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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter II—The Loyalty Review Board

PART 220—DIRECTIVES TO DEPARTMENTS AND AGENCIES; CASES OF INCUMBENT AND EXCEPTED EMPLOYEES AND EXCEPTED APPLICANTS

PART 230—DIRECTIVES TO REGIONAL LOYALTY BOARDS; CASES OF APPLICANTS AND APPOINTEES IN THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. The following paragraph is added at the end of § 220.2 (a) (6):

§ 220.2 *Directive II; initial consideration of loyalty cases*—(a) *Standard; activities and associations.* * * *

(6) * * *

In the exceptional situation where the board deems it imperative in its treatment of a case to have a characterization of an organization not listed by the Attorney General, request therefor should be in writing to the Loyalty Review Board.

2. The following sentence is added to § 220.4 (a):

§ 220.4 *Directive IV; determinations, appeals and advisory recommendations*—(a) *Records of determinations* * * *. In making its determination in every unfavorable case, the board shall state in writing whether or not the case falls within the purview of section 9A of the Hatch Act and the applicable appropriation act.

3. The following paragraph is added at the end of § 230.2 (a) (6):

§ 230.2 *Directive II; initial consideration of loyalty cases*—(a) *Standard; activities and associations.* * * *

(6) * * *

In the exceptional situation where the board deems it imperative in its treatment of a case to have a characterization of an organization not listed by the Attorney General, request therefor should be in writing to the Loyalty Review Board.

4. The following sentence is added to § 230.4 (a):

§ 230.4 *Directive IV; records of decisions and appeals*—(a) *Records of decisions* * * *. In making its decision in every unfavorable case, the board shall state in writing whether or not the case falls within the purview of section 9A of the Hatch Act and the applicable appropriation act.

(E. O. 9835, Mar. 21, 1947; 12 F. R. 1935, 3 CFR 1947 Supp.)

LOYALTY REVIEW BOARD,
U. S. CIVIL SERVICE COMMISSION,
WILBUR LAROE, Jr.,
Acting Chairman.

[F. R. Doc. 49-1458; Filed, Feb. 25, 1949; 8:45 a. m.]

TITLE 7—AGRICULTURE

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

[Grapefruit Reg. 110]

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

LIMITATION OF SHIPMENTS

§ 933.430 *Grapefruit Regulation 110*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps. Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available

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FEDERAL REGISTER

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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) Grapefruit Regulation 109 (14 F. R. 503) is hereby terminated as of the effective time of this regulation.

(2) During the period beginning at 12:01 a. m., e. s. t., February 26, 1949, and ending at 12:01 a. m., e. s. t., July 31, 1949, no handler shall ship:

(i) Any grapefruit of any variety, grown in the State of Florida, which grade U. S. No. 3, or lower than U. S. No. 3 grade;

(ii) Any seeded grapefruit, other than pink grapefruit, grown in the State of Florida which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box;

(iii) Any pink seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box;

(iv) Any seedless grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 126 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(3) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order; and the term "U. S. No. 3," "standard pack," and "standard nailed box" shall each have the same meaning as when used in the United States Standards for Grapefruit (13 F. R. 4787). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 23d day of February 1949.

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

[F. R. Doc. 49-1497; Filed, Feb. 25, 1949; 9:05 a. m.]

[Orange Reg. 161]

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

LIMITATION OF SHIPMENTS

§ 933.429 *Orange Regulation 161*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps. Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., February 28, 1949, and ending at 12:01 a. m., e. s. t., March 28, 1949, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in Regulation Area I which grade U. S. No. 2 Bright, U. S. No. 2, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade;

(ii) Any oranges, except Temple oranges, grown in Regulation Area II which grade U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade;

(iii) Any oranges, except Temple oranges, grown in Regulation Area II which grade U. S. No. 2 or U. S. No. 2 Bright unless such oranges (*a*) are in the same container with oranges which grade at least U. S. No. 1 Russet and (*b*) are not in excess of 50 percent, by count, of the number of all oranges in such container; or

(iv) Any oranges, except Temple oranges, grown in Regulation Area I or Regulation Area II which are of a size (*a*) smaller than a size that will pack 288 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box, or (*b*) larger than a size that will pack 126 oranges, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(2) As used in this section, the terms "handler," "ship," "Regulation Area I," and "Regulation Area II" shall each have the same meaning as when used in said amended marketing agreement and order; and the terms "U. S. No. 1 Russet," "U. S. No. 2 Bright," "U. S. No. 2," "U. S. No. 2 Russet," "U. S. No. 3," "standard pack," "container," and "standard nailed box" shall each have the same meaning as when used in the United States Standards for Oranges (13 F. R. 5174, 5306). Shipments of Temple oranges grown in the State of Florida are subject to the provisions of Orange Regulation 159 (14 F. R. 501, 637). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR and Supps. Part 933)

Done at Washington, D. C., this 24th day of February 1949.

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

[F. R. Doc. 49-1524; Filed, Feb. 25, 1949; 10:09 a. m.]

[Tangerine Reg. 84]

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

LIMITATION OF SHIPMENTS

§ 933.431 *Tangerine Regulation 84*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR and Supps. Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, 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 regulation 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) Tangerine Regulation 83 (14 F. R. 503) is hereby terminated as of the effective time of this regulation.

(2) During the period beginning at 12:01 a. m., e. s. t., February 28, 1949, and ending at 12:01 a. m., e. s. t., July 31, 1949, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, unless such tangerines grade at least U. S. No. 2 Russet: *Provided*, That, with respect to each container of such tangerines, the total tolerance for dryness or mushy condition permitted for such U. S. No. 2 Russet grade shall be increased by an additional 5 percent, by count.

(3) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order; and "U. S. No. 2 Russet" and "standard pack" shall each have the same meaning as is given to the respective term in the United States Standards for Tangerines (13 F. R. 4790). (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR and Supps. Part 933)

Done at Washington, D. C., this 24th day of February 1949.

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

[F. R. Doc. 49-1522; Filed, Feb. 25, 1949; 10:09 a. m.]

[Lemon Reg. 308]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.415 *Lemon Regulation 308*—(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. 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 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., February 27, 1949, and ending at 12:01 a. m., P. s. t., March 6, 1949, is hereby fixed as follows:

(i) District 1: 225 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 hereto 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 24th day of February 1949.

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

PRORATE BASE SCHEDULE

DISTRICT NO. 1

Storage date: February 20, 1949

[12:01 a. m. Feb. 27, 1949, to 12:01 a. m. Mar. 13, 1949]

Handler	*Prorate base (percent)*
Total	100.000
American Fruit Growers, Inc., Corona	.250
American Fruit Growers, Inc., Fullerton	.405
American Fruit Growers, Inc., Lindsay	.000
American Fruit Growers, Inc., Upland	.708
Hazeltine Packing Co	2.354
Ventura Coastal Lemon Co	1.704
Ventura Pacific Co	2.386
Total A. F. G	7.807
Klink Citrus Association	1.107
Lemon Cove Association	.536
Glendora Lemon Growers Association	2.638
La Verne Lemon Association	1.119
La Habra Citrus Association, The	1.186
Yorba Linda Citrus Association, The	.960
Escondido Lemon Association	3.101
Alta Loma Heights Citrus Association	.397
Etiwanda Citrus Fruit Association	.625
Mountain View Fruit Association	.437
Old Baldy Citrus Association	1.084
Upland Lemon Growers Association	6.418
Central Lemon Association	.357
Irvine Citrus Association, The	1.102
Placentia Mutual Orange Association	.328
Corona Citrus Association	.365
Corona Foothill Lemon Co	1.079
Jameson Company	.991
Arlington Heights Citrus Co	.450
College Heights Orange & Lemon Association	3.686
Chula Vista Citrus Association, The	.757
El Cajon Valley Citrus Association	.397
Fallbrook Citrus Association	3.469
Lemon Grove Citrus Association	.546
San Dimas Lemon Association	2.700
Carpinteria Lemon Association	1.753
Carpinteria Mutual Citrus Association	2.042
Goleta Lemon Association	2.018
Johnston Fruit Co	4.035
North Whittier Heights Citrus Association	.820
San Fernando Heights Lemon Association	4.399
Sierra Madre-Lamanda Citrus Association	2.884
Tulare County Lemon & Grapefruit Association	.606
Briggs Lemon Association	.958
Culbertson Lemon Association	.439
Fillmore Lemon Association	2.741
Oxnard Citrus Association	5.819
Rancho Sespe	.694
Santa Clara Lemon Association	.000
Santa Paula Citrus Fruit Association	3.045
Saticoy Lemon Association	2.403
Seaboard Lemon Association	2.974
Somis Lemon Association	1.707
Ventura Citrus Association	.695
Limoneira Co	2.783
Teague-McKevett Association	.536
East Whittier Citrus Association	.446
Leffingwell Rancho Lemon Association	.061
Murphy Ranch Co	1.046
Whittier Citrus Association	.213

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 1—continued

Handler	Prorate base (percent)
Whittier Select Citrus Association	0.028
Total C. F. G. E.	80.980
Chula Vista Mutual Lemon Association	.629
Escondido Cooperative Citrus Association	.431
Index Mutual Association	.271
La Verne Cooperative Citrus Association	3.758
Orange Belt Fruit Distributors	2.959
Orange Cooperative Citrus Association	.142
Ventura County Orange & Lemon Association	2.253
Whittier Mutual Orange & Lemon Association	.268
Total M. O. D.	10.711
California Citrus Groves, Inc., Ltd.	.000
Dunning, William A.	.014
El Rio Lemon Co.	.100
Evans Brothers Packing Co.	.020
Flint, Arthur E.	.000
Harding & Leggett	.000
Johnson, Fred	.001
Lorbeer, Carroll W. C.	.019
MacDonald, Hugh J.	.012
Reimers, Don H.	.000
Ricca, Lawrence J.	.000
Sachs, Maurice A.	.031
San Antonio Orchard Co.	.269
Sarnoff, Irving	.016
Sentinel Butte Corp.	.000
Tetley, F. A., Jr.	.000
Torn Ranch	.000
Winkler, William	.020
Zaninovich Bros., Inc.	.000
Total independents	.502

[F. R. Doc. 49-1521; Filed, Feb. 25, 1949; 10:09 a. m.]

[Orange Reg. 269]

PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 966.415 *Orange Regulation 269*—(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., February 27, 1949, and ending at 12:01 a. m., P. s. t., March 6, 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: No movement.

(ii) *Oranges other than Valencia oranges.* (*a*) Prorate District No. 1: Unlimited movement; (*b*) Prorate District No. 2: 625 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 25th day of February 1949.

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

PRORATE BASE SCHEDULE

[12:01 a. m. Feb. 27, 1949, to 12:01 a. m. Mar. 6, 1949]

ALL ORANGES OTHER THAN VALENCIA ORANGES

Prorate District No. 2

Handler	Prorate base (percent)
Total	100.0000
A. F. G. Alta Loma	.3676
A. F. G. Corona	.3755
A. F. G. Fullerton	.0474
A. F. G. Orange	.0408
A. F. G. Riverside	.6774
Hazeltine Packing Co.	.0980
Placentia Pioneer Valencia Growers Association	.0651
Signal Fruit Association	.8841
Azusa Citrus Association	1.3504
Damerel-Allison Co.	1.1135
Glendora Mutual Orange Association	.5816
Irwindale Citrus Association	.4770
Puente Mutual Citrus Association	.0495
Valencia Heights Orchards Association	.2108
Covina Citrus Association	1.6973
Covina Orange Growers Association	.5082
Glendora Citrus Association	.9791
Glendora Heights Orange & Lemon Growers Association	.1726
Gold Buckle Association	3.2547
La Verne Orange Association	8.8796
Anaheim Citrus Fruit Association	.0878

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
Anaheim Valencia Orange Association	0.0264
Eadington Fruit Co., Inc.	.3410
Fullerton Mutual Orange Association	.2869
La Habra Citrus Association	.1240
Orange County Valencia Association	.0061
Orangethorpe Citrus Association	.0240
Placentia Cooperative Orange Association	.0328
Yorba Linda Citrus Association, The	.0117
Escondido Orange Association	.4352
Alta Loma Heights Citrus Association	.3212
Citrus Fruit Growers	.9189
Cucamonga Citrus Association	.3450
Etiwanda Citrus Fruit Association	.2144
Mountain View Fruit Association	.1466
Old Baldy Citrus Association	.3710
Rialto Heights Orange Growers	.3847
Upland Citrus Association	2.2080
Upland Heights Orange Association	1.0062
Consolidated Orange Growers	.0246
Frances Citrus Association	.0109
Garden Grove Citrus Association	.0236
Goldenwest Citrus Association	.0987
Olive Heights Citrus Association	.0404
Santa Ana-Tustin Mutual Citrus Association	.0216
Santiago Orange Growers Association	.1458
Tustin Hills Citrus Association	.0378
Villa Park Orchard Association	.0382
Bradford Brothers, Inc.	.2372
Placentia Mutual Orange Association	.1648
Placentia Orange Growers Association	.2495
Yorba Orange Growers Association	.0397
Call Ranch	.6114
Corona Citrus Association	.9849
Jameson Co.	.3765
Orange Heights Orange Association	1.5281
Crafton Orange Growers Association	1.2122
East Highlands Citrus Association	.4127
Fontana Citrus Association	.4409
Highland Fruit Growers Association	.6612
Redlands Heights Groves	.8513
Redlands Orangedale Association	.9763
Break & Son, Allen	.2441
Bryn Mawr Fruit Growers Association	.9537
Mission Citrus Association	.7842
Redlands Cooperative Fruit Association	1.5483
Redlands Orange Growers Association	1.0113
Redlands Select Groves	.3597
Rialto Citrus Association	.6340
Rialto Orange Co.	.3067
Southern Citrus Association	.7252
United Citrus Growers	.6598
Zilen Citrus Co.	.6769
Andrews Bros. of California	.3065
Arlington Heights Citrus Co.	.8570
Brown Estate, L. V. W.	1.8397
Gavilan Citrus Association	1.5932
Hemet Mutual Groves	.1769
Highgrove Fruit Association	.6645
Krinard Packing Co.	1.8011
McDermont Fruit Co.	1.9866
Monte Vista Citrus Association	1.3478
National Orange Co.	.9106
Riverside Heights Orange Growers Association	1.2817
Sierra Vista Packing Association	.8288
Victoria Avenue Citrus Association	2.5994
Claremont Citrus Association	1.0533
College Heights Orange and Lemon Association	1.2179

PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

Prorate District No. 2—Continued

Handler	Prorate base (percent)
El Camino Citrus Association	0.4390
Indian Hill Citrus Association	1.2682
Pomona Fruit Growers Exchange	1.7949
Walnut Fruit Growers Association	.4938
West Ontario Citrus Association	1.1517
El Cajon Valley Citrus Association	.2784
San Dimas Orange Growers Association	1.2400
Ball & Tweedy Association	.0788
Canoga Citrus Association	.0756
Covina Valley Orange Co	.2019
North Whittier Heights Citrus Association	.1493
San Fernando Fruit Growers Association	.3999
San Fernando Heights Orange Association	.4017
Sierra Madre-Lamanda Citrus Association	.2704
Camarillo Citrus Association	.0107
Fillmore Citrus Association	1.2148
Ojai Orange Association	.8916
Piru Citrus Association	1.1759
Santa Paula Orange Association	.1299
Tapo Citrus Association	.0069
Ventura County Citrus Association	.0275
East Whittier Citrus Association	.0100
Whittier Citrus Association	.2212
Whittier Select Citrus Association	.0357
Anaheim Cooperative Orange Association	.0602
Bryn Mawr Mutual Orange Association	.5090
Chula Vista Mutual Lemon Association	.1400
Escondido Cooperative Citrus Association	.0909
Euclid Avenue Orange Association	3.0570
Fullerton Cooperative Orange Association	.0313
Garden Grove Orange Cooperative, Inc	.0332
Golden Orange Groves, Inc	.3003
Highland Mutual Groves	.3274
Index Mutual Association	.0042
La Verne Cooperative Citrus Association	3.4201
Mentone Heights Association	.6081
Olive Hillside Groves, Inc	.0149
Orange Cooperative Citrus Association	.0339
Redlands Foothill Groves	2.6795
Redlands Mutual Orange Association	.9199
Riverside Citrus Association	.2499
Ventura County Orange & Lemon Association	.2025
Whittier Mutual Orange & Lemon Association	.0230
Babijuice Corp. of California	.4843
Cherokee Citrus Co., Inc	1.0414
Chess Co., Meyer W	.3523
Evans Brothers Packing Co	1.0921
Gold Banner Association	2.0754
Granada Packing House	.3365
Hill Packing House, Fred A	.6199
Inland Fruit Dealers, Inc	.1167
MacDonald Fruit Co	.1420
Orange Belt Fruit Distributors	2.0825
Panno Fruit Co., Carlo	.0967
Paramount Citrus Association	.4019
Placentia Orchard Co	.0697
San Antonio Orchard Co	1.1686
Snyder & Sons Co., W. A	.4474
Torn Ranch	.0288
Wall, E. T	1.8805
Western Fruit Growers, Inc., Redlands	2.9089

[F. R. Doc. 49-1543; Filed, Feb. 25, 1949; 11:34 a. m.]

TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subchapter A—Board of Governors of the Federal Reserve System

PART 201—DISCOUNTS FOR AND ADVANCES TO MEMBER BANKS BY FEDERAL RESERVE BANKS

MISCELLANEOUS AMENDMENTS

In order that notes evidencing loans made pursuant to commodity loan programs of the Commodity Credit Corporation shall not be subject to the requirement that a note be negotiable in order to be discounted by a Federal Reserve Bank, that such notes may be made eligible for discount, and that such notes and certificates of interest therein may be made acceptable as security for advances to member banks by Federal Reserve Banks, Part 201 is amended, effective February 17, 1949, in the following respects:

1. The last sentence of paragraph (h) of § 201.1 is amended to read as follows:

§ 201.1 *Discount of notes, drafts, and bills of member banks.* * * *

(h) *Determination of eligibility.* * * * The requirement of this section that a note be negotiable shall not be applicable with respect to any note evidencing a loan which is made pursuant to a commodity loan program of the Commodity Credit Corporation and which is subject to a commitment to purchase by the Commodity Credit Corporation.

2. Paragraph (a) of § 201.2 is amended by adding thereto a new sentence reading as follows:

§ 201.2 *Advances to member banks—*(a) *Advances on eligible paper.* * * * In the event notes which evidence loans made pursuant to a commodity loan program of the Commodity Credit Corporation and which comply with the maturity requirements of paragraph (a) of § 201.1 have been deposited in a pool of notes operated by the Commodity Credit Corporation, the certificate of interest issued by the Commodity Credit Corporation which evidences the deposit of such notes may be accepted as security for an advance made to a member bank under this section.

The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed 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, and especially because in connection with this amendment which relieves certain restrictions such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 3, 48 Stat. 163; sec. 3, 40 Stat. 234; 42 Stat. 821; sec. 204, 49 Stat. 705; sec. 11 (i), 38 Stat. 262; sec. 402, 42 Stat. 1478, 1479, 45 Stat. 975, 46 Stat. 162; sec. 403, 42 Stat. 1479; sec. 9, 48 Stat. 180; sec. 16 (a), 48 Stat. 348; sec. 7 (a), 48 Stat. 646; 39 Stat. 753; sec. 5, 40 Stat. 235; 39 Stat. 754; sec. 404, 42 Stat. 1479; sec. 5, 47 Stat. 160; sec. 10, 40 Stat. 239; sec. 505 (b), 48 Stat. 1263; 12 U. S. C. 301, 330, 347b, 248 (i), 343, 347, 361, 372, 373, 348–349, 351, 352, 374, 371)

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

[F. R. Doc. 49-1460; Filed, Feb. 25, 1949; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d Gen. Rev. of Export Regs., Amdt. 47]

PART 374—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

WEIGHT AND VOLUME TOLERANCE

Section 374.4 *Weight and volume tolerance* is amended in the following particulars:

Paragraph (e) is amended to read as follows:

(e) Whenever one or more partial shipments of the licensed commodity have been made, the license remains valid only for the unshipped balance of the licensed commodity plus ten percent (10%) of such balance, except that, in the case of shipments of iron and steel products (processing code STEE), the tolerance of ten percent (10%) shall be applicable as provided in paragraph (c) of this section regardless of whether partial shipments are made.

(Sec. 6, 54 Stat. 714, as amended, 61 Stat. 945; 50 U. S. C. app., Sup., 633, 50 U. S. C. App. and Sup. 701; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective February 15, 1949.

Dated: February 21, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-1485; Filed, Feb. 25, 1949; 8:56 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 249—FORMS PRESCRIBED UNDER THE SECURITIES EXCHANGE ACT OF 1934

FORMS FOR REGISTRATION OF AND REPORTING BY NATIONAL SECURITIES ASSOCIATIONS AND AFFILIATED SECURITIES ASSOCIATIONS

The Securities and Exchange Commission, deeming it appropriate in the public interest and necessary for the execution of the functions vested in it, and acting pursuant to authority conferred

upon it by the Securities Exchange Act of 1934, particularly sections 15A and 23 (a) thereof, hereby amends Item 6 of Form X-15AA-1 (17 CFR 249.801) and Item 6 of Form X-15AJ-2 (17 CFR 249.803) to read as follows:

6 (a) The following information concerning officers, directors (or persons occupying similar status or performing similar functions), the chairman of the national business conduct committee, and the chairman of each regional business conduct committee: (1) Name; (2) title; (3) name of firm with which such person is associated; (4) location (city and state) of the particular office of the firm with which such person is connected; and (5) periods during which the present incumbent has held the same office or position.

(b) The following information for each national and regional standing committee: (1) Name of each member; (2) name of firm with which such member is associated; (3) location (city and state) of the particular office of the firm with which such person is connected.

The Commission finds that notice and public procedure pursuant to sections 4 (a) and (b) of the Administrative Procedure Act are unnecessary since the amendment is minor in nature, only one national association of securities dealers is now registered and will be affected by the modification, and it appears improbable that its adoption will be objectionable to any person. The Commission further finds that the amendment has the effect of relieving restriction or granting exemption from some previous requirements, and declares the amendment effective immediately pursuant to section 4 (c) of the Administrative Procedure Act.

(Sec. 23, 48 Stat. 901, as amended, sec. 1, 52 Stat. 1070; 15 USC 78 o-3 78w)

Effective: February 21, 1949.

By the Commission.

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

FEBRUARY 18, 1949.

[F. R. Doc. 49-1468; Filed, Feb. 25, 1949; 8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52155]

PART 3—DOCUMENTATION OF VESSELS

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

ABSTRACTS OF TITLE, INDEXING, FEES

1. Paragraphs (b), (c), and (d) of § 3.17, Customs Regulations of 1943 (19 CFR, Cum Supp., 3.17 (b), (c), (d)), as amended by Treasury Decision 51610 (12 F. R. 631), are further amended by deleting the words and figures "customs Form 1331" wherever they appear and by substituting in lieu thereof the following: "customs Form 1332, or customs Forms 1332 and 1332-A."

