioner.

[F. R. Doc. 49–2477; Filed, Apr. 1, 1949; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–1159]

UNITED NATURAL GAS CO.

ORDER FURTHER POSTPONING HEARING

On March 24, 1949, United Natural Gas Company filed a request by telegram for a further postponement of the hearing now set to commence on April 4, 1949, in the above-entitled docket.

The Commission finds: Good cause has been shown for further postponing the date of hearing as set by the order issued by the Commission in this docket on February 15, 1949.

The Commission orders: The hearing now set for April 4, 1949, at 10:00 a. m. be and the same is hereby further postponed until May 2, 1949, at 10:00 a. m. in the Hearing Room of the Federal Power Commission, Hurley Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

Date of issuance: March 29, 1949.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49–2446; Filed, Apr. 1, 1949; 8:45 a. m.]

[Docket No. G–1180]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

NOTICE OF APPLICATION

MARCH 29, 1949.

Notice is hereby given that on March 16, 1949, an application was filed with the Federal Power Commission by Kansas-Nebraska Natural Gas Company, Inc. (Applicant), a Kansas corporation with its principal place of business at Phillipsburg, Kansas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing Applicant to construct and operate the following described natural-gas facilities:

(1) One 1,600 H. P. gas engine driven compressor unit at Deerfield Compressor Station, Kansas; one 1,000 H. P. compressor unit at Palco Compressor Station, Kansas, and one 1,000 H. P. compressor unit at Holdrege Compressor Station, Nebraska; these are three existing compressor stations operated by the Applicant.

(2) Approximately 21 miles of 12¾ inch pipe line extending south from Applicant's Scott City Compressor Station, Kansas, in 10 and 11 mile sections, to replace 10 miles of existing 6⅝ inch pipe line and 11 miles as a loop pipe line to tie

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

in with Applicant's existing 18 inch pipe line.

(3) Approximately 12½ miles of 12¾ inch pipe line as a continuation of a loop line paralleling an existing 12¾ inch pipe line extending from a southwest to northeasterly direction near Wakeeney, Kansas.

(4) Approximately 6 miles of 12¾ inch pipe line as a loop line paralleling an existing 8⅝ inch pipe line extending northeasterly from Applicant's Palco Compressor Station, Kansas.

(5) Approximately 7½ miles of 8⅝ inch pipe line replacing the same length of 6⅝ inch pipe line and approximately 7½ miles of 6⅝ inch pipe line as a loop line paralleling an existing 6⅝ inch pipe line on a section of Applicant's transmission pipe line system between Cambridge and Cozad, in Nebraska.

(6) Approximately 14 miles of 12¾ inch pipe line extending 6 miles south and 8 miles north from Applicant's Alma Compressor Station, Nebraska, and replacing the same length of 8⅝ inch pipe line with an underwater crossing at Republican River.

(7) Approximately 7 miles of 8⅝ inch pipe line extending from Elm Creek in an easterly direction to Odessa and from this point approximately 44 miles of 6⅝ inch pipe line extending in a northerly direction to Loup City, approximately 18 miles of 4½ inch, 18 miles of 3½ inch and 5 miles of 2⅜ inch or a total of some 41 miles of lateral pipe line together with six town border measuring stations and appurtenant facilities to provide gas service from Applicant's pipeline system to Broken Bow, Berwyn, Ansley, Mason City, Litchfield and Loup City, all in Nebraska.

(8) Approximately 11 miles of 6⅝ inch and 31 miles of 4½ inch pipe line extending east and northeast from Applicant's Elm Creek-Loup City pipe line to St. Paul, Nebraska, with 3 miles of 3½ inch and 6 miles of 2⅜ inch pipe line together with six town border measuring stations and appurtenant facilities to provide gas service from Applicant's pipeline system to the towns of Hazard, Ravenna, Rockville, Boelus, Danneborg, and St. Paul, all in Nebraska.