(R. S. 161, sec. 2, 23 Stat. 118, sec. 30, subsec. W, 41 Stat. 1006; 5 U. S. C. 22, 46 U. S. C. 2, 983. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV).

2. Section 3.33, Customs Regulations of 1943 (19 CFR, Cum. Supp., 3.33), as amended by Treasury Decisions 51049 (9 F. R. 4679), 51172 (10 F. R. 2), and 51934 (13 F. R. 3112), is further amended as follows:

a. The third sentence of paragraph (c) is amended to read as follows: "The collector shall record all such instruments and certificates of discharge of mortgages in the order of their receipt in books to be kept for that purpose and hereafter indexed on customs Form 1332, continued if necessary on customs Form 1332-A, to show (1) the name of the vessel, (2) the names of the parties to the instrument, (3) the kind and date of the instrument, (4) the interest transferred, mortgaged or discharged, (5) the date, hour, and minute the instrument was received, (6) the book in which the instrument is recorded, (7) the number assigned to the instrument, (8) in the case of a bill of sale or conveyance, the consideration stated in the instrument, and (9) in the case of a mortgage or certificate of discharge of mortgage, the amount and date of maturity of the mortgage."

b. Paragraph (e) is amended by deleting the words and figures "customs Form 1360" wherever they appear and by substituting in lieu thereof the words and figures "customs Form 1332, continued if necessary on customs Form 1332-A."

c. Paragraphs (i) and (l) are rescinded, paragraphs (j) and (k) are redesignated (i) and (j), respectively, and the following new paragraphs are added:

(k) Any abstract of title of a vessel furnished by the collector of customs at the home port of the vessel shall be on customs Form 1332, continued if necessary on customs Form 1332-A, and shall include a statement of the particulars of any notice of claim of lien upon the vessel which has been recorded, and a copy of any entry in the index with respect to a decree of distribution of the estate of a deceased owner or an order of a referee or court appointing a trustee in bankruptcy.

(l) When the home port of a vessel is changed, whether or not any change in title occurs, the collector of customs at the old home port, upon request of the owner of the vessel, shall forward in duplicate to the collector at the new home port an abstract of title of the vessel, which shall bear at the end thereof the following endorsement:

I certify that the foregoing, which is issued in accordance with the provisions of § 3.33 (1), Customs Regulations of 1943, incident to a change in home port, is a true abstract of title of the vessel described above, as appears by the records of this office.

_____ _____,
Deputy Collector.

Port_____
Date_____

(m) The collector at the new home port of a vessel shall record the abstract of title of the vessel forwarded to him in accordance with paragraph (l) of this section, and no bill of sale, mortgage, hypothecation, conveyance, release, satisfaction, assignment, notice of claim of lien, court order conveying title or other instrument shall be recorded at the new home port until such abstract has been received and recorded.

(n) When an abstract of title of a vessel is forwarded to the collector at the new home port of a vessel in accordance with paragraph (l) of this section, the following endorsement shall be made in the index after the last entry for that vessel, and thereafter no instrument for such vessel shall be recorded at the old home port and no entry shall be made in the index with respect to any decree of distribution or order appointing a trustee in bankruptcy:

An abstract of title of the vessel described above was forwarded to the collector of customs at _____ on this date in accordance with the provisions of § 3.33 (1) of the Customs Regulations of 1943.

_____ _____,
Deputy Collector.

Date_____

(o) Whenever requested, the collector of customs at the home port of any vessel shall furnish to any person an abstract of title of that vessel, which shall bear at the end thereof the following endorsement:

I hereby certify that the foregoing, which is issued in accordance with the provisions of § 3.33 (o) of the Customs Regulations of 1943, and which is not for record, is a true abstract of title of the vessel described above, as appears by the records of this office.

_____ _____,
Deputy Collector.

Port_____
Date_____

(p) No abstract of title of any vessel issued in accordance with paragraph (o) of this section shall be recorded by any collector of customs, nor shall any endorsement be made in the index when such an abstract is furnished to any person.

(R. S. 161, sec. 2, 23 Stat. 118, sec. 30, subsecs. C, H, 41 Stat. 1000, 1002, sec. 2, 43 Stat. 948; 5 U. S. C. 22, 46 U. S. C. 2, 921, 926, 1012. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

3. Section 3.34 (d) of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 3.34 (d)) is amended to read as follows:

(d) The bill of sale shall be recorded by the collector at the home port designated by the new owner, but only after that collector has received from the collector at the former home port and recorded the abstract of title of the vessel as required by § 3.33 (m).

(R. S. 161, sec. 2, 23 Stat. 118, sec. 30, subsecs. C, H, W, 41 Stat. 1000, 1002, 1006, sec. 2, 43 Stat. 948, R. S. 4159, R. S. 4160; 5 U. S. C. 22, 46 U. S. C. 2, 29, 30, 921, 926, 983, 1012. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

4. Paragraphs (d) and (h) of § 3.38 of the Customs Regulations of 1943 (19 CFR, Cum. Supp., 3.38 (d), (h)) are amended by deleting the words and figures "customs Form 1364" wherever they appear and by substituting in lieu thereof the words and figures "customs Form 1332, continued if necessary on customs Form 1332-A."

(R. S. 161, sec. 2, 23 Stat. 118, sec. 30, subsec. W, 41 Stat. 1006, 5 U. S. C. 22,

46 U. S. C. 2, 983. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

5. Section 4.98 (h), Customs Regulations of 1943 (19 CFR, Cum. Supp., 4.98 (h)), is amended by the addition of the following sentence at the end thereof: "It shall not be collected for a duplicate certified copy of the record at the former home port issued in accordance with § 3.33 (l).

(R. S. 161, sec. 2, 23 Stat. 118; 5 U. S. C. 22, 46 U. S. C. 2. Sec. 102, Reorg. Plan No. 3 of 1946; 3 CFR, 1946 Supp., ch. IV)

The foregoing amendments shall become effective on April 1, 1949.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: February 21, 1949.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 49-1483; Filed, Feb. 25, 1949; 8:55 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 141—TESTS AND METHODS OF ASSAY FOR ANTIBIOTIC DRUGS

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 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., Sup. 357), the regulations for tests and methods of assay of antibiotic drugs (12 F. R. 2215, 4023; 4961; 13 F. R. 589, 1889, 3969, 4187, 5152, 5566, 8736) and certification of batches of penicillin- or streptomycin-containing drugs (12 F. R. 2231, 4023, 4369; 13 F. R. 436, 439, 1099, 3252, 3969, 4186, 5566, 6015, 8736) are amended as indicated below:

1. The headnote of § 141.9 is amended to read: *"Penicillin tablets."*

2. In § 141.9 *Penicillin tablets,* paragraph (c) is amended to read:

(c) *Microorganism count.* Accurately weigh from three to five tablets in a test tube and add sufficient sterile penicillinase contained in a total volume of 15 ml. to inactivate the penicillin present. Let stand 1 hour. Thoroughly shake the mixture and transfer aseptically one-third of the amount to each of three sterile Petri dishes. Pour into the Petri dish 20 ml. of nutrient agar, described in § 141.1 (b) (1), which has been melted and cooled to 48° C. Thoroughly mix, allow the agar to solidify, invert the Petri dish, and incubate for 48 hours at 37° C. Count the number of colonies appearing on the plates and calculate therefrom the number of viable microorganisms per gram.

3. In § 141.12 *Penicillin troches,* paragraph (a) is amended to read:

(a) *Potency.* Proceed as directed in § 141.1, except paragraph (i) thereof and, in lieu of the directions in paragraph (d) of § 141.1, prepare sample as follows:

(1) If the troche does not contain a masticatory substance, proceed as directed in § 141.9 (a).

(2) If the troche contains paraffin as a masticatory substance, place five troches in a separatory funnel containing 75 ml. of n-hexane; shake until the troches are dissolved. Shake with a 25-ml. portion of 1% phosphate buffer at pH 6.0. Remove the buffer layer and repeat the extraction with three 25-ml. quantities of buffer. Combine the extracts and make the proper estimated dilutions in 1% phosphate buffer at pH 6.0.

(3) If the troche contains gum as a masticatory substance, cut each of five troches into fine pieces and place in a glass blending jar containing 100 ml. of a 50% acetone-water solution. Using a high-speed blender, blend for 3 to 5 minutes. Add an additional 100 ml. of a 50% acetone-water solution to the blender and blend for an additional 3 to 5 minutes, and then make the proper estimated dilutions in 1% phosphate buffer at pH 6.0

The average potency of the troche is satisfactory if it contains not less than 85% of the number of units it is represented to contain.

4. In § 141.14 *Penicillin with vasoconstrictor,* subparagraph (1) of paragraph (a) *Penicillin used in the packaged combination* is amended to read:

(1) *Potency.* Unless it is penicillin tablets, proceed as directed in § 141.1. If it is penicillin tablets, proceed as directed in § 141.9 (a).

Paragraph (a) (3) *Micro-organism count* and paragraph (b) *Dry mixture of penicillin with vasoconstrictor* * * * of § 141.14 are amended by changing "§ 141.21 (b)" to "§ 141.9 (c)."

5. Part 141 is amended by revoking § 141.21 *Crystalline penicillin tablets.*

6. In § 141.22 *Penicillin bougies,* paragraph (c) *Micro-organism count* is amended by changing "§ 141.21 (b)" to "§ 141.9 (c)".

7. Section 141.27 is amended to read:

§ 141.27 *Procaine penicillin in oil*—(a) *Potency.* Proceed as directed in § 141.1, except paragraph (i) thereof and, in lieu of the directions in paragraph (d) of § 141.1, prepare sample as follows:

Introduce 1 ml. of the well-shaken sample by means of a 2-ml. hypodermic syringe, into a 50-ml. volumetric flask. Add 3 to 4 cc. of chloroform, shake the flask well, and make to 50 ml. with absolute alcohol. Mix thoroughly, withdraw a 1-ml. aliquot and make the proper estimated dilutions in 1% phosphate buffer at pH 6.0.

If the label represents the potency of the procaine penicillin in oil as 100,000 units per milliliter, it is satisfactory if it is 85% or more of the potency so represented; if represented as 300,000 units per milliliter, it is satisfactory if it is 90% or more of the potency so represented.

(b) *Sterility.* Proceed as directed in § 141.7 (b).

(c) *Moisture.* Proceed as directed in § 141.7 (c).

8. Section 141.28 is amended to read:

§ 141.28 *Crystalline penicillin for inhalation therapy*—(a) *Potency.* Proceed as directed in § 141.1.

(b) *Moisture.* Proceed as directed in § 141.5 (a), except if it is procaine penicillin proceed as directed in § 141.26 (e).

(c) *Micro-organism count.* Accurately weigh the contents of three to five immediate containers in a sterile test tube and proceed as directed in § 141.9 (c).

9. In § 141.31 *Ephedrine penicillin tablets,* paragraph (a) *Potency* is amended by changing "§ 141.21 (a)" to "§ 141.9 (a)." Paragraph (c) *Micro-organism count* is amended by changing "§ 141.21 (b) to "§ 141.9 (c)."

10. Part 141 is amended by adding the following new section:

§ 141.34 *Procaine penicillin and crystalline penicillin in oil*—(a) *Total potency.* Proceed as directed in § 141.27 (a) or by the iodemetric assay procedure described in § 141.5 (e), using in the latter procedure a 0.5-ml. aliquot of the solution prepared in accordance with paragraph (b) (1) of this section.

(b) *Procaine penicillin*—(1) *Preparation of sample.* Introduce 1 ml. of the well-shaken sample, by means of a hypodermic syringe, into a 50-ml. volumetric flask. Make to 50 ml. with chloroform-absolute alcohol (1+1) solvent and shake well.

(2) *Colorimetric determination of procaine penicillin.* Dilute a 0.5-ml. aliquot of the solution prepared in accordance with subparagraph (1) of this paragraph to 1000 ml. with distilled water. Use a 10-ml. aliquot of this 1:1000 dilution for the colorimetric determination of procaine penicillin described in § 141.32 (b) (3). The concentration obtained directly from the standard curve corresponding to the percent light transmission of the sample×10,000 equals the concentration of procaine penicillin per milliliter of the procaine penicillin and crystalline penicillin in oil.

(c) *Crystalline penicillin.* The difference between the total penicillin as determined by paragraph (a) of this section and the procaine penicillin as determined by paragraph (b) of this section represents the amount of crystalline penicillin present.

(d) The procaine penicillin and the crystalline penicillin content of the batch are satisfactory when assayed by the methods described in this section if each is not less than 85% of that which it is represented to contain.

(e) *Sterility.* Proceed as directed in § 141.7 (b).

(f) *Moisture.* Proceed as directed in § 141.7 (c).

11. In § 141.107 *Streptomycin ointment,* paragraph (b) is amended to read:

(b) *Micro-organism count.* Accurately weigh the container and contents and place approximately 0.5 gm. of the ointment into 4–5 ml. of a 1:300 solution of sterile hydroxylamine hydrochloride. Reweigh the container to obtain weight of ointment used in the test. Warm the

hydroxylamine hydrochloride solution containing the ointment for 1 hour at 48° C.–50° C., shaking at frequent intervals to obtain complete emulsification. Apportion the emulsified ointment into two test tubes, each containing 25 cc. of melted thioglycollate medium (prepared as in § 141.2, except that additional agar is added to make a final concentration of 1.5% agar) cooled to 48° C.–50° C. Shake the tubes to insure even distribution and pour the contents of each tube into a sterile Petri dish, allow agar to solidfy, invert each Petri dish and incubate for 48 hours at 37° C. Count the number of colonies appearing on the plates and calculate therefrom the number of viable micro-organisms per gram of ointment.

12. Part 141 is amended by adding the following new section:

§ 141.109 *Streptomycin tablets*—(a) *Potency.* Using 12 tablets proceed as directed in § 141.101, except paragraph (k) thereof. The average potency of streptomycin tablets is satisfactory if it contains not less than 85% of the number of milligrams it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141.5 (a).

(c) *Micro-organism count.* Accurately weigh three tablets and place one tablet in each of three test tubes. To each test tube add 20 cc. of a sterile solution of 1:300 hydroxylamine hydrochloride adjusted to pH 6.0 with sodium hydroxide and let stand 1 hour, shaking contents at frequent intervals. Apportion the contents of each test tube into two sterile Petri dishes. To each Petri dish add 25 cc. of melted thioglycollate medium (prepared as in § 141.2, except that additional agar is added to make a final concentration of 1.5% agar) cooled to 48° C.–50° C. Thoroughly mix, allow the agar to solidfy, invert Petri dish and incubate for 48 hours at 37° C. Count the number of colonies appearing on the plates and calculate therefrom the number of viable micro-organisms per gram.

13. Part 141 is amended by adding the following new section:

§ 141.110 *Streptomycin for topical use*—(a) *Potency.* Proceed as directed in § 141.101, except paragraph (k) thereof. The potency of streptomycin for topical use is satisfactory if the immediate containers are represented to contain:

(1) Less than 500 mg. and contain 85% or more of the number of milligrams so represented;

(2) More than 500 mg. and contain 90% or more of the number of milligrams so represented.

(b) *Sterility, toxicity, pyrogens, histamine, moisture, pH.* Proceed as directed in §§ 141.102, 141.103, 141.104, 141.105, and 141.106.

14. Section 146.27 is amended to read:

§ 146.27 *Penicillin tablets*—(a) *Standards of identity, strength, quality, and purity.* Penicillin tablets are tablets composed of sodium penicillin, calcium penicillin, potassium penicillin, or procaine penicillin, with or without the addition of one or more suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. The potency of each tablet is not less than 50,000 units, and if it is less than 100,000 units it is "unscored." Its moisture content is not more than 1.0%. If it is represented to be used for inhalation therapy its content of viable micro-organisms is not more than 50 per gram. The sodium penicillin, calcium penicillin, or potassium penicillin used conforms to the requirements of § 146.24 (a), except subparagraphs (1), (2), (4), and (7), but the potency is not less than 300 units per milligram. The procaine penicillin used conforms to the requirements of § 146.44 (a), except subparagraphs (2) and (3). Each other substance, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* Unless each penicillin tablet is enclosed in a foil or plastic film and such enclosure is a tight container as defined by the U. S. P., except the provision that it shall be capable of tight reclosure, the immediate container shall be a tight container as so defined. The immediate container may also contain a desiccant separated from the tablets by a plug of cotton or other like material. The composition of the immediate container, or of the foil or film enclosure, shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. If the tablet is composed of crystalline penicillin without buffer substances, diluents, binders, lubricants, colorings, and flavorings, each immediate container shall contain 600,000 units, unless such tablet is enclosed in a foil or plastic film or other container.

(c) *Labeling.* Each package of penicillin tablets shall bear, on its label or labeling as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark;

(ii) The number of units in each tablet of the batch;

(iii) If the batch contains buffer substances, the name of each such substance used in making the batch; and

(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, with the date which is 36 months; 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.

(2) On the outside wrapper or container:

(i) Unless it is intended solely for veterinary use and is conspicuously so labeled, the statement "Caution: To be dispensed only by or on the prescription of a ----------," the blank being filled in with the word "physician" or "dentist" or "veterinarian" or any combination of two or all of these words, as the case may be; and

(ii) Unless it is intended solely for veterinary use and is so labeled, a reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of such tablets, or a reference to a brochure or other printed matter containing such directions and precautions, and a statement that such brochure or printed matter will be sent on request.

(3) On the circular or other labeling within or attached to the package, if it is intended solely for veterinary use, directions and precautions adequate for the use of such tablets, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration, including those from any buffer substance present.

If two or more such immediate containers are in such package, the number of such circulars or other labeling shall not be less than the number of such containers.

(d) *Requests for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of penicillin tablets shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the penicillin used in making such batch was completed, the number of units in each tablet, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; average potency per tablet, average moisture, and the content of viable micro-organisms if it is represented to be used for inhalation therapy.

(ii) The penicillin used in making the batch; potency, toxicity, moisture, pH, penicillin K content (unless it is crystalline penicillin G), crystallinity if it is crystalline penicillin, heat stability if it is crystalline sodium or potassium penicillin, the penicillin G content if it is crystalline sodium or potassium penicillin G, and the procaine penicillin G content if it is procaine penicillin G.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one tablet for each 5,000 tablets in the batch, but in no case less than 20 tablets or more than 100 tablets, collected by taking single tablets at such intervals throughout the entire time of tableting that the quantities tableted during the intervals are approximately equal.

(ii) The penicillin used in making the batch; six packages, or in the case of crystalline penicillin 10 packages, each containing approximately equal portions of not less than 60 mg. if it is not procaine penicillin, and not less than 300 mg. if it is procaine penicillin, packaged in accordance with the requirements of § 146.24 (b) or § 146.44 (b).

(iii) In case of an initial request for certification, each buffer substance, diluent, binder, lubricant, coloring, and flavoring used in making the batch; one package of each containing approximately 5 gm.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch of penicillin tablets under the regulations in this part shall be:

(1) $1.00 for each tablet in the sample submitted in accordance with paragraph (d) (3) (i) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section; and

(2) If the Commissioner considers that investigations, other than examination of such tablets and packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification, unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

15. Section 146.32 *Penicillin with vasoconstrictor* * * * is amended as follows:

Paragraph (a) *Standards of identity, strength, quality, and purity,* fourth sentence, is amended to read: "The penicillin used conforms either to the requirements of § 146.27 (a) for penicillin tablets for inhalation therapy or to the requirements of § 146.24 (a), except the limitation of penicillin K content, and except subparagraphs (2), (4), and (7) of that paragraph, but its content of viable micro-organisms is not more than 50 per gram."

In paragraph (d) *Requests for certification; samples,* subparagraph (3) (i) is amended to read:

(i) The penicillin for inclusion in the packaged combination of penicillin with vasconstrictor; one immediate container or tablet for each 5,000 immediate containers or tablets in the batch, but in no case less than 20 immediate containers or tablets and not more than 100 immediate containers or tablets, if the penicillin used has been previously submitted, and not less than 40 immediate containers or tablets and not more than 100 immediate containers or tablets if the penicillin used has not been previously submitted, collected by taking single immediate containers or tablets at such intervals throughout the entire time of packaging or tableting the batch that the quantities packaged or tableted during the intervals are approximately equal.

16. In § 146.35 *Penicillin sulfonamide powder* * * *, paragraph (a) *Standards of identity, strength, quality, and purity,* fourth sentence, is amended to read: "The quantity of each sulfonamide used is not more than 0.05 gm. for each 100 units of penicillin used."

17. Part 146 is amended by revoking § 146.39 *Crystalline penicillin tablets.*

18. In § 146.45 *Procaine penicillin in oil,* subparagraph (1) (v) of paragraph (c) *Labeling* is amended to read:

(v) The name of each oil used in making the batch, and, if aluminum monostearate is used as the dispersing agent, the quantity used.

19. Section 146.46 *Crystalline penicillin for inhalation therapy* is amended as follows:

Paragraph (a) is amended to read:

(a) *Standards of identity, strength, quality, and purity.* Crystalline penicillin for inhalation therapy is crystalline sodium penicillin, potassium penicillin, or procaine penicillin, with or without one or more suitable and harmless diluents. Its moisture content is not more than 1.5% if it is crystalline sodium or potassium penicillin, and not more than 4.2% if it is procaine penicillin. Its content of viable micro-organisms is not more than 50 per gram. The crystalline penicillin used conforms to the requirements of § 146.24 (a), except subparagraphs (2), (4), and (7) of that paragraph. The procaine penicillin used conforms to the requirements of § 146.44 (a), except subparagraphs (2) and (3) of that paragraph. Each diluent used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

In paragraph (c) *Labeling,* subparagraph (1) (iii) is amended to read:

(iii) The statement "Expiration date ----------," the blank being filled in, if crystalline sodium penicillin or potassium penicillin is used, without a diluent, with the date which is 36 months; or if crystalline sodium penicillin or potassium penicillin is used, with a diluent, with the date which is 18 months; or if procaine penicillin is used, with the date which is 12 months after the month during which the batch was certified; and

Paragraph (d) is amended to read:

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of crystalline penicillin for inhalation therapy shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless previously submitted) the date on which the latest assay of the penicillin used in making such batch was completed, the number of units in each immediate container, the quantity of each diluent used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each diluent used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; potency, moisture, and content of viable microorganisms.

(ii) The penicillin used in making the batch; potency, toxicity, moisture, pH, penicillin K content (unless it is crystalline penicillin G), crystallinity if it is crystalline penicillin, heat stability if it is crystalline sodium or potassium penicillin, the penicillin G content if it is crystalline sodium or potassium penicillin G, and the procaine penicillin G content if it is procaine penicillin G.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one immediate container for each 5,000 immediate containers in the batch, but in no case less than 20 immediate containers or more than 100 immediate containers, collected by taking single immediate containers, before or after labeling, at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The penicillin used in making the batch; 10 packages, each containing approximately equal portions of not less than 60 mg. if it is not procaine penicillin, and not less than 300 mg. if it is procaine penicillin, packaged in accordance with the requirements of § 146.24 (b) or § 146.44 (b).

(iii) In case of an initial request for certification, each diluent used in making the batch; one package of each containing approximately 5 gm.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if such result or sample has been previously submitted.

In paragraph (e) *Fees* subparagraph (1) is amended to read:

(1) $1.00 for each immediate container in the sample submitted in accordance with paragraph (d) (3) (i) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section; and

20. Part 146 is amended by adding the following new section:

§ 146.52 *Procaine penicillin and crystalline penicillin in oil.* (a) Procaine penicillin and crystalline penicillin in oil conforms to all requirements prescribed by § 146.45 for procaine penicillin in oil,

and is subject to all procedures prescribed by § 146.45 for procaine penicillin in oil, except that:

(1) It contains not less than 50,000 units of crystalline penicillin for each 300,000 units of procaine penicillin. The crystalline penicillin conforms to the requirements prescribed therefor by § 146.24 (a).

(2) In lieu of the directions prescribed for procaine penicillin in oil by § 146.45 (c) (1) (ii), each package shall bear on the outside wrapper or container and the immediate container the number of units of procaine penicillin and the number of units of crystalline penicillin in each milliliter of the batch.

(3) In addition to complying with the requirements of § 146.45 (d), a person who requests certification of a batch of procaine penicillin and crystalline penicillin in oil shall submit with his request a statement showing the batch mark and (unless it was previously submitted) the results and the date of the latest tests and assays of the crystalline penicillin used in making the batch for potency, sterility, toxicity, pyrogens, moisture, pH, penicillin K content (unless it is crystalline penicillin G), crystallinity, heat stability, and the penicillin G content if it is crystalline penicillin G, the number of units of procaine penicillin, and the number of units of crystalline penicillin in each milliliter of the batch. He shall also submit in connection with his request a sample consisting of not less than four packages of the batch of procaine penicillin and crystalline penicillin in oil, and a sample consisting of 10 packages containing approximately equal portions of not less than 60 mg. each of the crystalline penicillin used in making such batch.

(b) The fee for the services rendered with respect to each immediate container in the sample of crystalline penicillin submitted in accordance with the requirements prescribed therefor by this section shall be $4.00.

21. Part 146 is amended by adding the following new section:

§ 146.104 *Streptomycin tablets*—(a) *Standards of identity, strength, quality, and purity.* Streptomycin tablets is streptomycin tableted with or without the addition of one or more suitable and harmless diluents, binders, lubricants, colorings, and flavorings. The potency of each tablet is not less than 100 mg. Its moisture content is not more than 3%. If it is represented to be used for inhalation therapy, its content of viable micro-organism is not more than 50 per gram. The streptomycin used conforms to the standards prescribed therefor by § 146.101 (a), except subparagraphs (2), (4), and (8) of that paragraph. Each other substance, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging.* Unless each streptomycin tablet is enclosed in foil or plastic film and such enclosure is a tight container as defined by the U. S. P., except the provision that it shall be capable of tight reclosure, the immediate container shall be a tight container as so defined. The immediate container may also contain a desiccant separated from the tablets by a plug of cotton or other like material. The composition of the immediate container, or of the foil or film enclosure, shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package of streptomycin tablets shall bear, on its label or labeling as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark;

(ii) The potency of each tablet of the batch; and

(iii) The statement "Expiration date _____," the blank being filled in with the date which is 18 months after the month during which the batch was certified.

(2) On the outside wrapper or container:

(i) Unless it is intended solely for veterinary use and is conspicuously so labeled, the statement "Caution: To be dispensed only by or on the prescription of a _____," the blank being filled in with the word "physician" or "dentist" or "veterinarian" or any combination of two or all of these words as the case may be; and

(ii) Unless it is intended solely for veterinary use and is so labeled, a reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of such streptomycin tablets, or a reference to a brochure or other printed matter containing such directions and precautions, and a statement that such brochure and printed matter will be sent on request.

(3) On the circular or other labeling within or attached to the package, if it is intended solely for veterinary use, directions and precautions adequate for the use of such tablets, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration.

If two or more such immediate containers are in such package, the number of circulars or other labeling shall not be less than the number of such containers.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of streptomycin tablets shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the streptomycin used in making such batch was completed, the potency of each tablet, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; average potency per tablet, average moisture, and, if it is represented to be used for inhalation therapy, its content of viable microorganisms.

(ii) The streptomycin used in making the batch; potency, toxicity, histamine content, moisture, and pH.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one tablet for each 5,000 tablets in the batch, but in no case less than 20 tablets or more than 100 tablets, collected by taking single tablets at such intervals throughout the entire time of tableting that the quantities tableted during the intervals are approximately equal.

(ii) The streptomycin used in making the batch; five packages containing approximately equal portions of not less than 0.5 gm. each, packaged in accordance with the requirements of § 146.101 (b).

(iii) In case of an initial request for certification, each other ingredient used in making the batch; one package of each containing approximately 5 gm.

(4) No result referred to in subparagraph (2) (ii) of this paragraph, and no sample referred to in subparagraph (3) (ii) of this paragraph, is required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the service rendered with respect to each batch of streptomycin tablets under the regulations in this part shall be:

(1) $1.00 for each tablet in the sample submitted in accordance with paragraph (d) (3) (i) of this section; $10.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) of this section; $4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (iii) of this section; and

(2) If the Commissioner considers that investigations, other than examination of such tablets and packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification, unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

22. Part 146 is amended by adding the following new section:

§ 146.105 *Streptomycin for topical use; streptomycin with _____ (the blank being filled in with the name of the vehi-*

cle if a package combination) for topical use—(a) *Standards of identity, strength, quality, and purity.* Streptomycin for topical use conforms to all the requirements prescribed by § 146.101 (a) for streptomycin, and may be packaged in combination with a container of a suitable and harmless vehicle.

(b) *Packaging.* The immediate container of streptomycin for topical use shall be of colorless transparent glass so closed as to be a tight container as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that its contents cannot be used without destroying such seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container shall contain not less than 20 mg.

(c) *Labeling.* Each package of streptomycin for topical use shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark;

(ii) The number of milligrams in the immediate container;

(iii) The statement "Expiration date ----------," the blank being filled in with the date which is 18 months after the month during which the batch was certified; and

(iv) The statement "Caution: Not for intravenous or systemic medication."

(2) If it is a package combination, on the immediate container of the vehicle in the combination:

(i) A statement giving the method of dissolving the streptomycin in the vehicle and the statement "The solution may be stored at room temperature for 1 week without significant loss of potency";

(ii) The potency per milliliter after the streptomycin has been dissolved therein; and

(iii) The statement "Caution: Not for intravenous or systemic medication."

(3) On the outside wrapper or container:

(i) Unless it is intended solely for veterinary use and is conspicuously so labeled, a statement "Caution: To be dispensed only by or on the prescription of a ----------," the blank being filled in with the word "physician" or "dentist" or "veterinarian" or any combination of two or all of these words, as the case may be; and

(ii) Unless it is intended solely for veterinary use and is so labeled, a reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of such streptomycin for topical use, or a reference to a brochure or other printed matter containing such directions and precautions and a statement that such brochure and printed matter will be sent on request.

(4) On the circular or other labeling within or attached to the package, if it is intended solely for veterinary use, directions and precautions adequate for the use of such streptomycin for topical use, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration.

If two or more such immediate containers are in such package, the number of such circulars or other labeling shall not be less than the number of such containers.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of streptomycin for topical use shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the number of milligrams in each package, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, sterility, toxicity, pyrogens, histamine content, moisture, pH, and clarity. If such batch, or any part thereof, is to be packaged with a vehicle, such request shall be accompanied by a statement that such vehicle conforms to the requirements prescribed therefor by this section.

(2) Such person shall submit with his request a sample consisting of one immediate container for each 5,000 immediate containers in such bath, but in no case shall such sample consist of less than 50 or more than 100 immediate containers. Such sample shall be collected by taking single immediate containers, before or after labeling, at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(3) In case of an initial request for the certification of a batch of streptomycin for topical use which is to be packaged in combination with a container of a vehicle, or when any change is made in the composition of such vehicle, such person shall submit in connection with his request five packages of the vehicle included in the combination.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) $1.00 for each immediate container in the sample submitted in accordance with paragraph (d) (2) of this section; $4.00 for each package submitted with the samples in accordance with paragraph (d) (3) of this section; and

(2) If the Commissioner considers that investigations, other than examination of such packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification, unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

This order, which provides for changes in the tests and methods of assay for penicillin bougies, ephedrine penicillin tablets, penicillin tablets, penicillin troches, procaine penicillin in oil, crystalline penicillin for inhalation therapy, and streptomycin ointment; for deletion of the product, crystalline penicillin tablets; for the marketing of two new streptomycin products, streptomycin tablets and streptomycin for topical use; for a new penicillin product, procaine penicillin and crystalline penicillin in oil; for the manufacture of penicillin tablets with or without buffer substances; for a change in the packaging requirements of penicillin tablets with a vasoconstrictor; for increasing the quantity of sulfonamides that may be contained in penicillin sulfonamide powder; for requiring the label of procaine penicillin in oil to bear the quantity of aluminum monostearate if the drug includes this dispersing agent; and for the use of procaine penicillin in crystalline penicillin for inhalation therapy and the use of harmless diluents therein, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the penicillin industry 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 industry and since it would be against public interest to delay providing for the changes in the tests and methods of assay for penicillin bougies, ephedrine penicillin tablets, penicillin tablets, penicillin troches, procaine penicillin in oil, crystalline penicillin for inhalation therapy, and streptomycin ointment; to delay the packaging of penicillin tablets with a vasoconstrictor; to delay the marketing of two new streptomycin products, streptomycin tablets and streptomycin for topical use; to delay the marketing of a new penicillin product, procaine penicillin and crystalline penicillin in oil; to delay the deletion of the product, crystalline penicillin tablets; to delay the marketing of penicillin tablets with or without buffer substances; to delay increasing the quantity of sulfonamides that may be contained in penicillin sulfonamide powder; to delay requiring the label of procaine penicillin in oil to bear the quantity of aluminum monostearate if the drug includes this dispersing agent; and to delay the use of procaine penicillin in crystalline penicillin for inhalation therapy, and the use of harmless diluents.

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

Dated: February 23, 1949.

[SEAL] J. DONALD KINGSLEY,
Acting Administrator.

[F. R. Doc. 49-1506; Filed, Feb. 25, 1949; 9:00 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter VII—Department of the Air Force

Subchapter G—Personnel

PART 881—AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

Sec.
881.1 Purpose.
881.2 Authorization and jurisdiction.
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881.12 Changes in procedure.
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AUTHORITY: §§ 881.1 to 881.13 issued under sec. 207, 60 Stat. 837; 5 U. S. C. 191a; Transfer Order 23, Sept. 27, 1948, 13 F. R. 5837.
DERIVATION: AFR 31–3, Feb. 15, 1949.

§ 881.1 *Purpose.* This part establishes the procedure for making application, and consideration of applications, for correction of military records by the Secretary of the Air Force Board for Correction of Military Records, hereinafter referred to as the Board.

§ 881.2 *Authorization and jurisdiction.* (a) The Board is an administrative agency, established in the Office of the Secretary of the Air Force, pursuant to section 207 of the Legislative Reorganization Act of 1946 (60 Stat. 837, 5 U. S. C. 191a), National Military Establishment Transfer Order 23 (13 F. R. 5837), and Joint Army and Air Force Regulations 1–11–45, October 7, 1948, which authorize the Secretary of the Air Force to correct any military record under the jurisdiction of the Department of the Air Force or of the United States Air Force where in his judgment such action is necessary to correct an error or to remove an injustice. Section 131 of the Legislative Reorganization Act of 1946 (60 Stat. 831) provides that no bill authorizing or directing the correction of a military record shall be received or considered in either the Senate or the House of Representatives. This statutory authority, therefore, is construed as a substitute for the correction of military records by Congressional action and as conferring jurisdiction upon the Secretary of the Air Force, consistent with existing law, substantially equivalent to that previously exercised by the Congress (40 Ops. Atty. Gen. No. 119, February 24, 1947).

(b) Unless directed by the Secretary of the Air Force, the Board will not review any case in which final action has been taken by him or by higher authority. No application will be considered until the applicant has exhausted all remedies afforded him by existing law or regulations.

§ 881.3 *Application.* (a) The applicant for relief will submit a written request on NME Form 149, Application for Correction of Military or Naval Record, to the Secretary of the Air Force, Attention: Deputy Chief of Staff, Personel, Headquarters, United States Air Force, Washington 25, D. C. Copies of NME Form 149, may be obtained from the Air Adjutant General, Headquarters United States Air Force, Washington 25, D. C.

(b) The application will include:

(1) The full name, service number, grade, and organization of the person whose military record is involved.

(2) A description of the military record sought to be corrected.

(3) A particular description of the alleged error or injustice sought to be corrected or removed.

(4) The reasons in support of the relief requested.

(5) The full name and address of counsel if the applicant desires to be so represented.

(6) A request for a hearing before the Board in Washington, D. C., if the applicant so desires.

(7) The full name and address of any witness or witnesses whose testimony the applicant may desire the Board to consider at the hearing. The nature of the testimony of each witness, or the principal facts concerning which he will testify, will be indicated.

(8) Any statement or affidavits from persons other than the applicant in support of the request for relief.

(9) Signature of the applicant.

(c) If the record in question is that of a person who is deceased or incompetent, legal proof of death or incompetency must acompany the application in which event the application may be signed by a spouse, widow, widower, next of kin or legal representative. The application will contain a provision that the statements submitted in the application, as part of the claim, are made with full knowledge of the penalty provided for making a false statement; not more than $10,000 fine or not more than five years imprisonment or both (18 U. S. C. 287, 1001).

(d) At the request of the Board, the appropriate staff office or offices will assemble the original or certified copies of all available military records pertinent to the relief requested. Such records together with the application and all supporting documents will be transmitted to the Board.

§ 881.4 *Proceedings.* (a) The Board will be convened at the call of the Chairman and will recess or adjourn at his order.

(b) At the discretion of the Chairman, the Board will assemble in open or closed session for the consideration and determination of cases presented to it. Cases in which no request for hearing is made by the applicant will be considered in closed session on the basis of all documentary evidence presented to it, and any briefs submitted by or on behalf of applicant.

§ 881.5 *Hearing.* (a) When an application is found to be within the jurisdiction of the Board and when the Deputy Chief of Staff, Personnel, has determined that all other appeal channels have been exhausted, the applicant will be entitled to appear before the Board in open session, either in person or by counsel of his own selection. At the discretion of the Board, the applicant may present witnesses to testify in support of his claim. As used in these regulations the term "counsel" will be construed to include members of the Federal bar in good standing, the bar of any state in good standing, accredited representatives of veterans' organizations recognized by the Veterans' Administration under section 200 of the act of June 29, 1936 (38 U. S. C. 101), and such other persons who, in the opinion of the Board, are considered to be competent to present equitably and comprehensively the claim of the applicant for review. In no case will the expenses of the applicant or expenses or compensation of witnesses or counsel for the applicant be paid by the Government.

(b) In each case in which hearing is granted the Board will transmit to the applicant a written notice stating the time and place of hearing. The notice will be mailed to the applicant at least 15 days prior to the date of hearing. The applicant must inform the Board in writing after receipt of notice of hearing and at least five days before the date of the hearing that he and/or witnesses or counsel will be present at the time and place set for the hearing. It will be the responsibility of the applicant to notify his witnesses, if any. The record will contain evidence that written notice was given the applicant, and the time and manner thereof.

(c) An applicant who requests a hearing and who, after being duly notified of the time and place of hearing, fails without cause considered satisfactory by the Board to appear at the appointed time, either in person or by counsel, will be decreed to have waived his right to be present, and the Board will proceed with the consideration and determination of the case.

§ 881.6 *Conduct of hearing.* (a) The hearing will be conducted so as to insure a full and fair inquiry. Neither the applicant nor his counsel will have access to any classified papers or reports of investigation or papers related thereto or any document received from the Federal Bureau of Investigation. When it is necessary to acquaint the applicant with the substance of a document, as above described, the appropriate official, at the request of the Board, will prepare a summary of, or extract from, the document deleting all references to sources of information and other matter the disclosure of which, in his opinion, would be detrimental to the public interest. Such summary then may be made available without classification to the applicant or his counsel.

(b) The Board will not be limited by strict legal rules of evidence but will maintain reasonable bounds of competency, relevancy, and materiality.

(c) In order to justify correction of a military record, it is incumbent upon the applicant to show to the satisfaction of the Board, or it must otherwise satisfactorily appear, that the alleged entry or omission in the records was erroneous or unjust under applicable statutes and Department of the Army or Department of the Air Force directives, standards, administration, and practice either ex-

isting at the time, or subsequently changed in the petitioner's favor, effective retroactively.

(d) The testimony of witnesses will be under oath administered by the presiding officer; affidavits also may be received in evidence. If a witness testifies in person he will be subject to examination by members of the Board.

(e) The Board may continue a hearing on its own motion. A request for continuance by or on behalf of the applicant may be granted by the Board if a continuance appears necessary to insure a full and fair hearing.

(f) The Board may, at its discretion, permit an applicant to withdraw his application without prejudice at any time before the Board makes its final recommendation.

(g) It will be the duty of the reporter to record the proceedings of the Board in open session and the testimony taken before it.

§ 881.7 *Scope of inquiry.* (a) That effective relief cannot be granted or that a sufficient basis for review has not been established, will be adequate ground for denial of any application.

(b) An application may be refused by the Board on the ground that there has been undue delay in filing the application.

(c) The right to apply to the Board for relief will not operate as a stay of any proceedings taken against the person involved.

§ 881.8 *Findings, conclusions, and recommendations.* (a) The Board will make written findings and conclusions in each case. The findings and conclusions of a majority of the Board will constitute the findings and conclusions of the Board.

(b) In case of a disagreement between members of the Board a minority report may be submitted, either as to the findings, or to the recommendations, or to both. The reasons for the minority will be clearly stated.

(c) The Chairman of the Board will, in the name of the Board, recommend to the Secretary of the Air Force such action as may be necessary to carry into effect the findings and conclusions of the Board.

§ 881.9 *Disposition of proceedings.* (a) When the Board has concluded its proceedings in each case, it will prepare a complete record thereof. The record will include the application for relief; a transcript of the testimony, if any; affidavits, papers, and documents considered by the Board; all briefs and written arguments filed in the case; the report of the examiner, if any; the findings and conclusions of the Board and its recommendation for corrective action; any minority report prepared by a dissenting member of the Board; and all other papers and documents necessary to reflect a true and complete history of the proceedings. The record so prepared will be signed by the chairman as being true and complete.

(b) All records of proceedings of the Board in closed session will be confidential.

§ 881.10 *Transmittal of records and action.* (a) Upon the approval of the Secretary of the Air Force, the record of the proceedings and recommendation of the Board will be transmitted to the Chief of Staff, United States Air Force, Washington 25, D. C., for appropriate action.

(b) When all necessary administrative action has been completed by the Air Staff, the applicant will be informed of such action by the Air Staff office designated by the Chief of Staff, United States Air Force.

(c) Written notice specifying the action taken and the date thereof will be transmitted to the Chairman of the Board.

§ 881.11 *Staff assistance.* The facilities of all staff offices will be made available as required to assist the Board in the accomplishment of its mission.

§ 881.12 *Changes in procedure.* The Board may initiate recommendations for such changes in procedure as established herein as may be considered necessary for the proper functioning of the Board. Such changes will be subject to the approval of the Secretary of the Air Force.

§ 881.13 *Publication in the Federal Register.* The regulations in this part and any amendments thereto will be published in the FEDERAL REGISTER.

[SEAL] L. L. JUDGE,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 49-1457; Filed, Feb. 25, 1949; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

UNDELIVERABLE PARCELS; RETURNED TO U. S.

In § 127.97 *Undeliverable parcels; returned to United States* (13 F. R. 9100) amend paragraph (a) to read as follows:

(a) An undeliverable parcel returned to the United States with contents in good condition, upon which the return postage has not been prepaid, is subject on delivery to the sender to a postage charge equal to the amount of postage originally prepaid on the parcel. Air parcel post packages returned from foreign countries will be subject to a postage charge at the surface parcel rate applicable to the original country of destination. The amount to be collected shall be marked on the parcel by the United States exchange post office which receives it back from abroad, and collected by the post office which delivers it to the sender. The amount collected will be accounted for by affixing to the wrapper of the parcel and canceling postage due stamps in the required amount.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25; 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-1464; Filed, Feb. 25, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

MISCELLANEOUS AMENDMENTS

1. In § 127.266 *Gilbert and Ellice Islands Colony (Fanning, Washington, Christmas, Ocean, Gilbert, and Ellice Islands)* (13 F. R. 9157) amend that part of the table of rates in paragraph (b) (1) (i) that relates to Christmas, Ocean, Gilbert, and Ellice Islands to read as follows:

CHRISTMAS, OCEAN, GILBERT, AND ELLICE ISLANDS

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

2. In § 127.308 *Nauru Island* (13 F. R. 9189) amend the table of rates in paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.07
6	1.05		

3. In § 127.313 *New Guinea, Mandated Territory* (13 F. R. 9193) amend the table of rates in paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

4. In § 127.314 *New Hebrides (including the Banks and Torres Islands)* (13 F. R. 9194) amend the table of rates in paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

5. In § 127.325 *Papua (British New Guinea)* (13 F. R. 9199) amend the table of rates in paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	Rate	Pounds:	Rate
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

6. In § 127.346 *Santa Cruz Islands* (13 F. R. 9215) amend the table of rates in

paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	*Rate*	Pounds:	*Rate*
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

7. In § 127.353 *Solomon Islands (except Bougainville and Buka)* (13 F. R. 9217) amend the table of rates in paragraph (b) (1) (i) to read as follows:

[Rates include transit charges]

Pounds:	*Rate*	Pounds:	*Rate*
1	$0.14	7	$1.19
2	.28	8	1.59
3	.63	9	1.73
4	.77	10	1.87
5	.91	11	2.01
6	1.05		

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-1467; Filed, Feb. 25, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

MISCELLANEOUS AMENDMENTS

1. In § 127.272 *Guatemala* (13 F. R. 9163) amend paragraph (b) (1) (ii) *Air parcels* by deleting "35.70" in table opposite 35 lbs. 0 oz. and substituting "35.76" in lieu thereof.

2. In § 127.273 *Haiti* (13 F. R. 9165) amend paragraph (b) (1) (ii) *Air parcels* by deleting "37.29" in table opposite 43 lbs. 12 oz. and substituting "37.26" in lieu thereof.

3. In § 127.274 *Honduras (Republic of)* (13 F. R. 9165) amend paragraph (b) (1) (ii) *Air parcels* by deleting "35.75" in table opposite 31 lbs. 8 oz. and substituting "35.78" in lieu thereof.

4. In § 127.376 *Venezuela* (13 F. R. 9235) amend paragraph (b) (1) (ii) *Air parcels* by deleting "64.24" in table opposite 44 lbs. 0 oz. and substituting "64.27" in lieu thereof.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 44 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-1463; Filed, Feb. 25, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

PERSIAN GULF PORTS

In § 127.327 *Persian Gulf Ports* (13 F. R. 9200) amend paragraph (b) (1) to read as follows:

(1) *Table of rates.* (i) Surface parcels.