(9) Approximately 23 miles of 6⅝ inch pipe line extending in a northerly direction from Loup City to the vicinity of Ord, 22 miles of 4½ inch, 30½ miles of 3½ inch and 16½ miles of 2⅜ inch transmission or service pipe lines together with seven town border measuring stations and appurtenant facilities to provide gas service from Applicant's pipeline system to the towns of Arcadia, North Loup, Scotia, Comstock, Sargent, Ord and Burwell, all in Nebraska.

(10) One 125 H. P. gas engine driven compressor unit with appurtenances at Applicant's existing Cozad Compressor Station in Nebraska.

Additionally, Applicant requests authorization pursuant to section 7 of the Natural Gas Act, as amended, to acquire from the Nebraska Natural Gas Company meters and service lines connecting 30 alfalfa dehydration plants to Applicant's Elm Creek-Ogallala transmission pipe line, in Nebraska, and approximately 15 miles of 2⅜ inch lateral pipe line connecting the town of Nelson, Nebraska, and including a measuring and regulating station at Nelson which town is served from Applicant's Grand Island-Chester transmission pipe line.

Applicant states that the purpose of the proposed new construction is to increase the capacity of Applicant's transmission facilities to meet the increased demands of its existing markets, and to assure continuity of supply to such markets, and to provide additional gas for the additional towns and markets it proposes to serve. Applicant estimates the daily market delivery capacity of its system after construction of the proposed facilities will be approximately 140,000,000 cubic feet per day, which will be equal to the estimated maximum daily demand on Applicant's system for the winter of 1949–1950. Applicant states that the natural gas reserves which will be used to supply the requirements of the markets proposed to be served are the reserves from which Applicant now procures natural gas. It is stated in the application that the aggregate number of meters expected to be installed in the 13 towns in Nebraska for which service is proposed will be 3,250 within the next three years.

The estimated total net cost of the facilities for which authorization is sought is $2,562,508 of which $61,357 for the compressor unit at Cozad Compressor Station has been paid for from current funds on hand. The cost of the facilities proposed to be acquired from Nebraska Natural Gas Company is $30,000. Applicant proposes to finance the cost of construction and acquisition by sale of 3,400 shares of $5.00 cumulative preferred stock, by private sale of $2,900,000 first mortgage bonds, and use of funds on hand. No firm commitments have been secured relative to financing the proposed construction and acquisition.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Kansas-Nebraska Natural Gas Company, Inc., is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of §§ 1.8 or 1.10, whichever is applicable, of the Commission's rules of practice and procedure. (As amended on June 16, 1947.)

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2454; Filed, Apr. 1, 1949; 8:46 a. m.]

[Docket No. IT-5891]

FORT PECK PROJECT, MONTANA

NOTICE OF REQUEST FOR CONFIRMATION AND APPROVAL OF RATES AND CHARGES FOR SALE OF POWER FROM FORT PECK PROJECT

MARCH 28, 1949.

In the matter of Bureau of Reclamation, Department of the Interior, Fort Peck Project, Montana; Docket No. IT-5891.

Notice is hereby given that the Commissioner of the Bureau of Reclamation, Department of the Interior, has filed with the Federal Power Commission for confirmation and approval, pursuant to the provisions of the Fort Peck Act (52 Stat. 403), a Schedule of Rates for Wholesale Power Service to Customers Having Their Own Generating Facilities, reading as follows:

SCHEDULE OF RATES FOR WHOLESALE POWER SERVICE TO CUSTOMERS HAVING THEIR OWN GENERATING FACILITIES

Effective.

Available. In the area served by the Fort Peck Project.

Applicable. To wholesale power customers, for light and power service supplied through one meter at one point of delivery, who have and maintain generating equipment in operating condition capable of serving loads on not more than 24 hours' notice.