[Rates included surcharges]

Pounds:	*Rate*	Pounds:	*Rate*
1	$0.53	12	$2.46
2	.67	13	2.60
3	.94	14	2.74
4	1.08	15	2.88
5	1.22	16	3.02
6	1.36	17	3.16
7	1.50	18	3.30
8	1.74	19	3.44
9	1.88	20	3.58
10	2.02	21	3.72
11	2.16	22	3.86

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-1465; Filed, Feb. 25, 1949; 8:46 a. m.]

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAL RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

URUGUAY

In § 127.374 *Uruguay* (13 F. R. 9233) amend the following:

1. Insert the following in paragraph (a) between (5) *"Air mail service"* and (6) *"Eight-ounce merchandise packages":*

(6) *Dutiable articles (merchandise) prepaid at letter rate.* Accepted (see § 127.3). Such articles not bearing the green label, Form 2976 (C 1), are subject to confiscation.

2. Redesignate (a) (6) as (a) (7).
3. Redesignate (a) (7) as (a) (8).
4. Redesignate (a) (8) as (a) (9).
5. Redesignate (a) (9) as (a) (10).
6. Delete (9) (ii).
7. Redesignate (9) (iii) as (9) (ii).

GENERAL INFORMATION AND INSTRUCTIONS REGARDING ARTICLES IN THE POSTAL UNION (REGULAR) MAILS

8. In § 127.3 *Letters and letter packages* (13 F. R. 9074) insert "Uruguay (See note)," between Union of South Africa and Vatican City State in paragraph (f).

9. In paragraph (g) delete "Uruguay".

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25; 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 49-1466; Filed, Feb. 25, 1949; 8:46 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Federal Security Agency

PART 34—MEDICAL EXAMINATION OF ALIENS

SCOPE OF EXAMINATIONS

Notice of proposed rule making and public rule making proceedings have been omitted in the issuance of the following amendment to § 34.4. Notice and rule making proceedings have been found to be unnecessary because the sole purpose of the amendment is to eliminate restrictions and requirements now in effect.

Section 34.4 is amended to read as follows:

§ 34.4 *Scope of examinations: general; applicants for immigration visas; chest X-ray and blood test.* (a) In performing examinations and re-examinations, medical officers shall give consideration to only those matters which relate to the physical or mental condition of the alien, and shall issue certificates or notifications of a disease or defect as hereinafter provided only if the presence of such disease or defect is clearly established.

(b) Except as provided in paragraph (c) of this section, examinations of applicants for immigration visas shall in all cases include a chest X-ray for tuberculosis and a blood test for syphilis. In the case of examinations conducted at American consulates where necessary X-ray and laboratory facilities for the making of such tests are not available to the examining medical officer, the applicant may be required to furnish a chest X-ray plate, a reading thereof, and a blood serology in order that the medical examination may be completed. The X-ray plate, the reading thereof, the blood serological report, and record of the physical examination shall be placed in a separate envelope and attached to the alien's immigration visa in such a manner as to be readily detached for examination by medical officers at United States ports of entry. However, if no such proofs have been presented and the examination is made in a community where there are no facilities available for the making of such tests, the examining medical officer shall so state upon the physical examination form. In the event that, at the port of entry, no such X-ray plate, reading, and blood serology are found attached to the alien's immigration visa, a medical hold shall be issued pending completion of the examination by the required X-ray and blood test.

(c) The provisions of paragraph (b) of this section with respect to chest X-rays for tuberculosis shall not be applicable in the case of an applicant ten years of age or less unless the examining medical officer has reason to suspect that the applicant has tuberculosis, nor shall the provisions of such paragraph with respect to blood tests for syphilis be applicable in the case of an applicant fourteen years of age or less unless the examining medical officer has reason to suspect that the applicant has syphilis. (Sec. 325, 58 Stat. 697; 42 U. S. C. 252)

Effective date. The foregoing amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

Dated: February 16, 1949.

[SEAL] LEONARD A. SCHEELE,
Surgeon General.

Approved: February 21, 1949.

J. DONALD KINGSLEY,
Acting Federal Security Administrator.

[F. R. Doc. 49-1473; Filed, Feb. 25, 1949; 8:47 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

PART 205—REPORTS OF MOTOR CARRIERS

MOTOR CARRIER ANNUAL REPORT FORM A

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 18th day of February A. D. 1949.

The matter of Annual Reports from Class I Motor Carriers of Property and Class I Motor Carriers of Passengers being under consideration:

It is ordered, That the order of October 11, 1945, in the matter of Annual Reports from Class I Motor Carriers of Property and Class I Motor Carriers of Passengers be, and it is hereby, modified with respect to annual reports for the year ended December 31, 1948, and subsequent years, as follows:

§ 205.1 *Form prescribed for annual reports.* Each Class I Common and Contract Motor Carrier of Property and each Class I Common and Contract Motor Carrier of Passengers shall file under oath an annual report for the year ended December 31, 1948, and for each succeeding year until further order, in accordance with Motor Carrier Annual Report Form A (Class I Motor Carriers of Property and Passengers) [1] which is hereby approved and made a part of this order. The annual report shall be filed, in duplicate, in the Bureau of Accounts and Cost Finding, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates. (49 Stat. 563, sec. 24, 54 Stat. 926; 49 U. S. C. 320)

NOTE: The reporting requirement of this order has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Commission, Division 1.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 49-1472; Filed, Feb. 25, 1949; 8:47 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

MISCELLANEOUS AMENDMENTS

Basis and purposes. On the basis of information produced at public hearings, written briefs submitted by members of the fishing industry, and scientific data acquired by personnel of the Fish and Wildlife Service, amendments to existing regulations for control of the Alaskan fisheries are promulgated whenever necessary to achieve maximum commercial utilization of the resource consistent with sound conservation principles. In order to realize such utilization under current conditions and in conformance with the notice of intention to adopt amendments issued by the Secretary of the Interior on July 14, 1948 (13 F. R. 4128), the following provisions are adopted, to become effective 30 days after their publication in the FEDERAL REGISTER.

PART 102—GENERAL PROVISIONS

1. Section 102.7 is amended to read as follows:

§ 102.7 *Reports required of operators.* Every person shall, each season, prior to engaging in buying or processing fish or shellfish, furnish to the local representative of the Fish and Wildlife Service, a statement in writing of intention to operate, together with information as to the nature, extent and place of operation. Statistical records shall be currently maintained throughout each season and shall be available for inspection at any reasonable time by representatives of the Fish and Wildlife Service. When required by the Director of the Fish and Wildlife Service or his authorized representative, individual receipts of fish and allied data shall be fully and accurately reported by all primary buyers or processors on forms provided for that purpose. At the close of the season an accurate statistical report of the season's operations shall be submitted on forms provided for that purpose. (34 Stat. 480; 48 U. S. C. 238)

2. Section 102.8 is amended to read as follows:

§ 102.8 *Boat registration.* Each year prior to engaging in fishing all boats, whether powered or unpowered, shall be registered with the Fish and Wildlife Service. Registration plates, when furnished, shall be displayed in a prominent place on the port side: *Provided*, That such registration shall not be required of any boat engaging solely in the halibut fishery.

3. A new section designated § 102.8a is added to read as follows:

§ 102.8a *Boat marking for aerial identification.* Each decked, powered, fishing boat, unless engaged solely in the halibut fishery, shall display its name or register number on top of the pilot house roof or other upper deck in such manner as to be clearly visible from above. Such name or number shall be in letters at least six inches in height and of a contrasting color to the background.

4. Section 102.10 is amended to read as follows:

§ 102.10 *Explosives and poison prohibited.* The use of any explosive or poison in the taking or killing of fish is prohibited.

5. In § 102.13 (c) the name "Yukon-Kuskokwim" is amended to read "Kotzebue-Yukon-Kuskokwim."

6. The headnote and text of § 102.14 are amended to read as follows:

§ 102.14 *Closed areas near salmon streams.* Where the closed area at the mouth of a stream has not been designated by signs erected by the Fish and Wildlife Service and where the extent of the closed area is fixed by measurement from the mouth of a stream, the mouth of such stream shall be at a line between the extremities of its banks at mean low tide.

7. Section 102.16 is amended to read as follows:

§ 102.16 *Operation of seines.* The terms "operating" and "operated" as used in all sections relating to seine fishing for salmon shall include the setting, pursing, hauling and brailing of seines, and seines shall not be operated with the gear aboard any vessel except the gear of the boat setting the seine.

8. A new section designated § 102.18a is added to read as follows:

§ 102.18a *Trailing of gill net web.* The trailing of gill net web is prohibited at any time or place where fishing is not permited.

9. A new section designated § 102.18b is added to read as follows:

§ 102.18b *Removal from water of set nets.* All set or anchored gill nets shall be removed from the water during any closed period.

10. Section 102.25 is amended in the first sentence by deleting the words "fishing season previous to 1948" and substituting in lieu thereof the words "previous year."

11. Section 102.28 is amended to read as follows:

§ 102.28 *Method of closing salmon traps.* During any closed period, traps shall be opened to the free passage of fish by the lifting of webbing of the heart wall on each side next to the pot to a height at least 4 feet above the water on floating traps and to the capping on stationary traps. The opening in the heart wall so created must be at least 25 feet wide and extend the full depth to the floor of the trap.

12. A new section designated § 102.32a is added to read as follows:

§ 102.32a *Pounds prohibited near spawning grounds.* No herring pound shall be used or maintained on or within 1 mile of any herring spawning ground.

PART 103—KOTZEBUE-YUKON-KUSKOKWIM AREA

The headnote of Part 103 is amended to read as set forth above.

1. Section 103.1 is amended to read as follows:

§ 103.1 *Definition.* The Kotzebue-Yukon-Kuskokwim area is defined to include all territorial coastal and tributary waters of Alaska from Point Hope southward to Cape Newenham.

2. Section 103.2 is amended to read as follows:

§ 103.2 *Districts open.* Fishing is prohibited except within the following described districts.

(a) *Kotzebue District.* All waters from Point Hope southward to Cape Prince of Wales.

(b) *Port Clarence District.* All waters from Cape Prince of Wales southward to Cape Douglas.

[1] Filed as part of the original document.

(c) *Norton Sound District.* All waters from Cape Douglas southward to a true east-west line through the westernmost point of Stuart Island.

(d) *Yukon District.* All waters of the Yukon River and all coastal waters from a true east-west line through the westernmost point of Stuart Island southward to 62 degrees north latitude.

(e) *Kuskokwim District.* All waters of the Kuskokwim River and waters of Kuskokwim Bay, exclusive of Goodnews Bay, within a line extending from the east shore of Kuskokwim Bay at 59 degrees north latitude to Cape Avinof. The mouth of the Kuskokwim River shall be considered as at a straight line extending from Beacon Point to Popkokamute.

3. Section 103.10 is deleted.

PART 104—BRISTOL BAY AREA

1. Section 104 2 (c) is amended to read as follows:

(c) *Kvichak-Naknek District.* Waters of Kvichak Bay within a line from Etolin Point to Middle Bluff light on the eastern side of Kvichak Bay: *Provided*, That the waters within a line bearing 243 degrees true from the south corner of the southernmost dock of the Bristol Bay Packing plant near Peterson Point, to its intersection with a line bearing 198 degrees true on Middle Bluff light shall be known as the Naknek Section.

2. Section 104.5 is amended to read as follows:

§ 104.5 *Weekly closed period.* The 36 hour statutory weekly closed period is hereby extended to include the period from 6 o'clock antemeridian Wednesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 60 hours: *Provided*, That this midweek closure shall not apply after August 1.

3. Section 104.12 is deleted.

PART 105—ALASKA PENINSULA AREA

1. Section 105.3 is amended to read as follows:

§ 105.3 *Open seasons, except Port Moller district.* Fishing is prohibited except from 6 o'clock antemeridian May 27 to 6 o'clock postmeridian August 5.

2. Section 105.4 is amended by substituting "August 10" in lieu of "August 20" in the proviso.

3. Section 105.10 is amended to read as follows:

§ 105.10 *Waters open to seines; size of seines.* Fishing with any purse seine less than 100 fathoms in length or more than 200 fathoms in length and 350 meshes in depth is prohibited in the waters between Castle Cape and Cape Pankof, including Ikatan Bay and the waters of the Shumagin Islands.

PART 107—CHIGNIK AREA

1. Section 107.2 is amended to read as follows:

§ 107.2 *Closed seasons.* Fishing is prohibited prior to 6 o'clock antemeridian June 10 and after 6 o'clock postmeridian September 15.

2. Section 107.12 is deleted.

PART 108—KODIAK AREA

1. Section 108.3 (b) is amended by deleting the words "June 10" and substituting in lieu thereof the words "June 6."

2. Section 108.4 is amended by deleting the words "June 10" and substituting in lieu thereof the words "June 6."

3. Section 108.9 is amended to read as follows:

§ 108.9 *Catch limitation, Karluk red salmon.* The take of red salmon in the area from Cape Karluk to Broken Point shall not exceed 50 percent of the total run as determined at the weir in Karluk River operated by the Fish and Wildlife Service. The escapement to Karluk River, as determined at the weir, shall not be less than 350,000 in the period prior to July 15 and 350,000 in the period after July 15.

4. Section 108.21 is deleted.

PART 109—COOK INLET AREA

1. Section 109.2 is amended to read as follows:

§ 109.2 *Open seasons.* (a) Between the latitude of the established stream marker marking the south limit of the closed area around the mouth of the Kasilof River at approximately 60 degrees 22 minutes 23 seconds north latitude to the latitude of Anchor Point Light, exclusive of all waters adjacent to Kalgin Island, fishing is prohibited prior to 6 o'clock antemeridian May 20 and after 6 o'clock postmeridian August 4: *Provided*, That this prohibition shall not apply to the use of gill nets from 6 o'clock antemeridian August 20 to 6 o'clock postmeridian September 10.

(b) South of the latitude of Anchor Point Light fishing is prohibited prior to 6 o'clock antemeridian May 25 and after 6 o'clock postmeridian August 8: *Provided*, That fishing in all waters of Port Dick is prohibited prior to 6 o'clock antemeridian July 25: *And provided further*, That this prohibition shall not apply to the use of beach seines or gill nets from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 10.

(c) North of the latitude of the marker marking the south limit around the mouth of the Kasilof River, as described under paragraph (a), of this section, including all waters adjacent to Kalgin Island, fishing is prohibited prior to 6 o'clock antemeridian June 25 and after 6 o'clock postmeridian August 4: *Provided*, That this prohibition shall not apply (1) after 6 o'clock antemeridian May 20 to the use of gear having mesh not less than 8½ inches stretched measure between knots, or to gill nets of which not to exceed 35 fathoms in use by any individual or on any boat may have mesh less than 8½ stretched measure between knots, and (2) from 6 o'clock antemeridian August 20 to 6 o'clock postmeridian September 10 to the use of gill nets.

2. A new section designated § 109.2a is added to read as follows:

§ 109.2a *Weekly closed period.* The 36 hour weekly closed period is hereby extended to include the period from 6 o'clock antemeridian Saturday of each week to 6 o'clock antemeridian of the Monday following, making a weekly closed period of 48 hours.

3. Section 109.11 is deleted.

4. Section 109.15 (k) (1) is amended to read as follows:

(1) From a point at 60 degrees 16 minutes 45 seconds north latitude, 151 degrees 23 minutes 30 seconds west longitude, southerly to a point at 60 degrees 15 minutes 41 seconds north latitude 151 degrees 23 minutes 44 seconds west longitude.

5. Section 109.16 (c) is amended to read as follows:

(c) *Kamishak Bay.* All waters of the bay south of Tignagvik Point and west of 153 degrees 45 minutes west longitude.

6. Section 109.21 is deleted.

7. Section 109.22 is amended to read as follows:

§ 109.22 *Waters closed to purse seines.* The use of purse seines is prohibited in Kachemak Bay and tributary waters inside of a line from Coal Point to the northeast point at the entrance to China Poot Bay.

8. A new section designated § 109.22a is added to read as follows:

§ 109.22a *Catch limitations, Kachemak Bay.* The take during the open season after August 15, except for bait and except by gill nets, shall not exceed 10,000 barrels, upon the basis of 250 pounds per barrel, in the open waters of Kachemak Bay east of 151 degrees 50 minutes west longitude.

PART 110—RESURRECTION BAY AREA

1. Section 110.2 is amended to read as follows:

§ 110.2 *Opening date for red salmon fishing.* Prior to 6 o'clock antemeridian June 1 fishing with nets of mesh less than 8½ inches stretched measure between knots is prohibited.

2. Section 110.3 is amended to read as follows:

§ 110.3 *Closed season.* Fishing is prohibited from 6 o'clock antemeridian August 6 to 6 o'clock antemeridian August 15, and after 6 o'clock postmeridian September 15.

3. Section 110.5 is amended to read as follows:

§ 110.5 *Registration and reporting of boats, Resurrection Bay.* During the open season after 6 o'clock antemeridian August 15 all boats in or entering the Resurrection Bay area shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and each delivery of salmon shall be immediately reported.

PART 111—PRINCE WILLIAM SOUND AREA

1. A new section designated § 111.5a is added to read as follows:

§ 111.5a *Beach seines prohibited.* The use of any beach seines is prohibited.

2. Section 111.6 is amended to read as follows:

§ 111.6 *Waters closed to seines, Granite Bay to Port Nellie Juan.* The use of purse seines is prohibited in the waters along the western coast from the outer point on the north shore of Granite Bay (known as Granite Bay Point) to the light on the south shore of the entrance to Port Nellie Juan.

PART 112—COPPER RIVER AREA

1. Section 112.2 is amended to read as follows:

§ 112.2 *Closed seasons.* Fishing is prohibited prior to 6 o'clock antemeridian May 1, from 6 o'clock postmeridian June 15 to 6 o'clock antemeridian August 10, and after 6 o'clock postmeridian September 18.

2. Sections 112.3, 112.4, and 112.9 are deleted.

PART 113—BERING RIVER-ICY BAY AREA

1. Section 113.2 is deleted.

2. Section 113.3 is amended to read as follows:

§ 113.3 *Closed seasons.* Fishing is prohibited prior to 6 o'clock antemeridian June 1, from 6 o'clock postmeridian June 15 to 6 o'clock antemeridian August 10 and after 6 o'clock postmeridian September 18: *Provided*, That nets having mesh not less than 8½ inches stretched measure between knots may be used from 6 o'clock antemeridian May 15 to 6 o'clock antemeridian June 1.

3. Sections 113.4 and 113.9 are deleted.

PART 114—SOUTHEASTERN ALASKA AREA, SALMON FISHERIES, GENERAL REGULATIONS

1. A new section designated § 114.4a is added to read as follows:

§ 114.4a *Gill nets prohibited, exceptions.* Fishing with gill nets is prohibited, except in the Yakutat district, the northern section of the Western district, Taku Inlet, Port Snettisham and the Stikine district.

2. Section 114.9 is deleted.

PART 115—SOUTHEASTERN ALASKA AREA, FISHERIES OTHER THAN SALMON

HERRING INDUSTRY

1. A new section designated § 115.6a is added to read as follows:

§ 115.6a *Prohibited near Craig.* Fishing is prohibited in the waters surrounding Fish Egg Island north and east of a line from Cape Flores to Point Amargura and thence to Point Ildefonso.

2. A new section designated § 115.6b is added to read as follows:

§ 115.6b *Prohibited near Sitka.* Fishing is prohibited in Silver Bay east of 135 degrees 15 minutes west longitude.

SHELLFISH FISHERY

3. Section 115.10 is amended by deleting the last sentence, which reads "All waters of Duncan Canal are closed to shrimp fishing throughout the year."

PART 116—SOUTHEASTERN ALASKA AREA, YAKUTAT DISTRICT, SALMON FISHERIES

1. A new section designated § 116.6a is added to read as follows:

§ 116.6a *Registration and reporting of boats.* During the open season all boats in or entering the Yakutat District shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and each delivery of salmon shall be immediately reported.

2. Section 116.10 is amended by deleting the proviso, which reads "*Provided*, That such fishing by means of beach seines is permitted in Situk Inlet during the period from August 5 to August 30, both dates inclusive."

3. A new section designated § 116.11a is added to read as follows:

§ 116.11a *Beach seines prohibited; exception.* Fishing with beach seines is prohibited: *Provided*, That this prohibition shall not apply in Yakutat and Disenchantment Bays from June 18 to 6 o'clock postmeridian September 2.

PART 117—SOUTHEASTERN ALASKA AREA, ICY STRAIT DISTRICT, SALMON FISHERIES

1. Section 117.3 is amended to read as follows:

§ 117.3 *Open seasons, west of Point Carolus.* West of the longitude of Point Carolus fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 3.

2. Section 117.4 is amended to read as follows:

§ 117.4 *Open season, east of Point Carolus.* East of the longitude of Point Carolus fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 3: *Provided*, That this prohibition shall not apply to fishing in the open waters of Excursion Inlet from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 15.

3. The section previously designated § 117.5 is deleted and a new section designated § 117.5 is added to read as follows:

§ 117.5 *Registration and reporting of boats, Excursion Inlet.* During the period October 5 to 15 all boats in or entering Excursion Inlet shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and each delivery of salmon shall be immediately reported.

4. Section 117.8 is amended to read as follows:

§ 117.8 *Closed waters.* Fishing is prohibited as follows:

(a) Dundas Bay, north of 58 degrees 20 minutes north latitude.

(b) Idaho Inlet, south of 58 degrees 8 minutes 20 seconds north latitude.

5. Section 117.9 is deleted.

PART 118—SOUTHEASTERN ALASKA AREA, WESTERN DISTRICT, SALMON FISHERIES

1. Section 118.5 is amended to read as follows:

§ 118.5 *Open seasons, northern section, south of Sullivan Island.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 3: *Provided*, That this prohibition shall not apply to the use of gill nets in Bernera Bay from 6 o'clock antemeridian September 1 to 6 o'clock postmeridian September 20.

2. Section 118.6 is amended to read as follows:

§ 118.6 *Open seasons, central, southern, and western sections.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 3: *Provided*, That this prohibition shall not apply from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 15 in the open waters of Hood and Chaik Bays.

3. Section 118.7 is amended to read as follows:

§ 118.7 *Registration and reporting of boats, northern section, north of Sullivan Island, and Hood and Chaik Bays.* (a) During the period June 25 to August 22 all boats, other than trollers, in or entering the northern section, north of Sullivan Island, shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and thereafter shall report daily the number of salmon caught, the place of capture, and the disposition of the catch.

(b) During the period October 5 to October 15 all boats in or entering Hood or Chaik Bays shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and each delivery of salmon shall be immediately reported.

4. Section 118.15 is deleted.

PART 119—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT, SALMON FISHERIES

1. Section 119.3 is amended to read as follows:

§ 119.3 *Open seasons.* Fishing, other than trolling, is prohibited, except: (a) From 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 3; and, (b) from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 15 in Port Camden and Security Bay only.