Character and conditions of service. Alternating current, sixty cycles, three-phase, normally delivered and metered at the low voltage side of substation. The service available hereunder will be considered in two categories: (1) Firm power service, and (2) withdrawable power service, herein termed secondary energy. The delivery and continuity of supply of secondary energy are not assured and such service may be withdrawn in whole or in part at any time on not less than 24 hours' notice.

Monthly rate

Demand charge. $0.75 per kilowatt of billing demand.

Energy charge. First 250 kilowatt hours per kilowatt of highest 30-minute integrated demand measured during the month at 3.5 mills per kilowatt hour.

Balance of energy used at 3.0 mills per kilowatt hour.

Secondary service billing demand credit. For and in consideration of the customer's generating capacity, if maintained in good operating condition, and provided the customer contracts to purchase his system energy requirements in lieu of operating his own fuel burning generating equipment (except that which may be generated as a result of maintaining such equipment in standby condition) during any billing period when secondary energy is available and as offered by the United States, the number of kilowatts of billing demand on which the demand charge will apply shall be the Contractor's system demand less the Contractor's capacity, but in no event less than the contract rate of delivery for firm power as specified in the contract. For use in computing demand charges, the customer shall furnish to the United States, not later than five days after the end of the month during which service was furnished hereunder, a statement of the Contractor's system demand. The Contractor's system demand is defined as the maximum 30-minute integrated demand in kilowatts on the Contractor's power system during the month. The Contractor's capacity is defined as the sustained load carrying ability of the Contractor's electric generating plant less station use, as determined by

test and as limited by transmission and substation facilities.

Minimum bill. $1.00 per month per kilowatt of billing demand.

Billing demand. The billing demand will be the highest 30-minute integrated demand measured during the month but not less than the contract rate of delivery for firm power as specified in the contract.

Adjustments

For character and conditions of service. If delivery is made at transmission voltage so that the United States is relieved of substation costs, five percent discount will be allowed on the demand and energy charges.

For transformer losses. If delivery is made at transmission voltage but metered at the low-voltage side of the customer's substation, the meter readings will be increased two percent to compensate for transformer losses.

For power factory. None: The customer will normally be required to maintain a power factor at the point of delivery of not less than 90 percent lagging.

Any person desiring to make comments or suggestions for Commission consideration with respect to the foregoing should submit the same on or before April 14, 1949, to the Federal Power Commission, Washington 25, D. C.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-2447; Filed, Apr. 1, 1949; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2070]

DALLAS POWER & LIGHT CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION CONCERNING COMPETITIVE BIDDING, PERMITTING DECLARATION TO BECOME EFFECTIVE AND CONTINUING JURISDICTION WITH RESPECT TO LEGAL FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 29th day of March A. D. 1949.

Dallas Power & Light Company ("Dallas"), a direct subsidiary of Texas Utilities Company, a registered holding company, and an indirect subsidiary of American Power & Light Company and Electric Bond and Share Company, also registered holding companies, having filed a declaration, and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (a) and 7 thereof and Rule U-50 thereunder, regarding the issue and sale at competitive bidding of $10,000,000 principal amount of its First Mortgage Bonds ____% Series, due 1979; and

The Commission having by order dated March 17, 1949 permitted said declaration, as amended, to become effective subject to the condition that the proposed issue and sale of bonds not be consummated until the results of competitive bidding pursuant to Rule U-50 shall have been made a matter of record in this proceeding and a further order entered by the Commission in the light of the record so completed, and subject to a reservation of jurisdiction with respect to the payment of fees and expenses incurred or to be incurred in connection with the proposed transactions; and

Dallas having filed a further amendment to its declaration setting forth the action taken to comply with the requirements of Rule U-50 and stating that pursuant to the invitation for competitive bids the following bids for the bonds have been received:

Bidding group headed by—	Coupon rate	Price to company	Cost to company
Kidder, Peabody & Co.	2⅞	100.90900	2.8298
Equitable Securities Corp.	2⅞	100.88100	2.8312
Lehman Bros.	2⅞	100.71100	2.8396
Salomon Bros. & Hutzler	2⅞	100.68379	2.8409
Union Securities Corp.	2⅞	100.67000	2.8416
Halsey, Stuart & Co., Inc.	2⅞	100.61910	2.8441
Harriman, Ripley & Co., Inc.	2⅞	100.44500	2.8528
The First Boston Corp.	2⅞	100.36000	2.8570

Said amendment to the declaration having further set forth that Dallas has accepted the bid of Kidder Peabody & Co. as shown above and that said bonds will be offered for sale to the public at a price of 101.375% of the principal amount thereof plus accrued interest from April 1, 1949, to the date of delivery, resulting in an underwriters' spread of .466% of the principal amount of said bonds; and

The Commission having examined said amendment and having considered the record herein and finding no reason for imposing terms and conditions with respect to said matters;

It is ordered, That jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said bonds under Rule U-50 be and the same hereby is released, and that the said declaration, as amended, be, and the same hereby is, permitted to become effective forthwith, subject, however, to the terms and conditions contained in Rule U-24.

It is further ordered, That the reservation of jurisdiction contained in the order of March 17, 1949, herein with respect to legal fees and expenses in connection with the issue and sale of said bonds including fees payable to counsel for the successful bidders be, and the same hereby is, continued in full force and effect.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-2451; Filed, Apr. 1, 1949; 8:46 a. m.]

[File No. 70-2079]

ILLINOIS POWER CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of March 1949.

Illinois Power Company ("Illinois"), a subsidiary of The North American Company, a registered holding company, has filed an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act"), particularly section 6 (b) thereof and Rule U-50 of the rules and regulations promulgated thereunder, with respect to the following proposed transactions:

Illinois proposes to issue and sell, pursuant to the competitive bidding requirements of said Rule U-50, 200,000 shares of a new series of ____% Cumulative Serial Preferred Stock ("Preferred Stock"), par value $50 per share. The price, to be not less than par nor more than 102.75% of par, and the dividend rate, to be a multiple of ⅛ of 1%, are to be determined by the bidding.

The application states that all of the proceeds, exclusive of accrued dividends, from the sale of the Preferred Stock are to be used for the payment of outstanding short-term bank loans made in connection with financing Illinois' construction program. Such loans now amount to $10,000,000.

The aforementioned construction program, which involves the construction of generating stations and related facilities to provide substantially all of Illinois' power supply, calls for the estimated expenditure of $34,000,000 during 1949 and of $61,000,000 during 1950 to 1953, inclusive, a total of $95,000,000. It is estimated that approximately $60,000,000 of new financing, exclusive of the proposed Preferred Stock, will be required during such period.

The Illinois Commerce Commission has by order authorized the proposed issuance subject to consideration of the dividend rate of the Preferred Stock and the price to be received by the Company.

Said application and the amendments thereto having been duly filed and notice of the filing having been duly given in the form and manner prescribed by Rule U-23 promulgated under the act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said application, as amended, that the requirements of the applicable provisions of the act and the rules promulgated thereunder are satisfied, and that it is not necessary to impose any terms and conditions other than those set forth below to which the Company has consented, and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that the application, as amended, be granted and that the Commission's order herein become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the application, as amended, be, and hereby is, granted, effective forthwith, subject to (i) the terms and conditions prescribed by Rule U-24, (ii) the condition that the proposed issue and sale of Preferred Stock by Illinois shall not be consummated until the results of competitive bidding, pursuant to Rule U-50, have been made a matter of record in these proceedings and a further order shall have been entered by the Commission in the light of the record so completed, which order shall contain such further terms and conditions as may then be deemed appropriate, jurisdiction being reserved for such purpose, and (iii) the further condition that so long as any

shares of Preferred Stock are outstanding (and subject to any further order of the Commission upon application by Illinois):

(1) Illinois shall not pay any dividends on its Common Stock (other than dividends payable in Common Stock) or make any distribution on, or purchase or otherwise acquire for value, any of the shares of its Common Stock (each and all of such actions being hereinafter embraced in the term "payment of Common Stock dividends") except as follows:

(a) If and so long as the ratio of the capital represented by the Common Stock, including premiums on the Common Stock, of Illinois plus the surplus accounts of Illinois to the total capital and surplus accounts of Illinois at the end of the third calendar month immediately preceding the date of the proposed payment of Common Stock dividends adjusted to reflect the proposed payment of Common Stock dividends (which ratio is hereinafter referred to as the "capitalization ratio") is not less than 25%, Illinois shall make no payment of Common Stock dividends which would reduce such capitalization ratio below 25% except to the extent permitted under paragraphs (b) and (c) below:

(b) If and so long as such capitalization ratio is 20% or more, but less than 25%, then the payment of Common Stock dividends, including the proposed payment, during the twelve months period ending with and including the date of the proposed payment shall not exceed 75% of the net income of Illinois applicable to the Common Stock during the twelve calendar months ending with and including the third calendar month immediately preceding the date of the proposed payment of Common Stock dividends; and

(c) If and so long as such capitalization ratio is less than 20% then the payment of Common Stock dividends, including the proposed payment during the twelve months period ending with and including the date of the proposed payment shall not exceed 50% of the net income of Illinois applicable to the Common Stock during the twelve calendar months ending with and including the third calendar month immediately preceding the date of the proposed payment of Common Stock dividends.

For the purpose of this condition:

(A) The total capital of Illinois shall be deemed to consist of the aggregate of the principal amount of all outstanding indebtedness of Illinois represented by bonds, notes or other evidences of indebtedness maturing by their terms one year or more from the date of issue thereof and the aggregate amount of stated capital or par value represented by all the capital stock, including premiums on capital stock, of all classes of Illinois;

(B) Surplus accounts (including capital or paid-in surplus) upon which capitalization ratios are computed shall be adjusted to eliminate (i) the amount, if any, by which 15% of the gross operating revenues of Illinois (calculated in the manner provided in the covenants relating to dividends and distributions on capital stock embodied in indentures supplemental to the indentures securing the mortgage bonds of Illinois) for the entire period from January 1, 1946 to the end of the third calendar month immediately preceding the date of the proposed payment of Common Stock dividends exceeds the total amount expended by Illinois during such period for maintenance and repairs and the total provision made by Illinois during such period for depreciation, all as shown by the books of Illinois and (ii) any amounts on the books of Illinois known or estimated, if not known, to represent the excess, if any, of recorded value over original cost of used and useful utility plant and other property, and any item set forth on the asset side of the balance sheet of Illinois as a result of accounting convention, such as unamortized debt discount and expense, capital stock discount and expense, and the excess, if any, of the aggregate amount payable on involuntary dissolution, liquidation or winding up of Illinois upon all outstanding shares of preferred stock of all classes over the aggregate stated or par value of such shares, unless any such amount or item, as the case may be, is being amortized or is being provided for by a reserve; and

(C) In computing net income of Illinois applicable to the Common Stock of Illinois for any particular twelve months' period for the purpose of this condition, operating expenses, among other things shall include the greater of (i) the provision for depreciation for such period as recorded on the books of Illinois or (ii) the amount by which 15% of the gross operating revenues of Illinois for such period (calculated in the manner provided in the above-mentioned covenants relating to payment of Common Stock dividends) exceeds the total amount expended by Illinois during such period for maintenance and repairs as shown by the books of Illinois.