2. Section 119.8 is redesignated as § 119.4 and is amended in headnote and text to read as follows:

§ 119.4 *Taku Inlet, Port Snettisham, and adjacent waters; season and gear restrictions.* (a) Gill netting in Taku Inlet and in Port Snettisham northeast of a line from Sentinel Point to Sharp Point is prohibited, except from 6 o'clock antemeridian May 1 to 6 o'clock postmeridian May 31, from 6 o'clock antemeridian June 25 to 6 o'clock postmeri-

dian August 18, and from 6 o'clock antemeridian September 1 to 6 o'clock postmeridian September 20; and,

(b) Trolling in Taku Inlet and all adjacent waters of the Eastern District north of Midway Island is prohibited, except from 6 o'clock antemeridian June 25 to 6 o'clock postmeridian September 20 and from 6 o'clock antemeridian October 15 to 6 o'clock postmeridian May 31.

(c) Seining is prohibited in Taku Inlet at all times.

3. Section 119.4 is redesignated § 119.5 and is amended in headnote and text to read as follows:

§ 119.5 *Registration and reporting of boats.* (a) In the period June 25 to August 22 all boats, other than trollers, entering Taku Inlet or Port Snettisham shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing, and thereafter shall report daily the number of salmon caught, the place of capture, and the disposition of the catch.

(b) In the period October 5 to October 15 all boats in or entering Port Camden or Security Bay shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing and each delivery of salmon shall be immediately reported.

4. Sections 119.5 and 119.6 are combined, redesignated § 119.6 and amended in headnote and text to read as follows:

§ 119.6 *Lengths of gill nets, Taku Inlet and Port Snettisham.* The aggregate length of gill nets on any fishing boat, or in use by such boat, shall not exceed 250 fathoms in Port Snettisham or 150 fathoms in Taku Inlet and shall not be less than 50 fathoms. Lengths are upon the basis of hung measure.

5. Section 119.7 is deleted and a new § 119.7 is added to read as follows:

§ 119.7 *Gear restriction, mainland shore of Stephens Passage.* Fishing, other than trolling, is prohibited within two miles of the shore along the eastern side of Stephens Passage and Frederick Sound from the latitude of Midway Island to Horn Cliffs.

6. Section 119.9 is amended by deleting paragraphs (a), (b), (c), and (d).

7. Section 119.10 is amended by the deletion of paragraphs (a) and (b) and by the addition of a new paragraph (p) to read as follows:

(p) *Taku Inlet.* All waters east of 134 degrees west longitude.

PART 120—SOUTHEASTERN ALASKA AREA, STIKINE DISTRICT, SALMON FISHERIES

1. Section 120.3 is amended to read as follows.

§ 120.3 *Registration and reporting of boats.* In the period from June 25 to August 15, all boats, other than trollers entering the Stikine District shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing, and thereafter shall report daily the number of salmon caught, the place of capture, and the disposition of the catch.

PART 121 — SOUTHEASTERN ALASKA AREA, SUMNER STRAIT DISTRICT, SALMON FISHERIES

1. Section 121.3 is amended in headnote and text to read as follows:

§ 121.3 *Open season, Ernest Sound and Anan.* Fishing, other than trolling, in Ernest Sound and the open waters in the vicinity of Anan Creek (excluding Zimovia Strait) is prohibited, except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3.

2. Section 121.4 is amended to read as follows:

§ 121.4 *Open season, exception.* With the exception of Ernest Sound and the vicinity of Anan Creek, fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3.

3. Section 121.6 is deleted.

PART 122—SOUTHEASTERN ALASKA AREA, CLARENCE STRAIT DISTRICT, SALMON FISHERIES

1. Section 122.3 (c) is amended to read as follows:

(c) *Southeast section.* All waters south of a line extending from Approach Point to Caamano Point and east of a line extending down the middle of Clarence Strait, excluding the North Arm of Behm Canal.

2. A new section designated § 122.3 (e) is added to read as follows:

(e) *North Behm Canal section.* All waters of Behm Canal between a line from Caamano Point to Point Higgins and a line from Point Lees to Claude Point.

3. Section 122.4 is amended to read as follows:

§ 122.4 *Open season, northern section.* Fishing, other than trolling, in the northern section is prohibited except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3.

4. Section 122.5 is amended to read as follows:

§ 122.5 *Open season, central, southeast and southwest sections.* Fishing, other than trolling, in the central, southeast and southwest sections is prohibited except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3, *Provided,* That this prohibition shall not apply to Cholmondeley Sound from 6 o'clock antemeridian October 5 to 6 o'clock postmeridian October 15.

5. A new section designated § 122.5a is added to read as follows:

§ 122.5a *Registration and reporting of boats, Cholmondeley Sound.* During the period October 5 to October 15 all boats in or entering Cholmondeley Sound shall be registered with the local representative of the Fish and Wildlife Service prior to engaging in fishing, and each delivery of salmon shall be immediately reported.

6. Section 122.6 is amended to read as follows:

§ 122.6 *Closed season for trolling, North Arm of Behm Canal.* Trolling is prohibited in all waters of Behm Canal northward of a line from Escape Point to Point Francis from 6 o'clock postmeridian April 30 to 6 o'clock antemeridian July 15.

7. Section 122.7 is deleted.

PART 123—SOUTHEASTERN ALASKA AREA, SOUTH PRINCE OF WALES ISLAND DISTRICT, SALMON FISHERIES

1. Section 123.3 is amended to read as follows:

§ 123.3 *Open season.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3.

2. Sections 123.4 and 123.5 are deleted.

3. Section 127.7 is redesignated § 123.7.

PART 124—SOUTHEASTERN ALASKA AREA, SOUTHERN DISTRICT, SALMON FISHERIES

1. Section 124.3 is amended to read as follows:

§ 124.3 *Open season.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian August 15 to 6 o'clock postmeridian September 3.

2. Section 124.4 is amended to read as follows:

§ 124.4 *Closed season for trolling, South Arm of Behm Canal.* Trolling is prohibited in all waters of Behm Canal northward of a line from Point Sykes to Point Alava: *Provided,* That this prohibition shall not apply southward of a line from Point Eva to Cactus Point prior to 6 o'clock postmeridian April 30 and after 6 o'clock antemeridian July 15.

3. Sections 124.5 and 124.6 are deleted.

4. Section 124.9 is amended by deleting paragraphs (j) and (k) and a new paragraph designated (j) is added to read as follows:

(j) *South Arm of Behm Canal.* All waters northward of a line from Point Eva to Cactus Point.

(43 Stat. 465, as amended; 48 U. S. C. 221 et seq.)

J. A. KRUG,
Secretary of the Interior.

FEBRUARY 19, 1949.

[F. R. Doc. 49-1462; Filed, Feb. 25, 1949; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

United States Coast Guard

[33 CFR, Part 90; 46 CFR, Parts 10, 12, 51, 52, 54, 55, 57, 59, 60, 63, 64, 65, 76, 79, 94, 97, 102, 113, 116, 144, 160, 164]

[CGFR 49-2]

INSPECTION AND NAVIGATION REGULATIONS

MERCHANT MARINE COUNCIL PUBLIC HEARING; NOTICE OF PROPOSED CHANGES

1. The Merchant Marine Council will hold a public hearing in Room 4120, Coast Guard Headquarters, 13th and E Streets NW., Washington, D. C., on March 29 and 30, 1949. The meetings will convene at 9:30 a. m. and the agenda for this hearing is as follows:

March 29. Lights for pusher tows on Great Lakes waters; English language requirements for applicants for certificates of service and efficiency other than for entry ratings; applicants for motorboat operators' licenses; electrical control of ventilation systems; specifications for lifesaving equipment, bulkhead panels, and incombustible materials; general rules and regulations for vessel inspection.

March 30. Marine material specifications; boiler tubes; unfired pressure vessels; piping systems, pumps, refrigeration machinery, and fuel tanks; test drillings of boilers in service.

2. The proposed changes in the regulations together with the authorities for making such changes are generally described by subjects in paragraphs 4 to 48, inclusive, below. Copies of the proposed changes in the regulations have been mailed to persons and organizations who have expressed an active interest in the subjects under consideration. Copies of any of the proposed regulations may be obtained from the Commandant (CMC), Coast Guard Headquarters, Washington 25, D. C., so long as they are available. After all extra copies available for distribution are exhausted, copies will be available for reading purposes only in Room 4104, Coast Guard Headquarters, or at the offices of various Coast Guard District Commanders.

3. Comments on the proposed regulations are invited. All persons who desire to submit written comments, data, and views prior to the hearing for consideration in connection with the proposed changes may submit them in writing for receipt, prior to March 29, by the Commandant (CMC), Coast Guard Headquarters, Washington 25, D. C.; or comments, data, and views may be presented orally or in writing at the hearing. In order to insure consideration and to facilitate the checking and recording of comments, it is requested that each suggested rewording of a proposed regulation be submitted on a separate sheet of letter size paper, showing the section number (if possible) and the subject; the proposed change; the reason or basis (if any); and the name, business firm (if any), and address of the submitter. The written comments, data, and views should be submitted as soon as possible so that they will be received prior to March 29 in order to insure consideration at the hearing and before recommendations are made concerning the proposed regulations.

LIGHTS FOR PUSHER TOWS ON GREAT LAKES WATERS

4. It is proposed to add a new § 90.19a to 33 CFR Chapter I, which will specifically prescribe the lights for tows of one or more barges, canal boats, scows, or other vessels of nondescript type not otherwise provided for when being towed by being pushed ahead of a steam vessel while navigating on Great Lakes waters. The lights to be required for pusher tows are an amber light at the extreme forward end of the tow and at or as near the centerline of the tow as practicable, and colored side lights with inboard screens so placed that they will mark the tow at its maximum projection to starboard and port. The present Pilot Rules for the Great Lakes do not specifically prescribe the lights for pusher tows.

5. The authority for prescribing lights for pusher tows on Great Lakes waters is in the act of February 8, 1895, as amended, including amendments approved March 18, 1948, Public Law 448, 80th Congress; sec. 3, 28 Stat. 649, as amended; 33 U. S. C. 243.

ENGLISH LANGUAGE REQUIREMENTS FOR APPLICANTS FOR CERTIFICATES OF SERVICE AND EFFICIENCY OTHER THAN FOR ENTRY RATINGS

6. It is proposed to amend 46 CFR 12.05-3, 12.05-9, 12.10-3, 12.10-5, 12.15-3, 12.15-9, 12.20-1, and 12.20-5, by either amending or adding new requirements so that applicants for certificates of service and efficiency, other than for entry ratings, i. e., able seamen, lifeboatmen, qualified members of the engine department, and tankermen, will be required to be able to speak and understand the English language and that any examination conducted in connection therewith shall be given only in the English language. These amendments are intended to improve safety at sea. The effect of the proposed changes will be to require all applicants for certification in other than entry ratings to be able to speak and understand the English language.

7. The authority for regulations regarding English language requirements for applicants for certificates of service and efficiency, other than for entry ratings, is contained in R. S. 4405, 4417a, 4488, and 4551, as amended; sec. 13, 38 Stat. 1169, as amended by sec. 1, 49 Stat. 1930, secs. 1, 2, 50 Stat. 199, sec. 1, 52 Stat. 753, 55 Stat. 579, 732, sec. 1, 49 Stat. 1544, sec. 7, 49 Stat. 1936, and sec. 5 (e), 55 Stat. 244, as amended, 46 U. S. C. 367, 375, 391a, 481, 643, 672, 672-1, 672-2, 672b, and 689, and 50 U. S. C. 1275.

APPLICANTS FOR MOTORBOAT OPERATORS' LICENSES

8. It is proposed to amend 46 CFR 10.20-5 (c) by canceling the exemption regarding applicant's inability to read or write if he is qualified in all other respects and possesses extensive experience in the operation of small vessels. This cancellation is proposed because many written regulations, recommended practices, constructions, safety hints, etc., are being distributed to motorboat operators for their guidance and an operator's inability to read may result in his ignorance of practices essential to safety.

9. The authority for regulations establishing requirements for applicants for motorboat operators' licenses is in R. S. 4405, as amended, and sec. 17, 54 Stat. 166, as amended; 46 U. S. C. 375, and 526p.

ELECTRICAL CONTROL OF VENTILATION SYSTEMS

10. It is proposed to amend 46 CFR 144.25 (j) by canceling the present requirement that an emergency control station for machinery space ventilation shall be located in the fire control room or wheelhouse. This proposed change does not alter the requirements for other ventilation systems which are the same as before.

11. The authority for regulations on construction or material alteration of passenger vessels is in R. S. 4405, 49 Stat. 1384 and 54 Stat. 1028, as amended; 46 U. S. C. 369, 375, and 463a.

SPECIFICATIONS FOR LIFESAVING EQUIPMENT, BULKHEAD PANELS, AND INCOMBUSTIBLE MATERIALS

12. It is proposed to publish in Parts 160 and 164 in Subchapter Q—Specifications in Chapter I, 46 CFR, the specifications for calcium carbide-calcium phosphide type self-igniting water lights, lifeboat winches, davits, lifeboat mechanical disengaging apparatus, lifeboat hand-propelling gear, lifeboats (all types), bulkhead panels, and incombustible materials, as subparts 160.012, 160.015, 160.032, 160.033, 160.034, 160.035, 164.008, and 164.009, respectively. These new specifications are for the manufacturing of equipment requiring approval of the Commandant before being used on merchant vessels or for materials requiring approval before being used in the construction of vessels. Tentative drafts of these specifications were sent to various manufacturers and others interested in the equipment or requirements contained therein, and the suggestions received were incorporated into these new specifications wherever possible. The specifications contained general requirements, including construction and capacity requirements where applicable, inspection and testing procedures, and approval procedures. These specifications bring up to date present requirements contained in the general rules and regula-

tions for vessel inspection and include requirements and procedures presently used but which have not been previously published in regulation form. These specifications are in accord with the provisions of the International Convention for Safety of Life at Sea, 1948, with the exception of the specification for lifeboats, which does not contain a requirement regarding a compression ignition engine for motor lifeboats for certain passenger vessels.

13. The authority for prescribing requirements for calcium carbide-calcium phosphide type self-igniting water lights is in R. S. 4405, 4426, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended, 46 U. S. C. 367, 375, 404, 481, 489, 1333, 50 U. S. C. 1275. The authority to prescribe requirements for lifeboat winches is in R. S. 4405, 4417a, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 375, 391a, 481, 489, 1333, 50 U. S. C. 1275. The authority to prescribe requirements for davits is in R. S. 4405, 4417a, 4481, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended, 46 U. S. C. 367, 375, 391a, 474, 481, 489, 1333, 50 U. S. C. 1275. The authority to prescribe requirements for lifeboat mechanical disengaging apparatus and lifeboat hand-propelling gear is in R. S. 4405, 4417a, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 375, 391a, 481, 489, 1333, 50 U. S. C. 1275. The authority for prescribing requirements regarding bulkhead panels and incombustible materials is in R. S. 4405, 4417a, 4426, 49 Stat. 1384, 1544, 54 Stat. 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 369, 375, 391a, 404, 463a, 1333, 50 U. S. C. 1275.

GENERAL RULES AND REGULATIONS FOR VESSEL INSPECTION

14. With the establishment of separate specifications described in paragraph 12, it is necessary to amend the General Rules and Regulations for Vessel Inspection in 46 CFR Parts 59, 60, 63, 64, 65, 76, 79, 94, 97, 102, 113, and 116, by canceling requirements of a specification nature and to revise the wording but not necessarily the operating requirements. These changes are primarily editorial in nature and do not generally change operating requirements. However, it is also proposed to incorporate into these regulations revised requirements regarding stowage of buoyant apparatus and steering apparatus; add provisions for a pistol projected rocket type line-throwing appliance; add new requirements for lifeboat hand-propelling gear for vessels navigating the Great Lakes, bays, sounds, and lakes other than the Great Lakes, and rivers; increase the present weight from 140 to 165 pounds as the average weight per person when conducting tests of lifeboats at annual inspections; remove references to various classes of lifeboats inasmuch as lifeboats other than class 1A are no longer constructed or approved; cancel specification requirements for searchlights on motor lifeboats, life rafts, buoyant apparatus, line-throwing appliances; and wood floats on river vessels carrying passengers; and cancel the requirement for manufacturers to submit 60 copies of specifications and/or blueprints of all approved items of equipment.

15. With the establishment of a specification for calcium carbide-calcium phosphide type self-igniting water lights, it is proposed to cancel 46 CFR 59.57, 60.50, 76.54, 94.54, and 113.46a. These sections presently contain specification requirements for self-igniting water lights.

16. With the establishment of a specification for lifeboat winches, it is proposed to amend 46 CFR 59.3a, 60.21a, 76.15a, and 94.14a.

17. With the establishment of the specifications for lifeboat davits, it is proposed to amend or cancel certain parts of 46 CFR 59.3, 60.21, 76.15, 94.14, and 113.23.

18. With the establishment of a specification for lifeboat mechanical disengaging apparatus, it is proposed to amend or cancel certain parts of 46 CFR 59.68, 60.61, and 64.18.

19. By establishing a specification for lifeboat hand-propelling gear, it is necessary that 46 CFR 59.11 and 60.9 be amended by canceling specification requirements.

20. By establishing general specification for all types of lifeboats, it is proposed to cancel 46 CFR 59.13, 59.16, 59.17, 59.19, 59.20, 59.21, 59.22, 59.23, 59.24, 59.25, 59.26, 59.31, 59.32, 59.33, 59.34, 60.10, 60.14, 60.15, 65.5, 65.6, 65.7, 65.11, 76.16, 76.19, 76.21, 94.15, 94.18, 94.20, 102.3, 102.6, 113.10, and 113.14. It is also proposed to delete specification requirements and revise the regulations in 46 CFR 59.5, 59.11, 59.11a, 59.15, 59.30, 60.12, 60.13, 76.13, 76.14, 76.14a, 76.18, 76.20, 94.9, 94.12, 94.13, 94.17, 94.19, 113.6, 113.12, 113.13, and 113.22. Because lifeboats other than classes 1A are no longer constructed or approved, it is proposed to cancel references to various classes of lifeboats, and this is to be accomplished by amending or canceling 46 CFR 59.4, 59.12, 59.36, 60.2, 60.3, 60.22, 60.26, 65.2, 65.3, 76.3, 76.4, 76.5, 76.6, 76.8, 76.23, 76.28, 94.2, 94.3, 94.22, 94.29, 113.4, 113.15, 113.19, and 113.25.

21. With the establishment of specifications for bulkhead panels and incombustible materials, it is not necessary that the regulations in 46 CFR Part 144 be amended. The necessary changes in these regulations were made when they were last revised.

22. With the establishment of a specification for buoyant apparatus, it is proposed to amend 46 CFR 59.54a, 60.47a, and 76.51a by deleting material of a specification nature and adding to 46 CFR 59.54a requirements for stowage.

23. It is proposed to amend the regulations regarding line-throwing appliances by canceling all material of a specification nature, rearranging existing regulatory material, and adding provisions for a pistol-projected rocket type line-throwing appliance by amendments to 46 CFR 59.11, 59.60, 59.61, 60.9, 60.53, and 60.54. It is also proposed to make the distress signal requirements for coastwise passenger vessels the same as for ocean-going vessels.

24. It is proposed to cancel the specific requirement that manufacturers submit 60 copies of all blueprints and/or specifications approved inasmuch as the various specifications indicate the number of copies required for the particular item, and it is, therefore, proposed to cancel 46 CFR 63.15, 79.21, 97.19, and 116.19.

25. In order to have specific requirements concerning lifeboat hand-propelling gear for vessels navigating the Great Lakes, bays, sounds, and lakes other than the Great Lakes, and rivers, it is proposed to add requirements to 46 CFR 76.14, 76.14a, 94.13, and 113.22.

26. To increase the present weight requirement from 140 to 169 pounds as the average weight per person when conducting tests of lifeboats at annual inspections, it is proposed to amend 46 CFR 59.39, 60.17, 76.26, 94.25, and 113.16.

27. With the establishment of a specification for life rafts, it is proposed to cancel 59.42, 59.47, 59.50, 60.29, 60.34, 60.35, 76.32, 76.37, 94.32, 94.35, 94.38, 113.29 and 113.41, and amend 59.44, 60.31, 76.34, 94.34, 113.31.

28. To revise the requirements for steering apparatus, it is proposed to amend 46 CFR 59.62, 60.55, 76.56, 94.55, and 113.47, which will apply to existing installations. It is proposed to retain paragraphs (c) and (d) of the existing regulation and to add additional requirements which follow the language used in the rules of the American Bureau of Shipping. These revised requirements applicable to new installations will be set forth in new sections designated 46 CFR 59.62a, 60.55a, 76.56a, 94.55a, and 113.47a.

29. With the establishment of a specification for wood floats on river vessels, it is proposed to amend 46 CFR 113.45.

30. The authority to prescribe regulations for General Rules and Regulations for Vessel Inspection as set forth in 46 CFR Parts 59, 60, 63, 65, 76, 79, 94, 97, 102, 113, and 116, is contained in R. S. 4405, 4417, 4418, 4426, 4453, 4480, 4481, 4482, 4484, 4488, 4491, 4492, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391, 392, 404, 473, 474, 475, 477, 481, 490, 1333, and 50 U. S. C. 1275.

MARINE MATERIAL SPECIFICATIONS

31. In accordance with suggestions from boiler tube manufacturers, it is proposed to revise several specifications in 46 CFR Part 51 in order to bring these specifications into conformance with A. S. T. M. standard specifications. The specifications in 46 CFR subparts 51.28 and 51.31 presently contain boiler tube wall thickness requirements as specified in A. S. T. M. standards which it is proposed to cancel because they are not required for the relatively short marine boilers. It is, therefore, proposed to cancel 46 CFR 51.28–1 (b) and 51.31–1 (b) and revise Table 51.07–15. To permit higher temperatures for alloy steel tube and pipe material as requested by the industry, it is proposed to increase the maximum temperature of this material from the present 1000° F. to 1200° F. To provide for tube and pipe material having satisfactory creep properties at this maximum temperature, it is proposed to add two new A. S. T. M. specifications designated A213–46 and A153–

47T to the specifications by amending 46 CFR subparts 51.31 and 51.34.

32. In order to avoid repetition of requirements by the proposed revision of Part 55 on piping, it is also proposed to revise 46 CFR 51.46–1, 51.49–1, 51.58–1, 51.73–1, and 51.76–1.

33. The authority for issuing regulations on marine material specifications is in R. S. 4405, 4417a, 4418, 4426, 4427, 4429, 4430, 4431, 4432, 4433, 4434, 4453, 4491, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391a, 392, 404, 405, 407, 408, 409, 410, 411, 412, 435, 1333, and 50 U. S. C. 1275.

BOILER TUBES

34. It is proposed to revise 46 CFR 52.55–10, regarding boiler tube computations by prescribing the maximum pressure and temperature limitations on grade A seamless material manufactured in accordance with present specifications and by limiting the maximum temperature to 850° for carbon steel tubes manufactured in accordance with the proposed specification. These changes are proposed to clarify the requirements for the determination of the maximum allowable pressure and minimum thickness of boiler and superheater tubes. The table in 52.55–10 setting forth the maximum allowable stresses for tubing will be changed to include the new tubing material described in the proposed specifications. These changes are necessary to permit the use of boiler tube materials for higher pressures as requested by the marine industry.

35. In order to avoid repetition of requirements, it is also proposed to transfer certain requirements for safety valves pertaining to boiler safety valve piping to the proposed revision of Part 55. To accomplish this it will be necessary to cancel 46 CFR 52.65–15 (f), 52.70–15, and 52.70–20, as well as revise 52.70–25 and 52.70–30, regarding feed valve and blow-off valve connections.

36. The authority for regulations regarding boiler tubes is in R. S. 4405, 4417a, 4418, 4426, 4427, 4429, 4430, 4431, 4432, 4433, 4434, 4453, 4491, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391a, 392, 404, 405, 407, 408, 409, 410, 411, 412, 435, 1333, and 50 U. S. C. 1275.

UNFIRED PRESSURE VESSELS

37. The manufacturers of heat exchangers have indicated that 46 CFR 54.01–30 requires excessively large size relief valves to be fitted to heat exchangers designed with very low shell pressures and much higher tube or coil pressures. It is proposed that this section be amended by inserting the standard flow formula for determining the discharge of water through an orifice based upon the discharge through one ruptured tube employing a coefficient of discharge of 0.62 under velocity head equivalent to the difference in pressure between the coil and shell relief valve set pressures. By this method a relief valve of reasonable size will be allowed.

38. As a result of field inspections it is proposed to change the requirements in 46 CFR 54.01–40, regarding periodic leak tests at prescribed pressures for refrigerating units, gas condensers and receivers, evaporators, and direct expansion cooling coils, since this requirement appears to be impracticable for existing refrigeration installations originally designed for pressures substantially below the test pressures now required. It is, therefore, proposed to cancel this section and transfer the requirements to the proposed Part 55 and have these test requirements applicable only to new installations.

39. The authority for regulations regarding unfired pressure vessels is in R. S. 4405, 4417a, 4418, 4426, 4427, 4429, 4430, 4431, 4432, 4433, 4434, 4453, 4491, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391a, 392, 404, 405, 407, 408, 409, 410, 411, 412, 435, 1333, and 50 U. S. C. 1275.

PIPING SYSTEMS, PUMPS, REFRIGERATION MACHINERY, AND FUEL TANKS

40. It is proposed to revise and rewrite all of 46 CFR Part 55, regarding piping systems and pipe, also transferring to this part certain other requirements regarding safety valve escapes, feed water and blow-off piping connections, etc. A table of the maximum pressures and temperatures for ferrous and nonferrous pipe and plate flange materials has been included in order to facilitate the selection of proper materials for particular pressures and temperatures.

41. The modified Barlow formula employed by the A. S. M. E. and A. S. A. codes has been substituted in lieu of the present pipe formula in 46 CFR 55.07–15 for determining pipe wall thickness which results in a lower wall thickness than presently required. Higher stresses for nonferrous material below 400° F. and lower stresses above 400° F. are permitted, based on stresses allowed by the A. S. M. E. code for copper and copper base alloy pipe. These changes are the result of requests from industry for lower pipe and tube wall thickness.

42. Bolting material stresses have been increased 25 percent and the table of gasket materials and contact facings will be revised in accordance with A. S. M. E. code requirements. To eliminate unnecessary repetition many of the paragraphs in the existing regulations have been rearranged and placed under more appropriate section headings. The requirements for main piping systems have been divided into several sections for clarity purposes. The figure in 46 CFR 55.07–15, showing acceptable types of flange attachments has been revised to comply with the fabrication details of fillet welded flanges as specified in A. S. A. code for pressure piping.

43. A new subpart designated 55.13 has been proposed and contains requirements for installation of refrigerating machinery and design and installation test pressures for pressure vessels and piping. A new requirement has been added covering fuel oil service piping which limits the use of screwed connections to sizes below one inch diameter.

44. A new subpart designated 55.16 has also been proposed and contains requirements for the construction, installation, and testing of independent internal combustion engine fuel tanks for passenger vessels, tank vessels, and cargo vessels. Some other changes are also made in this part, but in general are relaxations from existing requirements.

45. It is also proposed to cancel 46 CFR 57.05–20, regarding installation of refrigerating machinery since the proposed revision of Part 55 covers the requirements for such installations.

46. The authority for regulations regarding piping systems, pumps, refrigeration machinery, and fuel tanks is in R. S. 4405, 4417a, 4418, 4426, 4427, 4429, 4430, 4431, 4432, 4433, 4434, 4453, 4491, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391a, 392, 404, 405, 407, 408, 409, 410, 411, 412, 435, 1333, 50 U. S. C. 1275.

TEST DRILLINGS OF BOILERS IN SERVICE

47. In accordance with suggestions from field offices of the Coast Guard, it is proposed to amend 46 CFR 57.10–15 (i), regarding drilling of shells in tests and inspections of boilers in service by making the mandatory drilling of shells of boilers every 10 years apply only to scotch, western river, or other fire tube or flue boilers and for other boilers such test drillings may be made when the inspector is in doubt as to the safety of the boiler. This is a relaxation of present requirements. If the thickness of the boiler shell is found by actual measurement to be less than the original thickness, the maximum allowable pressure shall then be recalculated and shall not exceed the minimum pressure permitted by the applicable boiler design formulas.

48. The authority for regulations regarding tests and inspections of boilers in service is in R. S. 4405, 4417a, 4418, 4426, 4427, 4433, 4434, 4453, sec. 14, 29 Stat. 690, 41 Stat. 305, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 363, 366, 367, 375, 391a, 392, 404, 405, 411, 412, 435, 1333, and 50 U. S. C. 1275.

Dated: FEBRUARY 18, 1949.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 49–1482; Filed, Feb. 25, 1949; 8:54 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 934]

HANDLING OF MILK IN LOWELL-LAWRENCE, MASSACHUSETTS, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and or-

ders (7 CFR, Supps. 900.1 et seq.), 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 a proposed amendment to the order as amended regulating the handling of milk in the Lowell-Lawrence, Massachusetts, marketing area. Interested parties may file written exceptions to the recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 7th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which a proposed amendment to the tentative marketing agreement and the order, as amended, was formulated, was called by the Production and Marketing Administration, United States Department of Agriculture. The hearing was held at Lawrence, Massachusetts, February 3, 1949, pursuant to a notice published in the FEDERAL REGISTER (14 F. R. 415) on January 29, 1949.

The material issues presented on the record were concerned with the following:

1. Factors to be deducted from the wholesale prices of cream and nonfat dry milk solids in the determination of formula prices for Class II milk.

2. Formula factors to be used in determining the value of butterfat in excess of 3.7 pounds in each hundredweight of milk or the deduction in the hundredweight price to be permitted for milk averaging less than 3.7 pounds of butterfat per hundredweight.

3. A provision that producers be reported as delivering to the plant to which they usually deliver if their milk is diverted to a plant at which milk is not otherwise received from producers.

4. Revision of the definitions, and addition of new definitions to describe more specifically the terms used in the order.

5. Revision of the provisions relating to classification, and addition of a section on assignment of various types of receipts to Class I or Class II, for the purpose of setting forth the rules for classification in greater detail.

6. Extension of the provision for allocation of a handler's Class I milk disposed of from a plant within the 20-mile zone, so as to provide also for allocation of Class I milk disposed of from plants beyond the 20-mile zone.

7. Make other minor changes, including rearranging paragraphs of the order for greater clarity and ease of understanding, elimination of unnecessary language, incorporation of the effects of the section on applications of provisions in other parts of the order, bringing the Class I price schedule up to date to show the prices actually effective under the order.

8. General.

Findings and conclusions. The following findings and conclusions on material issues are based upon evidence introduced at the hearing and the record thereof.

1. *Formula factors to be used in determining Class II milk prices.* The record of the hearing indicated the need for maintaining Class II milk prices generally in line with market prices of cream and nonfat dry milk solids. Also, a price for Class II milk in this market which moves with the price of milk for similar uses in the Boston market is necessary because of the interrelationship of the Boston and Lowell-Lawrence markets. The evidence at this hearing dealt with the determination of factors relative to cream prices and nonfat milk solids prices to be used in establishing the Lowell-Lawrence Class II price.

The Boston milk order provides for allowances at country plants in the 201–210 mile zone of 57.5 cents in the months October through February in addition to approximately 9.5 cents allowance for transporting Class II products to the city market. Seasonal increases in allowances in the other months add 6 cents more in August and September, 12 cents more in March, April and July and 18 cents more in May and June. The Boston prices are applicable to the 201–210 mile zone which is about the center of the country plant area for that milkshed. Milk for the Lowell-Lawrence market is received principally at city plants although the market also receives considerable quantities of milk from country plants operated under the Boston order. The Lowell-Lawrence handler's operations are more similar to the operations of country plants in the Boston milkshed than to operations at Boston city plants, since there is not the opportunity for the division of operations between country and city which is possible in a market supplied by a large system of country plants.

The Lowell-Lawrence handler ordinarily does not have to incur the cost of shipping cream, since he separates it at his city plant, and the allowance for that factor in the Boston Class II price is therefore not applicable in Lowell-Lawrence. On the other hand, the Lowell-Lawrence handler must dispose of the skim milk in about the same way as the country plant operator in the Boston market. Excess skim milk in the form of manufactured dairy products competes with products made by Boston manufacturing plants and products manufactured in other supply areas.

It is recommended that the Class II price for Lowell-Lawrence city plants be established at a level equal to the Boston price at country plants without the cream freight allowance.

The country milk plant area in New England from which Lowell-Lawrence draws milk is within the same area from which the Boston market regularly draws a large part of its milk supply. In the computation of price differentials for Class II milk received at plants various distances from the Lowell-Lawrence market, it is necessary to consider the prices which would be applicable to such plants if they were purchasing milk under the provisions of the Boston order. The Lowell-Lawrence market is approximately 30 miles nearer to the center of the country plant milk supply area than is the Boston market. The differentials for the Lowell-Lawrence market should be established, therefore, so that the Class II price for plants in the 151–200 mile zone from Lowell-Lawrence corresponds to the prices at plants in the 181–230 mileage distance from Boston. In view of the less extensive nature of the country plant supply for Lowell-Lawrence, price differentials based on 50-mile bracket are more suitable than the 10-mile graduations used in the Boston order.

Although a producer representative indicated preference for computation of the allowances in two parts, one applicable to the value of butterfat and one applicable to the value of skim milk, the record does not contain a basis for establishing this division of the allowances.

2. *Formula factors to be used in determining butterfat differentials.* It was proposed at the hearing that the factors used in determining the butterfat differential be changed so that the resulting differential would conform more closely to the butterfat differential used under the Boston milk order. The butterfat differential used in determining prices for milk testing above or below 3.7 percent butterfat under the Boston order is computed by deducting from the price of $\frac{1}{10}$ pound of butterfat in 40-percent cream, the cost of shipping butterfat in the form of cream for the mileage distance of 201–210 miles. This distance represents about the midpoint of the Boston milk supply area. The butterfat differential under the Boston order is applicable, however, in each zone at the same rate.

In the Lowell-Lawrence market, milk is received principally at city plants, and therefore a deduction for the cost of shipping cream is not applicable to the butterfat value. The record does not support any change in the computation of the butterfat differential.

3. A handler proposed that milk which a handler ordinarily receives at one of his plants from certain producers, and which is temporarily diverted to another one of his plants at which he does not otherwise receive milk from producers, should be considered as received at the plant to which the producers ordinarily deliver and as moved to the second plant.

The order already has a similar provision relating to diversion of milk of certain producers from the plant of one handler to the plant of another handler, but does not cover the case of diversion between plants belonging to the same handler. A proposal made by the market administrator would cover all such cases of diversion of milk between plants under a proposed definition of "producer." Under this proposal, the term "producer" would include a dairy farmer who ordinarily delivers milk to a producer milk plant, although the handler actually causes the milk of such dairy farmer to be delivered to another plant, if the handler reports such milk as received at the producer milk plant to which ordinarily delivered.

The record indicates that such a provision should be incorporated in the order so as to facilitate movement of milk between plants for the purpose of adjust-

ing for short-time variations in supply and requirements.

4. *Revision of definitions.* Revision of the various definitions set forth in the order, and the addition of some new definitions, was proposed by the market administrator. In general, the revised definitions do not effect any substantive change in the regulations under the order. The exceptions to this are: (1) Inclusion in the producer definition of a general provision that milk of producers temporarily diverted shall be considered as delivered to the plant to which the producers ordinarily deliver; (2) deletion of the references to volume of milk handled from the producer-handler definition. The first of these changes is an expansion of the present provision in the order providing that producers whose milk is temporarily diverted from one handler to another handler shall be considered as delivering to the plant to which they ordinarily deliver. The stipulations as to volume of milk handled, in the producer-handler definition, have never affected the status of any person regulated under the order.

The addition of the definitions for "dairy farmer", "city plant", "country plant", "milk", "cream", "skim milk", in a form similar to those used in the Boston order, will aid in setting forth the various provisions of the order. The use of the terms "producer milk plant" and "regulated plant", which are steps in the definition of the term "producer", serve to gather together into one place the various qualifications now implied throughout the order.

It is recommended that the proposed revised and new definitions be adopted as proposed.

5. *Classification of milk.* Proposals made by the market administrator would reword the classification section of the order, making use of the new definitions, and would add a new section which would include detailed rules for the assignment to Classs I or Class II of receipts at a regulated plant from any other plant. These proposals are intended to make no change in the actual classification of milk regulated under the order, except in the case of milk or milk products transferred between plants.

The order presently provides that transfers of milk or skim milk from the plant of one handler to the plant of another handler may be classified by the seller, or if the seller submits no report, may be classified by the buyer, with the proviso that no greater quantity of the transfer shall be Class II than the total milk or skim milk used by the buyer as Class II. The proposed language would be more general in application, and would cover transfers of fluid milk products from one plant to another regardless of whether the two plants are operated by the same or different handlers.

One handler proposed that handlers be allowed to ship milk from a plant not otherwise subject to the order as Class II milk for use at a plant handling milk from Lowell-Lawrence producers, without involving the milk shipped, or the originating plant, under regulation. It appears that the purpose of this proposal would be accomplished under the language proposed by the market administrator. Under the proposed language, the handler could classify the transfer as Class II up to the amount of Class II at the receiving plant (excepting receipts of cream), and the shipment would therefore not involve the originating plant under regulation, since a "regulated plant", according to proposed definition, supplies Class I milk to the marketing area. The proposed language would therefore allow a handler greater flexibility in the use of his facilities for processing Class II milk, and greater flexibility in filling Class II requirements in the market.

Use of the definitions of milk, cream, skim milk, and fluid milk products, in the classification language, makes clear in each instance whether only whole milk or particular milk products are to be classified, while heretofore "milk" has been used in some places in the order to mean both whole milk and milk products.

One representative of producers testified that there is some movements of milk from the Lowell-Lawrence market to the Fall River market, and requested that such milk should not be classified as Class II milk under the Lowell-Lawrence order if it is classified as Class I under the Fall River order. In order to assure Lowell-Lawrence producers full value for their milk, the order should specify that Class II classification by the person operating the shipping plant, of milk moved to a plant under another Federal order, shall be limited to transfers of milk to a plant under the Boston order. The above-mentioned and other proposed changes in the classification provisions will facilitate administration of the order and should be incorporated in the order.

6. A proposal made by the market administrator would amplify the present provision, in the class price section of the order, which provides for the allocation among handler's plants of Class I milk disposed of from a plant within the 20-mile zone.

Some handlers disposing of Class I milk in the marketing area operate only a plant or plants outside the 20 mile zone. Also, such allocation would logically apply only to a handler's net Class I milk after deducting receipts from other handlers. It appears desirable that such allocation should be extended to cover all net Class I milk disposed of by the handler, which should be assigned first to producer receipts at city plants, and then to fluid milk products other than cream shipped from other plants in order of nearness to the marketing area.

7. *Rearrangement of provisions.* Elimination of § 934.8 of the order entitled "Application of Provisions" by incorporating the effects thereof in other parts of the order, the insertion of a new section on assignment of receipts to Class I or Class II, and other changes recommended herein require rearrangement and renumbering of some of the sections and subsections of the order.

The order provides for automatic adjustment of the level of the city Class I price for changes in the freight rates on milk from country plants. Increases in freight rates have resulted in a 6 cent per hundredweight increase in Class I prices since the schedule presently set forth in the order was issued.

The schedule should be revised to show the prices actually effective for various levels of the Class I formula index.

Although the order requirement that handlers maintain records of disposition of milk and milk products implies the maintenance of inventory records, it is desirable that the order state this requirement specifically.

These minor revisions and rearrangements of provisions should be made, and the entire order should be rewritten to incorporate such changes.

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

(b) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement upon which hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feed, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the New England Milk Producers' Association and the Northern Farms Cooperative, Inc. The proposed findings and conclusions contained in the briefs, and the arguments in support thereof, were carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth.

To the extent that any of the proposed findings and conclusions are inconsistent with the findings and conclusions hereinbefore set forth, the request to make such proposed findings or reach such proposed conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following revision of the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The proposed marketing agreement is not repeated in this decision because the regulatory provisions thereof would be the same as those contained in the following revision of the order.

§ 934.1 *Definitions.* The following words and phrases shall have the follow-

ing meanings unless the context requires otherwise:

(a) *General.* (1) "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:

(2) "Lowell-Lawrence, Massachusetts, marketing area," also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Andover, Billerica, Chelmsford, Dracut, Lawrence, Lowell, Methuen, North Andover, Tewksbury, Tyngsboro, Westford.

(3) "Boston order" and "New York order" mean the respective orders, as amended, issued by the Secretary, regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, and the New York metropolitan marketing area.

(4) "Month" means a calendar month.

(b) *Persons.* (1) "Person" means any individual, partnership, corporation, association, or any other business unit.

(2) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States who is, or who may hereafter be, authorized to exercise the powers and perform the duties of the Secretary of Agriculture.

(3) "Dairy farmer" means any person who delivers milk of his own production to a plant, except a producer-handler with respect to his deliveries in packaged form to another handler.

(4) "Producer" means any dairy farmer who delivers milk of his own production to a producer milk plant. The term shall also apply to a dairy farmer who ordinarily delivers milk to a producer milk plant, with respect to milk which the handler who operates the producer milk plant diverts to another plant, if that handler reports the milk as received from a producer and as moved to the other plant. The term shall not apply to a dairy farmer who is a producer under the Boston order, with respect to milk diverted from the plant subject to that order to which the dairy farmer ordinarily delivers.

(5) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(6) "Handler" means any person who engages in the handling of milk or other fluid milk products which are received at any plants from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(7) "Producer-handler" means any person who is both a handler and a dairy farmer, and who receives no milk from other dairy farmers except producer-handlers.

(c) *Plants.* (1) "Receiving plant" means any plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from dairy farmers' farms and for washing and sterilizing the milk cans in which such milk is received, and at which are currently maintained weight sheets or other records of dairy farmers' deliveries.

(2) "Producer milk plant" means any receiving plant which is also a regulated plant, except the plant of a producer-handler.

(3) "Regulated plant" means any plant from which fluid milk products which are classified as class I milk are disposed of, directly or indirectly, in the marketing area, except a plant at which the handling of milk is regulated under the Boston or New York orders or a plant located outside the New England States and New York.

(4) "City plant" means any plant which is located within 20 miles of the City Hall in Lowell or Lawrence.

(5) "Country plant" means any plant which is located beyond 20 miles of the City Halls in Lowell and Lawrence.

(d) *Milk and milk products.* (1) "Milk" means the commodity received from a dairy farmer at a plant as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of 1 percent but less than 16 percent, frozen milk, and reconstituted milk.

(2) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term "cream" also includes sour cream, frozen cream, and milk and cream mixtures containing 16 percent or more of butterfat.

(3) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of 1 percent of butterfat.

(4) "Fluid milk products" means milk, flavored milk, cream, skim milk, flavored skim milk, cultured skim milk, and buttermilk, either individually or collectively.

§ 934.2 *Market administrator*—(a) *Designation.* The agency for the administration of this order shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

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

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

(4) To recommend to the Secretary amendments to it.

(c) *Duties.* The market administrator, in addition to the duties described in the other sections of this order, shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(2) Pay, out of the funds provided by § 934.10, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(3) Keep such books and records as will clearly reflect the transactions provided for in this order and surrender the same to his successor, or to such other person as the Secretary may designate;

(4) Unless otherwise directed by the Secretary, publicly disclose, within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 2 days after the date on which he is required to perform such acts, has not

(i) Made reports pursuant to § 934.5 or

(ii) Made payments pursuant to § 934.8; and may at any time thereafter so disclose any such name if authorized by the Secretary to do so;

(5) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this order; and

(6) Promptly verify the information contained in the reports submitted by handlers.

§ 934.3 *Classification of milk and milk products*—(a) *Classes of utilization.* All milk received from producers, and all other milk and milk products which it is necessary to classify in order to classify milk received from producers, shall be classified in accordance with this section. Subject to the other paragraphs of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all fluid milk products the utilization of which is not established as Class II milk.

(2) Class II milk shall be all fluid milk products the utilization of which is established:

(i) As being sold, distributed, or disposed of other than as or in milk; and other than as or in flavored milk or flavored skim milk, buttermilk, or cultured skim milk, for human consumption; and

(ii) As plant shrinkage, not in excess of 2 percent of the volume handled.

(b) *Basis of classification.* (1) Except as otherwise provided in this section, all fluid milk products received by handlers shall be classified in accordance with their utilization at the last plant at which they are received by any person who distributes milk or manufactures milk products.

(2) Cream shall be classified as Class II milk if it is disposed of by a handler in the form of cream.

(3) The burden of proof rests upon the handler who receives milk from producers to account for the milk, and to prove that it should not be classified as Class I milk.

(4) If a handler reports no Class II milk for a given month, and does not submit a revised report regarding classification of his milk within one month after filing the original report, all of his producer receipts during the given month shall remain classified as Class I milk.

(c) *Movements of fluid milk products, except cream, between plants.* (1) Fluid

milk products, except cream, which are moved from a handler's plant to a regulated plant or to a plant subject to the Boston order shall be classified as reported by the handler operating the shipping plant, or, if he submits no report, shall be classified as reported by the handler operating the plant to which the fluid milk products are moved. However, no greater quantity of fluid milk products shall be classified as Class II milk under this subparagraph than the total quantity of Class II milk, after deducting receipts of cream, at the plant to which the fluid milk products are moved.

(2) Fluid milk products, except cream, which are moved from a regulated plant to any unregulated plant, except a plant subject to the Boston order, shall be classified as Class I milk, up to the total quantity of the same form of fluid milk products which is utilized as Class I milk at the unregulated plant.

§ 934.4 *Assignment of receipts from other plants*—(a) *Application of this section.* For the purpose of determining the classification of milk received from producers, all receipts of milk and milk products at a regulated plant from any other plant shall first be assigned to Class I milk or Class II milk in accordance with this section.

(b) *General provisions.* Except as otherwise provided in this section, all receipts of fluid milk products at a regulated plant shall be assigned to the class in which it is reported by the handler who operates the shipping plant, or if that handler submits no report, by the handler who operates the plant to which the fluid milk products were moved.