(2) Illinois shall not, without the consent (given by vote at a meeting called for that purpose) of the holders of at least a majority of the total number of shares of the Preferred Stock then outstanding, issue any unsecured notes, debentures or other securities representing unsecured indebtedness, or assume any such unsecured indebtedness, for purposes other than:

(i) The refunding of outstanding unsecured indebtedness theretofore issued or assumed by Illinois,

(ii) The reacquisition, redemption or other retirement of any indebtedness which reacquisition, redemption or other retirement has been authorized by the Securities and Exchange Commission under the provisions of the Public Utility Holding Company Act of 1935 or by any successor commission or other regulatory authority of the United States of America, or

(iii) The reacquisition, redemption or other retirement of all outstanding shares of Serial Preferred Stock, or of any other class of stock ranking prior to or on a parity with the Serial Preferred Stock as to dividends or other distributions,

if immediately after such issue or assumption the total principal amount of all unsecured notes, debentures or other securities representing unsecured indebtedness issued or assumed by Illinois including unsecured indebtedness then to be issued or assumed (but excluding the principal amount then outstanding of any unsecured notes, debentures or other securities representing unsecured indebtedness having a maturity in excess of ten (10) years and in amount not exceeding ten percent (10%) of the aggregate of (a) and (b) of this paragraph below) would exceed ten percent (10%) of the aggregate of

(a) The total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by Illinois and then to be outstanding, and

(b) The capital and surplus of Illinois as then to be stated on the books of account of Illinois.

When unsecured notes, debentures or other securities representing unsecured debt of a maturity in excess of ten (10) years shall become of a maturity of ten (10) years or less, it shall then be regarded as unsecured debt of a maturity of less than ten (10) years and shall be computed with such debt for the purpose of determining the percentage ratio of unsecured debt of a maturity of less than ten (10) years to the sum of (a) and (b) above; furthermore, when unsecured notes, debentures or other securities representing unsecured debt of maturity of less than ten (10) years shall exceed ten percent (10%) of the sum of (a) and (b) above, no additional unsecured notes, debentures or other securities representing unsecured debt shall be issued or assumed (except for the purposes set forth in (i), (ii) and (iii) above) until such ratio is reduced to ten percent (10%) of the sum of (a) and (b) above.

(3) Illinois shall not, without the consent (given by vote at a meeting called for that purpose) of the holders of at least a majority of the total number of shares of the Preferred Stock then outstanding, merge or consolidate with or into any other corporation or corporations unless such merger or consolidation, or the issuance and assumption of all securities to be issued or assumed in connection with any such merger or consolidation, shall have been ordered, approved or permitted by the Securities and Exchange Commission under the provisions of the Public Utility Holding Company Act of 1935 or by any successor commission or regulatory authority of the United States of America having jurisdiction in the premises; provided that the provisions of this clause shall not apply to a purchase or other acquisition by Illinois of franchises or assets of another corporation in any manner which does not involve a merger or consolidation.

(4) In the case of the redemption of a part only of any shares of the Preferred Stock at the time outstanding, Illinois shall not select the shares, or cause or permit a selection of the shares, so to be redeemed, except by lot or in such other impartial manner as the Board of Directors may determine.

(5) Illinois shall not, without the consent (given by vote at a meeting called for that purpose) of the holders of at least two-thirds of the total number of

shares of the Preferred Stock then outstanding, issue, sell, or otherwise dispose of any shares of the Serial Preferred Stock in addition to the shares of the Preferred Stock covered hereby, or of any other class of stock ranking prior to, or on a parity with, the Preferred Stock as to dividends, in liquidation, dissolution, winding up or distribution, unless

(a) The gross income of Illinois determined in accordance with generally accepted accounting practices (but in any event after deducting the amount charged by Illinois on its books to depreciation expense and all taxes), for a period of twelve (12) consecutive calendar months within the fifteen (15) calendar months immediately preceding the issuance, sale or disposition of such stock, to be available for the payment of interest, shall have been at least one and one-half (1½) times the sum of (i) the annual interest charges on all interest bearing indebtedness of Illinois and (ii) the annual dividend requirements on all outstanding shares of the Preferred Stock and of all other classes of stock ranking prior to, or on a parity with, the Preferred Stock as to dividends or distributions, including the shares proposed to be issued; provided that there shall be excluded from the foregoing computation, interest charges on all indebtedness and dividends on all shares of stock which are to be retired in connection with the issue of such additional shares of Serial Preferred Stock or other class of stock ranking prior to, or on a parity with, the Preferred Stock as to dividends or distributions; and provided, further, that in any case where such additional shares of Serial Preferred Stock or other class of stock ranking prior to or on a parity with the Preferred Stock as to dividends or distributions, are to be issued in connection with the acquisition of new property, the net earnings of the property to be so acquired may be included on a pro forma basis in the foregoing computation, computed on the same basis as the net earnings of Illinois; and