(c) *Assignment of receipts from plants at which the handling of milk is regulated under the Boston or New York orders.* Fluid milk products received from plants at which the handling of milk is regulated under the Boston or New York orders shall be assigned to Class I milk to the extent that the fluid milk products so received are classified as Class I milk under the Boston order, or as Class I-A milk, Class I-B milk, or Class I-C milk under the New York order. Any remaining quantity of such receipts shall be assigned to Class II milk.

(d) *Assignment of receipts from plants located outside the New England States and New York.* Fluid milk products received from plants located outside the New England States and New York shall be assigned to Class I milk if received in the form of milk, and to Class II milk if received in any form other than milk.

(e) *Limitation on assignment of receipts to Class II milk.* Notwithstanding the provisions of the preceding paragraphs of this section, no greater quantity of receipts of fluid milk products, other than cream, at any regulated plant from other plants shall be assigned to Class II milk than the total quantity of fluid milk products, other than cream, classified as Class II milk at the regulated plant.

(f) *Receipts of cream, and of milk products other than fluid milk products.* All receipts of cream, and of milk products other than fluid milk products, shall be assigned to Class II milk to the extent of Class II utilization by the handler.

§ 934.5 *Reports of handlers.*—(a) *Monthly reports of handlers who receive milk from producers.* On or before the 8th day after the end of each month, each handler who receives milk from producers shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(1) The receipts of milk at each producer milk plant from producers, including the quantity, if any, received from his own production;

(2) The receipts of fluid milk products at each plant from any other source, assigned to classes pursuant to § 934.4; and

(3) The respective quantities which were sold, distributed, or used, including sales to other handlers, classified pursuant to § 934.3.

(b) *Reports of handlers who receive no milk from producers.* Handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(c) *Reports regarding individual producers.* (1) Within 7 days after a producer moves from one farm to another, or starts or resumes deliveries to a handler's plant, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering immediately prior to starting or resuming deliveries.

(2) Within 7 days after the 5th consecutive day on which a producer has failed to deliver to a handler's plant, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

(d) *Reports of payments to producers.* Each handler who receives milk from producers shall submit to the market administrator within 5 days after his request, made not earlier than 14 days after the end of the month, his producer pay roll for such month, which shall show for each producer:

(1) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(2) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

(e) *Maintenance of records.* Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

(f) *Verification of reports.* For the purpose of ascertaining the correctness of any report made to the market administrator as required by this section or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(1) Examine those records which are necessary for the verification of the information contained in such reports;

(2) Weigh, sample, and test milk and milk products; and

(3) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary.

(g) *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided,* That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 934.6 *Minimum class prices*—(a) *Class I price; city plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class I milk delivered by them to such handler's city plant, not less than the price per hundredweight for milk of 3.7 percent butterfat content determined for each month pursuant to this paragraph. In determining the Class I price for each month the latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest reported figures available on the next succeeding work day shall be used.

(1) Divide by 0.98 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the year 1926 as the base period.

(2) Divide by 3 the sum of the three latest monthly indexes of department stores sales in the Boston Federal Reserve District adjusted for seasonal variations, as reported by the Federal Reserve System, with the years 1935–39 as the base period, and divide the result so obtained by 1.26.

(3) Compute an index of grain-labor costs in the Boston milksheld in the following manner:

(i) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston

milkshed, as reported by the United States Department of Agriculture, divide by 0.5044, and multiply by 0.6.

(ii) Compute the weighted average of the monthly composite farm wage rates for Maine, Massachusetts, New Hampshire, and Vermont as reported by the United States Department of Agriculture, divide by 0.5952, and multiply by 0.4. In computing the weighted average, weight the respective rates as follows: Maine, 10; Massachusetts, 6; New Hampshire, 7; and Vermont, 77.

(iii) Add the results determined pursuant to subdivisions (i) and (ii) of this subparagraph.

(4) Divide by 3 the sum of the final results computed pursuant to the preceding subparagraphs of this paragraph. Express the results as a whole number by dropping fractions of less than one-half or by raising fractions of one-half or more to the next whole number. The result shall be known as the formula index.

(5) Subject to the succeeding subparagraphs of this paragraph, the Class I price per hundredweight shall be as shown in the following table:

CLASS I PRICE SCHEDULE

Formula index	Class I price per hundredweight		
	Jan.-Feb.-Mar.-July-Aug.-Sept.	Apr.-May June	Oct.-Nov.-Dec.
50–56	$2.21	$1.77	$2.65
57–63	2.43	1.99	2.87
64–70	2.65	2.21	3.09
71–77	2.87	2.43	3.31
78–84	3.09	2.65	3.53
85–90	3.31	2.87	3.75
91–97	3.53	3.09	3.97
98–104	3.75	3.31	4.19
105–111	3.97	3.53	4.41
112–118	4.19	3.75	4.63
119–125	4.41	3.97	4.85
126–132	4.63	4.19	5.07
133–139	4.85	4.41	5.29
140–146	5.07	4.63	5.51
147–152	5.29	4.85	5.73
153–159	5.51	5.07	5.95
160–166	5.73	5.29	6.17
167–173	5.95	5.51	6.39
174–180	6.17	5.73	6.61
181–187	6.39	5.95	6.83
188–194	6.61	6.17	7.05

If the formula index is more than 194 the price shall be increased at the same rate as would result from further extension of this table at the rate of extension in the six highest index brackets.

(6) For any month after December 1948, the Class I price shall be 44 cents more than the price prescribed in subparagraph (5) of this paragraph if, under the provisions of the Boston order, less than 33 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this subparagraph would cause the Class I price to be more than 88 cents above the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent increase as will result in a Class I price equal to the Class I price for the same month of the preceding year plus 88 cents.

(7) For any month after December 1948, the Class I price shall be 44 cents less than the price prescribed in subparagraph (5) of this paragraph if, under the provisions of the Boston order, more than 41 percent of the milk received by all pool handlers from producers during the 12-month period ending with the second preceding month was Class II milk, except that if the operation of this subparagraph would cause the Class I price to be more than 88 cents below the Class I price for the same month of the preceding year, its application shall be limited to only such portion of the 44-cent reduction as will result in a Class I price equal to the Class I price for the same month of the preceding year minus 88 cents.

(8) Notwithstanding the provisions of the preceding subparagraphs of this paragraph, the Class I price for any of the months of March through June of each year shall not be higher than the Class I price for the immediately preceding month, and the Class I price for any of the months of September through December of each year shall not be lower than the Class I price for the immediately preceding month.

(9) The Class I price determined under the preceding subparagraphs of this paragraph shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff, M–5, and supplements thereto. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

(b) *Class I prices; other plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class I milk delivered by them to such handler's country plant, not less than the applicable price for hundredweight for milk of 3.7 percent butterfat content, determined pursuant to this paragraph.

(1) For milk delivered by producers to such handler's country plant located within 40 miles of the City Hall in Lowell or Lawrence, the price per hundredweight during each month shall be the price effective pursuant to paragraph (a) of this section, less 17 cents per hundredweight.

(2) For milk delivered by producers to such handler's country plant located beyond 40 miles of the City Halls in Lowell and Lawrence, the price per hundredweight during each month shall be the price effective pursuant to paragraph (a) of this section, less an amount per hundredweight equal to the sum of 13 cents and the average of the freight rates (considering 85 pounds to one 40-quart can), from the railroad shipping point for such handler's plant to Lowell and to Lawrence, calculated according to the lowest applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans.

(c) *Allocation of Class I milk to plants.* For the purpose of this section, each handler's Class I milk during each month, after deducting his receipts of Class I milk from other handlers, shall be considered to have been first, that milk which was received directly from producers at his city plant, and then that milk received from producers, which was shipped as fluid milk products, other than cream, from his country plants, in the order of the nearness of the plants to the City Hall in Lowell or Lawrence.

(d) *Class II price; city plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class II milk delivered by them to such handler's city plant, not less than the price per hundredweight for milk of 3.7 percent butterfat content, determined for each month pursuant to this paragraph.

(1) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the month during which such milk is delivered.

(2) For any month for which no cream price as described in subparagraph (1) of this paragraph is reported, multiply by 1.4 the average price reported for such month by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market.

(3) Multiply by 3.7 the amount determined pursuant to subparagraph (1) or (2) of this paragraph, whichever is applicable.

(4) Using the midpoint in any range as one price, compute the average of the prices per pound of roller process nonfat dry milk solids suitable for human consumption, in barrels, in carlots, as published during the month by the United States Department of Agriculture for New York City, subtract one-half cent, and multiply the remainder by 7.5.

(5) Add the results obtained in subparagraphs (3) and (4) of this paragraph, and from the sum subtract the amount shown below for the applicable month. The result is the Class II price per hundredweight for milk received from producers at city plants.

Month:	*Amount (cents)*
January and February	57.5
March and April	69.5
May and June	75.5
July	69.5
August and September	63.5
October, November, and December	57.5

(e) *Class II prices; country plants.* Each handler shall pay producers, at the time and in the manner set forth in § 934.8, for Class II milk delivered by them to such handler's country plant, not less than the price per hundredweight for milk of 3.7 percent butterfat content, determined pursuant to paragraph (d) of this section minus the amount shown in the following table for the railroad freight mileage zone for the average of the distances to Lowell and to Lawrence from the railroad shipping point for such handler's plant:

Freight zone (miles):	*Amount (cents per cwt.)*
21–50	2.0
51–100	3.0
101–150	4.5
151–200	6.0
201–250	7.0
251–300	8.0
301–350	9.0
400 and over	9.5

(f) *Use of equivalent prices in formulas.* If for any reason a price for any milk product specified by this order for use in computing class prices and for other purposes is not reported or published in the manner described by the order, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price which is specified.

(g) *Announcement of Class I price.* The market administrator shall publicly announce the Class I price for each month, as computed under paragraph (a) of this section, on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday, he shall announce the Class I price on the next succeeding work day.

§ 934.7 *Minimum composite prices to producers*—(a) *Computation of value of milk at basic butterfat test.* The value of the milk at the basic butterfat test of 3.7 percent, received from producers during the month by each handler shall be computed by the market administrator in the following manner:

(1) Multiply the quantity of such milk in each class by the price applicable in accordance with § 934.6.

(2) Add together the resulting value of each class.

(b) *Minimum composite price payable by each handler.* The minimum composite price payable pursuant to § 934.8 by each handler to producers for milk received from them during the month shall be computed by the market administrator in the following manner:

(1) Add to the total value computed in accordance with paragraph (a) of this section the amount of the differential applicable in accordance with § 934.8 (d).

(2) Subtract any amount which the handler is required to pay on the milk under the provisions of the Boston order because it represents outside milk as defined in § 904.1 (d) (6) (iii) of this chapter.

(3) Divide the remaining value by the total quantity of milk received by the handler from producers. The result is the handler's minimum composite price for milk, containing 3.7 percent butterfat, which he received from producers at his city plant.

(c) *Announcement of minimum composite prices.* For each month, the market administrator shall mail to all handlers who receive milk from producers and shall publicly announce prices resulting from the computations pursuant to paragraphs (a) and (b) of this section, and other related information, as follows:

(1) On or before the 12th day of the succeeding month, he shall announce the minimum composite price, the Class II price, and the butterfat differential.

(2) On or before the last day of the succeeding month, he shall announce the total quantity and value of Class I milk and Class II milk included in such computations.

§ 934.8 *Payments to producers*—(a) *Time and method of payments.* On or before the 18th day after the end of each month, each handler shall make payment subject to the differentials set forth in this section, for the total value of milk received by him from producers during such month, as computed in accordance with § 934.7 (a), as follows:

(1) To each producer, except as provided in subparagraph (2) of this paragraph, at not less than the minimum composite price per hundredweight computed for such handler pursuant to § 934.7 (b).

(2) To producers who are members of an association of producers, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers under subparagraph (1) of this paragraph.

(b) *Correction of errors in payments.* Errors in making any of the payments required by this section shall be corrected not later than the date for making payments next following the determination of such errors. Any correction affecting all producers delivering to any handler during the month in which such error occurred shall be corrected as the market administrator shall determine to be equitable, either by:

(1) Adjustment of the account of each individual producer who delivered during such month, on the basis of a recomputation of the price of such handler, or

(2) Addition or subtraction of the amount of such correction to or from the value of all milk received by such handler in the month during which such error was determined, computed as set forth in § 934.7 (a).

(c) *Butterfat differential.* With respect to milk containing more or less than 3.7 percent butterfat, the payments to be made to producers by handlers pursuant to paragraph (a) of this section shall be subject to an addition for each one-tenth of 1 percent of average butterfat content above 3.7 percent and a deduction for each one-tenth of 1 percent average butterfat content below 3.7 percent in an amount per hundredweight calculated by the market administrator in the following manner:

(1) Divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream, f. o. b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, subtract 1.5 cents, and divide the result by 10.

(2) If the cream price described in subparagraph (1) of this paragraph is not reported for such period, multiply by 1.4 the average price reported for that period by the United States Department of Agriculture for U. S. Grade A (U. S. 92-score) butter at wholesale in the Chicago market, subtract 1.5 cents, and divide the result by 10.

(d) *Country plant differentials.* (1) With respect to milk delivered by producers to a country plant located within 40 miles of the City Hall in Lowell or Lawrence, the payments to be made by handlers pursuant to paragraph (a) of this section shall be subject to a deduction of 17 cents per hundredweight.

(2) With respect to milk delivered by producers to a country plant located beyond 40 miles of the City Halls in Lowell and Lawrence, the payments to be made by handlers pursuant to paragraph (a) of this section shall be subject to a deduction per hundredweight equal to the sum of 13 cents and the average of the freight rates from the railroad shipping point for the handler's plant to Lowell and to Lawrence, calculated according to the lowest applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans.

(e) *Statement to producers.* In making the payments required by this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a), (c), and (d) of this section;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under § 934.9, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 934.9 *Marketing services*—(a) *Marketing service deduction.* In making payments to producers pursuant to § 934.8, each handler shall, with respect to all milk delivered by each producer during each month, except as set forth in paragraph (b) of this section, deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, and shall, on or before the 18th day after the end of such month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

(b) *Marketing service deductions with respect to members of a producers' cooperative association.* In the case of producers who are members of an association of producers which is actually performing the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from payments made pursuant to § 934.8 as may be authorized by such producers and pay over, on or before the 18th day after the end of each month, such deduction to such associations.

§ 934.10 *Expense of administration.* Within 18 days after the end of each month, each handler shall make payment

to the market administrator of his pro rata share of the expense of administration of this order. The payment shall be at the rate of 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe. For each month, the payment shall apply to the handler's receipts of milk from producers, including receipts from his own production, and the Class II milk, other than cream, which is received by him at a regulated plant from an unregulated plant. However no payment shall apply on his receipts from any plant at which the handling of milk is regulated under the Boston or New York orders.

§ 934.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions of this order, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination.* The Secretary may suspend or terminate this order whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this order, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 934.12 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this order.

§ 934.13 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, pnder section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Issued at Washington, D. C., this 21st day of February 1949.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-1484; Filed, Feb. 25, 1949; 8:56 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 1]

[Docket No. 9061]

PROCEDURE RELATING TO HANDLING OF BROADCAST APPLICATIONS

NOTICE OF PROPOSED RULE MAKING

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

2. The Commission proposes to amend its procedural rules and regulations relating to the handling of broadcast applications in the manner set forth in the appendix below.

3. The rules and regulations proposed are procedural in nature and hence the provisions of section 4 (a) of the Administrative Procedure Act are not applicable. However, since the changes proposed are substantial in nature, the Commission desires to afford interested persons an opportunity to comment thereon before adopting any change in the rules.

4. Authority to issue the proposed rules and regulations is contained in sections 4 (i), 4 (j), 303 (r), 307, 308, 309, and 319 of the Communications Act of 1934, as amended.

5. Any interested person who is of the opinion that the proposed changes should not be adopted or should not be adopted in the form set forth in the appendix hereto may file with the Commission on or before April 4, 1949, a statement or brief setting forth specific suggestions for particular changes that he desires the Commission to make. At the same time persons favoring the rules as proposed may file statements in support thereof. The Commission will consider all such comments that are presented before taking final action in the matter, and if any comments are submitted which appear to warrant the holding of oral argument, notice of the time and place of oral argument will be given.

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

Adopted: February 21, 1949.

Released: February 23, 1949.

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

Appendix—Revision of procedure with respect to handling of broadcast applications

I. *Advertisement required.* A. After an applicant is advised that his application has been accepted for filing, he shall promptly cause an advertisement thereof to be made. Such advertisement shall be made by inserting a notice at least twice a week for three successive weeks in a newspaper of general circulation that circulates in the community in which the proposed station is to be located. If the applicant prefers, he may cause the newspaper notice to be carried

only once a week for three successive weeks and in addition he may cause such notice to be broadcast once a week for three successive weeks (between the hours of 8 a. m. and 10 p. m.) over a broadcast station located in the community in question. If the application is for authority to change the location of an existing station, the same advertisement procedure shall also be followed in the community in which the station is presently located.

B. The notice should contain the following information:

1. The name of the applicant or applicants. If the applicant is a partnership, the notice should contain the names of all partners. If the applicant is a corporation, the notice should contain the names of the stockholders (or stock subscribers), its officers and directors. If the corporation has more than fifteen stockholders (or stock subscribers) only the officers, directors and the fifteen principal stockholders (or stock subscribers) need be listed.

2. A description of the authorization requested in the application showing the type of station (e. g. standard, FM, or television), type of authorization (e. g. for new station, change in facilities, renewal of license, or transfer of license), and the frequency, power, hours of operation, and the specific location of the main studio and antenna where the antenna site must be specified in the application.

3. A statement that copies of the application are available for inspection at the Commission's offices in Washington D. C., and at an address designated by the applicant within the community where the station is to be located.

4. A statement that any person having any information concerning the qualifications of the applicant or the operation of the station may communicate with the Commission.

C. The advertising procedure described above shall be applicable to the following types of standard, FM (except for noncommercial educational FM) and television applications.

1. Applications for construction permits for new stations.

2. Applications for modification of construction permit or for changes in facilities of an existing station if the application involves a change of frequency, power, hours of operation, antenna pattern, or a move of the station from one community to another.

3. All transfer applications except:

(a) Transfer application where the assignment or transfer is from individuals to corporations owned and controlled by such individuals, or from corporations to the individual stockholders controlling such corporations, or from one corporation to another corporation controlled by the same stockholders, provided there are no substantial changes in the interest of the respective assignors.

(b) Involuntary transfers in death cases pursuant to Section 1.323 of the Commission's rules and regulations.

NOTE: If the procedure specified in this part is adopted, it is proposed that the so-called AVCO procedure specified in § 1.321 (b)-(e) of the Commission's rules and regulations will be repealed except that the procedure will continue to be applicable to applications filed before the effective date of these rules.

4. Renewal applications: If this amendment is adopted, the Commission's rules will be amended with respect to renewals so as to provide:

(a) Applications for renewals of standard, FM and television licenses must be filed at least four months before the expiration date of the license.

(b) No application requesting the facilities of an existing station or any facilities which are mutually exclusive with the operation of an existing station will be accepted for filing, except during the 90-day period following the first advertisement of the filing of the renewal application of such existing station, except as provided for in paragraph (c) below. For the purpose of this rule, a station for which a construction permit is outstanding shall be considered to be an existing station and an application requesting the same facilities or facilities which are mutually exclusive with the operation of a station for which a construction permit is outstanding will not be accepted for filing except during the 90-day period specified above following the first advertisement of the filing of an application for the renewal of the license in question. If an application for renewal of license is filed late, the 90-day period will run from the date of the first advertising.

(c) When an existing station files an application to change its frequency, power, hours of operation, antenna pattern, or location of the station, and within the time specified in IV below, another applicant files an application which is mutually exclusive both with the existing operation of the existing station and the proposed operation of the existing station, the existing station shall within 60 days of the filing of such other application file an application for renewal of license which shall then be consolidated for hearing with the other applications or the existing station may dismiss its application for modification of existing facilities without prejudice to refiling same during the period specified in paragraph (a) above.

D. Copies of the notice as it appeared in the advertisement, and as broadcast, together with proof of its publication and broadcast, shall be filed with the Commission within one week after the last publication. Upon the filing of such proof the application will become available for processing except as provided in IV below.

E. From time to time applications which are eligible for filing are placed in the Commission's pending files usually because they are contingent applications or because of some pending proceeding involving a possible change in rules and regulations. Where such applications are filed, the provisions of this part shall run as of the time when the application is removed from the pending file. When an application is duly advertised but subsequent thereto is placed in the pending files, readvertisement will be required upon notice from the Commission that it has been removed from the pending files.

F. The provision of this part shall be applicable to all applications and amendments filed after the effective date of these rules except that the provisions of I (C) (4) shall be applicable only to applications for renewal of license that are due to expire on and after _____ 1, 1949. See IV C for special provisions relating to applications or amendments filed before the effective date of these rules.

II. *Dismissals of applications.* A. Any application may be dismissed without prejudice as a matter of right simply by notifying the Commission (and by serving a copy on all parties if it is a hearing case) at any time up to and including thirty days before the date upon which the hearing on the application is first scheduled to begin. If an application is scheduled for hearing on a specified date and the hearing is subsequently continued, the thirty-day period shall relate only to the first hearing date specified by the Commission and not to continued hearing dates. If an application is designated for hearing and is subsequently removed from the hearing docket, and is later redesignated for hearing, the thirty-day period specified above relates to the first hearing date ordered by the Commission after the application is redesignated for hearing.

B. After the expiration of the thirtieth day specified above, no application may be dismissed without prejudice. After such date, dismissals of application whether at the request of the applicant, or for failure to prosecute the application, or for failure to file an appearance, or for failure to appear at the hearing will be with prejudice.

C. The provision of this part shall be applicable to all petitions for dismissals filed on or after the effective date of these rules. All dismissals after that date will be in accordance with the provisions of this part.

III. *Amendments of applications.* A. When any amendment is made, whether as of right, or upon leave of the Commission, and such amendment results in a change in frequency (except where the change of frequency is from one Class B FM channel or one Metropolitan TV channel to another Class B FM channel or Metropolitan TV channel designated in the Tables of Allocation) power, hours of operation, antenna pattern, move of the station to another community, or a change in control of the applicant or the persons owning the applicant, the application will be given a new file number as of the date of the filing of the amendment (or of the granting of a petition for leave to amend) and will be removed from the hearing docket if it is a hearing case, and the advertising procedure described above must again be complied with.

B. Applications may be amended as a matter of right simply by notifying the Commission and filing the requisite number of copies of the amendment (and by serving copies on all parties if the application has already been designated for hearing) at any time before the application is designated for hearing, and after the application has been designated for hearing up to and including the thirtieth day before the first date upon

which the hearing is scheduled to begin. If an application is scheduled for hearing on a specified date and the hearing is subsequently continued, the thirty-day period shall relate only to the first hearing date specified by the Commission and not to the continued hearing dates.

C. After the expiration of the thirtieth day specified in (B) above, applications may be amended only upon the filing of a petition which shall be served on all the parties. After public notice has been given of the issuance of a proposed or initial decision, a petition to amend an application (other than an amendment involving removal of a named person in case of death if such person holds a minority interest in the applicant) will not be accepted.

D. The provision of this part shall be applicable to all amendments and petitions for leave to amend filed on or after the effective date of these rules.

IV. *Cut-off dates*—A. *Mutually exclusive applications.* 1. When an application is filed, no application, or an amendment to an application mutually exclusive with such application will be considered unless filed within 90 days after the first advertisement of the filing of the application in question. When an application must be readvertised in accordance with the provisions of I–E or III–A the 90-day period shall run from the date of the readvertisement. Where a petition for leave to amend must first be filed before an amendment may be made, the amendment may be considered as having been filed within the 90-day period if the petition for leave to amend is filed within the 90-day period, even though the petition itself is not granted until after the 90-day period. Any mutually exclusive application or amendment that is filed after the 90-day period will be dismissed without prejudice and will be eligible for refiling only after a decision is rendered by the Commission denying the application or applications with which they are mutually exclusive or unless such applications are dismissed, withdrawn, or amended so as to remove the conflict. If the mutually exclusive application or applications are granted, the application in question may be refiled only in accordance with I–C (4) (b).

2. If application A is filed and within the ninety days specified above Application B mutually exclusive therewith is filed, Application C will be accepted for filing even though filed after the expiration of the 90-day period if the application is mutually exclusive with Application B but is not mutually exclusive with Application A, and if Application C is filed within the 90-day period following the first advertisement of the filing of Application B. As used in this paragraph "Application" refers also to amendments.

3. In applying these provisions to Class B FM or TV, applications (or amendments) will be considered mutually exclusive either if they request the same channel or if the total number of requests for channels of the class in question in the designated area exceeds the number of available channels, i. e., the number assigned to the designated area minus the number already authorized. For example, if an application requests a Class B FM or a metropolitan TV channel in a particular area the cut-off date will be applicable to it if after the expiration of the 90 days specified above no other applicant has requested the same frequency in the same area as specified in the table or if the total number of applications for Class B FM or metropolitan TV facilities in the area does not exceed the total number of available channels. If after the expiration of the 90-day period, the total number of available channels exceeds the number of pending applications but the same channel has been requested by more than one applicant, the Commission may in its discretion make a partial grant of some or all of the applications by assigning an available channel different from the one requested. As a further illustration, if A files an application for a Class B FM or a metropolitan TV channel in an area where there are three such channels available, and within the 90-day period specified above B also files an application for the same area, the cut-off date becomes applicable to A after the expiration of the 90-day period and the application is eligible for a grant without a hearing. If thereafter within the 90-day period from the advertisement of B's application two or more applications are filed for a channel in the same area, application B will not be eligible for a grant without a hearing.

B. *Applications causing interference within normally protected contours.* 1. In the examination of an application, no later application or an amendment to an application which would cause interference within the normally protected contour [1] of such application or which would suffer interference within its normally protected contour [1] will be considered by the Commission in passing upon such original application unless such later application or amendment is filed within ninety days after the first advertisement of the filing of the original application. When an application must be readvertised in accordance with the provisions of I–E or III–A the 90-day period shall run from the date of the readvertisement. If such later application or amendment is filed after such 90-day period, it will not be entitled to comparative consideration with such original application.

2. When Application A is filed and if within the 90-day period specified above, there is filed Application B which would cause interference within the normally protected contour [1] of Application A, or would suffer interference within its normally protected contour [1], Application C may be entitled to comparative consideration with Application A and B even though filed after the expiration of the 90-day period, if it is shown that the operation of Application C would not cause any interference within the normally protected contour [1] of Application A or would not suffer interference within its normally protected contour [1] as a result of the operation of the Application A but would cause interference to the normally protected contour [1] of Application B or would suffer interference within its normally protected contour [1] as a result of the operation of Application B, and if, in addition, Application C is filed within the 90-day period following the first advertisement of the filing of Application B. As used in this paragraph "Application" refers also to amendment.

C. *Special provisions relating to applications or amendments filed before the effective date of these rules.* In the case of applications or amendments filed before the effective date (1949) of these rules, advertisement thereof shall be made in accordance with the provisions of I. The provisions of this part shall be applicable with respect to such applications or amendments except that the Commission will continue to process such applications or amendments in accordance with present practice until such time as the period specified in this part shall have elapsed with respect to such application or amendment. Thereafter, such applications and amendments will be processed in accordance with the provisions of this part. For example, suppose A filed an application on January 5, 1948. Thereafter the rules become effective and A makes the advertisement required in Part I. During the 90-day advertisement period specified above the Commission will endeavor to process the application and if it is reached for processing during that time, the Commission will act thereon. If the application is not reached for processing within the 90-day period specified in this part, then the application will be processed in accordance with the provisions of this part.

V. *Action on applications inconsistent with the provisions of the Communications Act, treaty or rules and regulations.* A. Applications or amendments filed with the Commission which cannot be granted under the provisions of the Communications Act or provisions of treaty, or which are inconsistent with provisions of the Commission rules and regulations or Standards of Good Engineering Practice of the type specified in paragraph B (3) below will be dismissed subject to the provisions of paragraph C.

B. For the purposes of paragraph A above the Commission's rules and Standards of Good Engineering Practice fall into three categories:

(1) Those provisions which establish a guide, norm or standard but are not absolute in their terms. Illustrations of this type of provision are normally protected contours, location of transmitter, blanketing problems, etc.

(2) Those provisions which on their face are absolute in their application but which by their own terms provide for an exception upon a proper showing. An illustration of this type of provision is § 1.363 *Repetitious applications.*

(3) Those provisions which relate to basic allocation or transmission standards and which make no provision for an exception (other than by rule-making). Illustrations of this type of provision are:

(a) Sections 3.1 and 3.2—setting forth the frequencies available for standard broadcast stations.

[1] For the purposes of this paragraph if the proposed station would not serve to its normally protected contour because of the operation of existing stations, the interference-free contour will be considered.

(b) Section 3.3—defining the standard broadcast band.

(c) Sections 3.21, 3.22 (a), 3.22 (b), 3.25 and the corresponding provisions in the Standards of Good Engineering Practice—defining clear channel stations and the maximum and minimum powers, maximum hours of operation and frequencies available for this type of station.

(d) Sections 3.21 (b), 3.22 (c), 3.26 and the corresponding provisions in the Standards of Good Engineering Practice—defining regional channels, maximum and minimum powers and the frequencies available for this type of station.

(e) Sections 3.21 (c), 3.22 (d), 3.27 and the corresponding provisions in the Standards of Good Engineering Practice—defining local stations, maximum and minimum powers, and the frequencies available for this type of station.

(f) Section 3.201—defining the frequencies available for FM broadcasting.

(g) Sections 3.203 and 3.204—defining the classes of FM broadcast stations, frequencies available for each class and maximum and minimum powers of each station.

(h) Tentative allocation plan of Class B FM channels—showing Class B FM channels available to the various communities and surrounding area.

(i) Section 3.601—showing the channels available for television broadcasting.

(j) Sections 3.603, 3.604 and 3.605—showing the classes of television stations, frequencies available for each such class and the maximum and minimum powers.

(k) Section 3.606—showing the television channels available to the various communities in the United States.

(l) The provisions of the Standards of Good Engineering Practice relating to the type of modulation to be employed.

C. When an application is dismissed pursuant to V A, notice thereof will be given the applicant stating the specific provision or provisions with which the application is inconsistent. Any such applicant may, however, request a hearing or oral argument within 20 days after the date on which notice is given to him of the dismissal of the application. Such hearing will be limited to the issues as to whether the application is or is not inconsistent with the provisions of the Communications Act, treaty, or rules and regulations or Standards of Good Engineering Practice.

D. The provisions of this part shall be applicable to all applications pending on the date that these rules become effective and to all applications or amendments filed thereafter.

VI. *Procedure with respect to petitions to amend rules and regulations.* A. Petitions to amend rules or regulations may be filed by any person in interest. If the Commission has conducted a rule making proceeding either on its own motion or upon petition and has amended a rule or has refused to amend a rule, no petition for amendment of such rule may be filed until the expiration of one year from the date upon which the Commission last acted with respect to such rule,[3] unless a showing is made that due to changed conditions since the Commission last acted, a waiver of the one-year provision should be granted. The Commission may institute rule making proceedings on its own motion at any time.

B. A petition to amend a rule or regulation which, if granted, would adversely affect any pending application will be accepted for filing only during the 90-day period specified in IV above and in accordance with and subject to the procedure set forth in IV above.

C. The provisions of this part shall be applicable to all petitions filed on or after the effective date of these rules.

[F. R. Doc. 49-1476; Filed, Feb. 25, 1949; 8:53 a. m.]

NOTICES

CIVIL AERONAUTICS BOARD

[Docket No. 3264]

PAN AMERICAN AIRWAYS, INC.; SAUDI ARABIAN INVESTIGATION

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the investigation to determine whether Pan American Airways, Inc., in the conduct of its operations between the United States and Saudi Arabia, is in violation of any provision or provisions of the Civil Aeronautics Act.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding, now assigned to be held on February 21, 1949, at 10:00 a. m., e. s. t., in Room 2015, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., is postponed to March 22, 1949, at the same time and place.

Dated at Washington, D. C., February 21, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 49-1470; Filed, Feb. 25, 1949; 8:47 a. m.]

[Docket No. SA-187]

ACCIDENT OCCURRING BETWEEN YAKUTAT AND SITKA, ALASKA

NOTICE OF HEARING

In the matter of investigation of missing aircraft of United States Registry NC-66637 which occurred between Yakutat and Sitka, Alaska, on November 4, 1948.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Monday, February 28, 1949, at 9:00 a. m. (local time), in the American Legion Hall, Anchorage, Alaska.

Dated at Washington, D. C., February 21, 1949.

[SEAL] FRANCIS MCADAMS, *Presiding Officer.*

[F. R. Doc. 49-1461; Filed, Feb. 25, 1949; 8:53 a. m.]

[Docket No. SA-188]

ACCIDENT OCCURRING AT PORT WASHINGTON, LONG ISLAND, N. Y.

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NC-85530 and NC-76891, which occurred at Port Washington, Long Island, New York, on January 30, 1949.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Tuesday, March 1, 1949, at 9:30 a. m. (local time) in the Empire Room, Hotel Lexington, New York, New York.

Dated at Washington, D. C., February 23, 1949.

[SEAL] RUSSELL A. POTTER, *Presiding Officer.*

[F. R. Doc. 49-1477; Filed, Feb. 25, 1949; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1003, G-1036, G-1048, G-1069, G-1071, G-1074-76, G-1080, G-1082, G-1085, G-1086]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

NOTICE OF OPINION AND ORDER

FEBRUARY 21, 1949.

In the matters of Texas Eastern Transmission Corporation, Docket No. G-1003; Revere Natural Gas Company, Docket No. G-1036; City Gas Company of New Jersey, Docket No. G-1048; Associated Natural Gas Company, Docket No. G-1069; County Gas Company, Docket No. G-1071; Jersey Central Power & Light

[3] In applying this provision to the Commission's Table of Allocation of FM or television frequencies to the various areas, each area specified in the Table shall be considered separately so that the provision is applicable only if the Commission's action related to an assignment for the area in question. For example, if the Commission denies a petition for rule making requesting that television channel X be removed from City B to City A, no petition for rule making to move a channel from City B to City A will be eligible for filing for one year, even though the request may be to remove Channel Y or Channel Z from City B. However, a petition may be filed before the expiration of one year to remove a channel from City C to City A.

Company, Docket No. G–1074; Public Service Electric & Gas Company, Docket No. G–1075; South Jersey Gas Company, Docket No. G–1076; United Natural Gas Company, Docket No. G–1080; Indiana Gas & Water Company, Inc., Docket No. G–1082; New York and Richmond Gas Company, Docket No. G–1085; Texas Gas Transmission Corporation, Docket No. G–1086.

Notice is hereby given that, on February 18, 1949, the Federal Power Commission issued its Opinion No. 175 and order entered February 17, 1949, issuing certificate of public convenience and necessity in Docket No. G–1003, and dismissing applications in Docket Nos. G–1036, G–1048, G–1069, G–1071, G–1074, G–1075, G–1076, G–1080, G–1082 and G–1085.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49–1459; Filed, Feb. 25, 1949; 8:45 a. m.]

[Docket Nos. G–1065, G–1070]

EAST TENNESSEE NATURAL GAS CO. AND TENNESSEE GAS TRANSMISSION CO.

ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

On June 30, 1948, in Docket No. G–1065, East Tennessee Natural Gas Company (East Tennessee) filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas pipe-line facilities to transport and sell 60,000 Mcf per day of natural gas to the Atomic Energy Commission at Oak Ridge, Tennessee, and approximately 40,000 Mcf per day to several communities in east Tennessee beyond Oak Ridge, including Bristol, Johnson City and Kingsport. On January 14, 1949, East Tennessee filed an amended application requesting authority to construct and operate 170 miles of 22-inch pipe line for the purpose of serving 60,000 Mcf of natural gas to the Atomic Energy Commission at Oak Ridge.

On July 2, 1948, in Docket No. G–1070, Tennessee Gas Transmission Company (Tennessee Company) filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas pipe-line facilities for the purpose of selling and delivering 60,000 Mcf per day to East Tennessee Natural Gas Company for resale and delivery to the Oak Ridge plant of the Atomic Energy Commission.

Due notice of the filing of the application has been given, including publication in the FEDERAL REGISTER on July 9, 1948 and January 28, 1949, of the application and amended application in Docket No. G–1065 (13 F. R. 3821–2; 14 F. R. 391), and on July 14, 1948, of the application in Docket No. G–1070 (13 F. R. 3982–3).

On July 13, 1948, the Commission consolidated the applications in Docket No. G–1065 and Docket No. G–1070 with the application in Docket No. G–962 for hearing, and on July 16, 1948, severed G–1065 and G–1070 from the hearing in G–962. This severance was made at the request of Tennessee Company. On November 5, 1948, reconsolidation of these proceedings was moved by East Tennessee. The Tennessee Company first objected and later withdrew its objection to the motion.

In a motion filed February 10, 1949, in Docket No. G–962, the Tennessee Company in effect requested that the proceedings in Docket Nos. G–962, G–1065 and G–1070 be not consolidated. In that motion it requested the Commission to issue in Docket No. G–962 a conditional certificate authorizing the remainder of the facilities applied for therein and further requested that upon issuance of such certificate the Commission consolidate and set for early hearings the applications in Docket Nos. G–1065 and G–1070. These requests were joined in by East Tennessee in an answer filed February 11, 1949.

Notice is hereby taken of the findings and order entered concurrently herewith dismissing the motion filed February 10, 1949, by the Tennessee Company in Docket No. G–962 requesting a conditional certificate.

The Commission finds: Good cause exists for consolidating the proceedings in Docket Nos. G–1065 and G–1070 and setting the consolidated proceedings for hearing as hereinafter ordered.

The Commission orders:

(A) The proceedings in Docket Nos. G–1065 and G–1070 be and the same are hereby consolidated.

(B) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, public hearing be held on the 9th day of March 1949 at 10:00 a. m., (e. s. t.), in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by the applications and other pleadings in the above-entitled consolidated proceedings.

(C) Unless otherwise directed by the Commission or the Presiding Examiner, the Applicant in Docket No. G–1065 will complete its direct presentation of evidence before the Applicant in Docket No. G–1070 presents its case.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure.

Date of issuance: February 21, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49–1471; Filed, Feb. 25, 1949; 8:47 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 12754]

JOSEPH BACH

In re: Estate of Joseph Bach, deceased. File No. D–28–7997; E. T. sec. 8949.

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 Adele Bach Ehlen, Gertha (Gertrud) Ehlen, Adele Sibylla Ehlen Frank, and Werner Ehlen, 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 Joseph Bach, 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 M. P. McFarlane, as administrator, acting under the judicial supervision of the Probate Court of Columbiana County, Ohio;

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 February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49–1440; Filed, Feb. 24, 1949; 8:54 a. m.]

[Vesting Order 12759]

ELISE DAVID

In re: Estate of Elise David, deceased. File D–28–8540; E. T. sec. 10108.

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 Luise Kleinschmidt, Emilie Wiendrick, Kate Dorfler and Forngardt Schulze, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the issue, name or names unknown of Christian Kleinschmidt; and the domiciliary personal representatives, heirs-at-law, next of kin, legatees and distributees, names unknown of Wilhelm Kleinschmidt, 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 the Estate of Elise David, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by John P. Gering, as executor, acting under the judicial supervision of the Surrogate's Court, County of Queens, New York;

and it is hereby determined:

5. That to the extent that the persons identified in subparagraph 1 hereof and the issue, names unknown of Christian Kleinschmidt; and the domiciliary personal representatives, heirs-at-law, next of kin, legatees and distributees, names unknown, of Wilhelm Kleinschmidt, 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 February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1478; Filed, Feb. 25, 1949; 8:54 a. m.]

[Vesting Order 12762]

WALTER GLASS

In re: Estate of Walter Glass, also known as Walter P. Glass, deceased. File No. D-28-12312; E. T. sec. 16518.

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 Ema Glass, 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 identified in subparagraph 1 hereof in and to the estate of Walter Glass, also known as Walter P. Glass, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by T. M. Robinson, Jr., as Administrator, acting under the judicial supervision of the Superior Court of California, for the county of Fresno, Fresno, California.

and it is hereby determined:

4. That to the extent that the person identified 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 February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1479; Filed, Feb. 25, 1949; 8:54 a. m.]

[Vesting Order 12820]

MORINOSUKE AND AKIKO KAWASAKI

In re: Debt owing to Morinosuke Kawasaki and Akiko Kawasaki and debts owing to and stock owned by Morinosuke Kawasaki. D-39-249-D-1, F-39-2076-D-3, F-39-2076-E-3.

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 Morinosuke Kawasaki and Akiko Kawasaki, whose last known address is 28 Fujimi-cho, Azabu-ku, Tokyo, Japan, are residents of Japan and nationals of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation owing to Morinosuke Kawasaki, by George S. Yamamoto, 2650 Pamoa Road, Honolulu, T. H., in the amount of $17,000.00, the same being a portion of the sum of $155,000 in United States Currency owned by said Morinosuke Kawasaki which was removed by the said George S. Yamamoto from the safe deposit boxes formerly maintained by said Morinosuke Kawasaki at the Security First National Bank and the Bank of America, Los Angeles, California, and retained by said George S. Yamamoto, together with any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Morinosuke Kawasaki, by George S. Yamamoto, 2650 Pamoa Road, Honolulu, T. H., in the amount of $22,169.88, the same being a portion of the funds entrusted to said George S. Yamamoto by said Morinosuke Kawasaki and formerly maintained in various bank accounts in Honolulu, T. H., together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

c. That certain debt or other obligation owing to Morinosuke Kawasaki, by the aforesaid George S. Yamamoto, in the amount of $7,300, as of July 5, 1939, arising by reason of the collection of the proceeds of two drafts, issued by the National City Bank of New York, New York, New York, on the Shanghai, China, Branch of the aforesaid bank, in favor of George S. Yamamoto as follows:

Number	Date	Amount
F. T. 109742	July 5, 1939	$3,000
F. T. 109745	do	4,300

together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and

d. One Hundred Ninety Six (196) shares of $20 par value capital stock of The Honolulu Fire Insurance Company, Limited, a Hawaiian corporation in liquidation under the laws of the Territory of Hawaii, evidenced by Certificate Number A-29, registered in the name of and presently in the custody of George S. Yamamoto, including but not limited to the interest in the net assets of The Honolulu Fire Insurance Company, Limited, evidenced by the aforesaid 196 shares of stock, together with all declared and unpaid dividends thereon,

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, Morinosuke Kawasaki, the aforesaid national of a designated enemy country (Japan);

3. That the property described as follows: That certain debt or other obligation owing to Morinosuke Kawasaki by George S. Yamamoto, 2650 Pamoa Road, Honolulu, T. H., in the amount of $11,921.01, the same being a portion of the trading account formerly maintained by said Morinosuke Kawasaki and Akiko Kawasaki at The Hawaiian Trust Company, Limited, Honolulu, T. H., in the name of George S. Yamamoto, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (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 February 10, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1480; Filed, Feb. 25, 1949; 8:54 a. m.]

ADELINE B. HYNEY

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

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

Claimant, Claim No., Property, and Location

Adeline B. Hyney, Roselle Park, N. J., 25845; $1020.86 in the Treasury of the United States.

Executed at Washington, D. C., on February 18, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1481; Filed, Feb. 25, 1949; 8:54 a. m.]

[Vesting Order 12794]

MARIA HEDWIG SCHWARZKOPF

In re: Debt owing to Maria Hedwig Schwarzkopf. F-28-1063.

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 Hedwig Schwarzkopf, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Maria Hedwig Schwarzkopf by the American Express Company, 65 Broadway, New York 6, New York, in the amount of $138.25, represented by a check purchased from American Express Company, Washington, D. C., drawn on the American Express Company m. b. H., Hamburg, Germany, in favor of Maria Hedwig Schwarzkopf, together with any and all accruals thereto, 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 Hedwig Schwarzkopf, 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 February 1, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-1442; Filed, Feb. 24, 1949; 8:55 a. m.]

[Vesting Order 12819]

HUG AND CO.

In re: Debts owing to Hug and Company also known as Hug & Company. F-28-23129-C-1; C-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 Hug and Company also known as Hug & Company, the last known address of which is Rossplatz 16, Leipzig, Germany, is a corporation, partnership, association or other business organization, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Leipzig, Germany, and is a national of a designated enemy country (Germany):

2. That the property described as follows:

a. That certain debt or other obligation of The First National Bank of Chicago, Chicago, Illinois, in the amount of $147.34, as of January 5, 1949, represented by a draft numbered 51998, dated November 14, 1939, drawn by said The First National Bank of Chicago, on The First National Bank of New York, New York, and payable to the order of Hug and Company of Leipzig, Germany, and any and all accruals thereto, and any and all rights to demand, enforce and collect the aforementioned debt or other obligation, together with any and all rights in, to and under the aforesaid draft, and

b. That certain debt or other obligation owing to Hug and Company also known as Hug & Company, by Carl Fischer, Inc., 56-62 Cooper Square, New York 3, New York, in the amount of $27.21, as of December 31, 1945, together with any and all accruals thereto, 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 Hug and Company also known as Hug & Company, 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 February 10, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-1443; Filed, Feb. 24, 1949; 8:55 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5504]

DAWN PRODUCTS CO.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in

the city of Washington, D. C., on the 17th day of February A. D. 1949.

In the matter of Joseph Gordon, doing business as Dawn Products Company, Docket No. 5504.

This matter being at issue and ready for the taking of testimony and receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Henry P. Alden, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and receipt of evidence begin on Wednesday, March 2, 1949, at ten o'clock in the forenoon of that day (c. s. t.), in Room 1103, New Post Office Building, Chicago, Illinois.

Upon completion of the taking of testimony and receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue a recommended decision which shall include recommended findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate recommended order; all of which shall become a part of the record in said proceeding.

By the Commission:

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 49-1475; Filed, Feb. 25, 1949; 8:47 a. m.]