(b) The aggregate of the capital of Illinois applicable to the Common Stock and the surplus of Illinois shall be not less than the aggregate amount payable on the involuntary dissolution, liquidation or winding up of Illinois, in respect of all shares of the Serial Preferred Stock and all shares of stock, if any, ranking prior thereto, or on a parity therewith, as to dividends or distributions, which will be outstanding after the issue of the shares proposed to be issued; provided, that if, for the purposes of meeting the requirements of this paragraph, it becomes necessary to take into consideration any earned surplus of Illinois, Illinois shall not thereafter pay any dividends on shares of the Common Stock which would result in reducing Illinois' Common Stock Equity (the words "Common Stock Equity" meaning the sum of the stated value of the outstanding Common Stock and the earned surplus and the capital and paid-in surplus of Illinois, whether or not available for the payment of dividends on the Common Stock) to an amount less than the aggregate amount payable, on dissolution, winding up or involuntary liquidation of Illinois, on all shares of the Serial Preferred Stock and of any stock ranking prior to, or on a parity with, the Preferred Stock, as to dividends or other distributions, at the time outstanding.

It is further ordered, That the ten-day period for inviting bids on the Preferred Stock as provided by Rule U-50, be, and hereby is, shortened to six days.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-2450; Filed, Apr. 1, 1949; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12924]

PETER HUTH

In re: Estate of Peter Huth, deceased. File No. D-28-7810; E. T. sec. 8390.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Franz Wainer, Emil Wainer, Peter Huth, Maria Huth, Nikel (Mikel) Brill, Herta Weber, Johann Bernarding, Johanna Bernarding, and Karl Huth, whose last known address was, on September 9, 1948, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of $18,000.00 was paid to the Attorney General of the United States by Samuel Silverman, Executor of the estate of Peter Huth, deceased;

3. That the said sum of $18,000.00 was accepted by the Attorney General of the United States on September 9, 1948, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $18,000.00 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on September 9, 1948, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2483; Filed, Apr. 1, 1949; 8:53 a. m.]

[Vesting Order 12936]

WILLIAM FRED STENZEL

In re: Estate of William Fred Stenzel, a/k/a William Stenzel, deceased. File No. D-28-10261; E. T. sec. 14649.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johanna Guettler Exner, Emma Guettler, Karl Guenther Guettler, and Heinz Georg Guettler, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of William Fred Stenzel, a/k/a William Stenzel, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Margaret Seifert, as administratrix, acting under the judicial supervision of the Probate Court of Leavenworth County, Kansas;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2484; Filed, Apr. 1, 1949; 8:53 a. m.]

[Vesting Order 12959]

MARIA VON BORSTEL

In re: Cash owned by Maria Von Borstel, also known as Marie Von Borstel. F-28-24049-E-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Maria Von Borstel, also known as Marie Von Borstel, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: Cash in the sum of $670.70, presently in the possession of the Treasury Department of the United States in Trust Fund Account, Symbol 158915, "Deposits, Funds of Civilian Internees and Prisoners of War," and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Maria Von Borstel, also known as Marie Von Borstel, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2436; Filed, Mar. 31, 1949; 8:47 a. m.]

[Vesting Order 12976]

GUSTAVUS A. PFEIFFER AND CITY BANK FARMERS TRUST CO.

In re: Trust agreement dated April 9, 1932 between Gustavus A. Pfeiffer, donor, and City Bank Farmers Trust Company, trustee. File No. F-28-5222-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Olga Kluftinger Schroeter, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated April 9, 1932, by and between Gustavus A. Pfeiffer, donor, and City Bank Farmers Trust Company, trustee, including but not limited to the right of Olga Kluftinger Schroeter to request sum or sums from the principal of the trust fund, presently being administered by City Bank Farmers Trust Company, as trustee, 22 William Street, New York 15, New York, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2485; Filed, Apr. 1, 1949; 8:53 a. m.]

[Vesting Order 12977]

AGNES ROWOLD ET AL.

In re: Declaration of trust dated March 22, 1928, by Security Trust and Savings Bank for the benefit of Agnes Rowold et al. File No. D-28-4032-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Agnes Rowold, Augusta (Auguste) Kistemaker and Elizabeth (Elisabeth) Heyl, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the Domiciliary personal representatives, heirs at law, next of kin, legatees and distributes, names unknown, of Johanna Ohm, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that certain instrument entitled "Declaration of Trust" executed by Security Trust and Savings Bank on March 22, 1928, and in and to the property presently being administered under said instrument by Security-First National Bank of Los Angeles, Sixth and Spring Streets, Los Angeles, California, trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs at law, next of kin, legatees and distributees, names unknown, of Johanna Ohm, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2486; Filed, Apr. 1, 1949; 8:53 a. m.]

[Vesting Order 12019]

T. J. YAMANAKA

In re: Bank account and other property owned by T. J. Yamanaka also known as Jinjura Yamanaka and as Jinjuro Yamanaka and T. Mizutani. F–39–4116–E–1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That T. J. Yamanaka also known as Jinjura Yamanaka and as Jinjuro Yamanaka, whose last known address is Aichi-Ken, Nakashima-Gun, Heiwa-Mura, Japan, and T. Mizutani, whose last known address is Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation owing to T. J. Yamanaka also known as Jinjura Yamanaka and as Jinjuro Yamanaka, by Bank of American National Trust and Savings Association, Los Angeles, California, arising out of a savings account, account numbered 305–A, entitled T. J. Yamanaka, maintained at the Lancaster branch office of the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, T. J. Yamanaka also known as Jinjura Yamanaka and as Jinjuro Yamanaka, the aforesaid national of a designated enemy country (Japan);

3. That the property described as follows: Household furniture and personal property described in Exhibit A attached hereto and by reference made a part hereof, and presently located on real property described as follows:

The South 60 acres of the North 120 acres of the Southwest quarter Section 11, Township 8 North range 13 West, S. B. M. in County of Los Angeles, State of California,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by T. J. Yamanaka also known as Jinjura Jamanaka and as Jinjuro Yamanaka and T. Mizutani, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 25, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

EXHIBIT A

Quantity:	*Item*
1	16-gage shot gun.
1	Coleman gasoline stove.
1	Electric refrigerator (GE—CA2B15).
1	Piano.
1	Wood stove.
9	Beds and mattresses.
1	Book desk.
1	Convertible desk.
1	Washing machine (No. 28208).
10	Chairs.
1	Singer sewing machine.

[F. R. Doc. 49–2439; Filed, Mar. 31, 1949; 8:47 a. m.]

[Vesting Order 12980]

HENRY F. SCHWARZ AND LINCOLN NATIONAL BANK OF NEW YORK

In re: Trust agreement dated June 23, 1922, between Henry F. Schwarz, settlor, and Lincoln National Bank of New York, trustee. File No. D–28–10612–G–1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margarete Engel, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated June 23, 1922, by and between Henry F. Schwarz, settlor, and Lincoln National Bank of New York, trustee, presently being administered by The Chase National Bank of the City of New York, trustee, 11 Broad Street, New York 15, New York, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49–2438; Filed, Mar. 31, 1949; 8:47 a. m.]