FEDERAL REGISTER

VOLUME 22 NUMBER 44

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MAIN READING ROOM

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter D—Warehouse Regulations

PART 101—COTTON WAREHOUSES

PRINTING OF WAREHOUSE RECEIPTS

Pursuant to authority conferred by section 28 of the United States Warehouse Act (7 U. S. C. 268) § 101.19 of the cotton warehouse regulations (7 CFR 101.19) is hereby amended to read as follows:

§ 101.19 *Printing of receipts.* No receipt shall be issued by a licensed warehouseman unless it is (a) in a form prescribed by the Administrator, (b) upon distinctive paper or card stock specified by the Administrator, (c) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (d) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper, or on card stock distinctively tinted with fugitive ink by the printer in the manner prescribed by the contract under paragraph (c) of this section.

(Sec. 28, 39 State. 490; 7 U. S. C. 268)

The foregoing amendment relieves restrictions by permitting the issuance by cotton warehousemen licensed under the act of warehouse receipts printed on card stock instead of the paper heretofore permitted. Hereafter either may be used in accordance with the regulation. In order to be of maximum benefit to all affected parties, the amendment should be made effective as soon as possible to allow adequate time for printing of the new type of receipts by the beginning of the cotton storage season on August 1. Each warehouseman involved is being notified of the amendment by letter. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice of rule making and other public procedure with respect to the amendment are unnecessary and impracticable and since the amendment relieves restrictions it may be made effective less than 30 days after its publication in the FEDERAL REGISTER.

The foregoing amendment shall become effective on March 6, 1957.

Done at Washington, D. C. this 1st day of March, 1957.

[SEAL] GEORGE A. DICE,
Director,
Special Services Division.

[F. R. Doc. 57-1689; Filed, Mar. 5, 1957; 8:55 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 728—WHEAT

SUBPART—REGULATIONS PERTAINING TO WHEAT MARKETING QUOTAS FOR THE 1957 CROP OF WHEAT

GENERAL

Sec.
728.750 Basis and purpose.
728.751 Definitions.
728.752 Instructions and forms.
728.753 Normal yields.

IDENTIFICATION AND MEASUREMENT OF FARMS

728.754 Identification of farms.
728.755 Measurement of farms.
728.756 Reports and records of farm measurements.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

728.757 Marketing quotas in effect.
728.758 Farm marketing quotas.
728.759 Farm marketing excess.
728.760 Notice of farm marketing excess.
728.761 Farms for which proper notice of the 1957 farm marketing quota and farm marketing excess of wheat was not issued.
728.762 Farm marketing excess adjustment.
728.763 Publication of the farm acreage allotments, marketing quotas, and marketing excesses.
728.764 Marketing quotas not transferable.
728.765 Successors in interest.
728.766 Review of quotas.

(Continued on next page)

CONTENTS

Agricultural Marketing Service — Page
Proposed rule making:
Almonds grown in California; handling — 1389
Apricots grown in designated counties in Washington; handling — 1404
Milk marketing areas:
North Texas — 1402
Ozarks — 1397
Rules and regulations:
Cotton warehouses; printing of receipts — 1355
Tomatoes; import restrictions — 1372
Tomatoes grown in Florida:
Limitation of shipments — 1372
Meaning of "producer" — 1371

Agriculture Department
See Agricultural Marketing Service; Commodity Stabilization Service.

Atomic Energy Commission
Notices:
Babcock & Wilcox Co.; proposed issuance of facility license — 1419

Civil Aeronautics Administration
Rules and regulations:
Sledge Hammer, La., restricted area, temporary, alteration — 1378

Civil Service Commission
Rules and regulations:
Exceptions from competitive service:
Air Force Department — 1377
State Department — 1377

Coast Guard
Rules and regulations:
River steam or motor vessels; license as master — 1379

Commerce Department
See also Civil Aeronautics Administration; Federal Maritime Board.
Notices:
Delegations of authority, temporary, under Reorganization Plan 5 of 1950; revocation of order — 1419

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CFR SUPPLEMENTS

(As of January 1, 1957)

The following Supplements are now available:

Title 7, Part 960 to end ($1.25)

Title 26, Part 300 to end, Ch. I, and Title 27 ($1.00)

Previously announced: Title 3, 1956 Supp. ($0.40); Title 7, Parts 900–959 ($0.50); Title 9 ($0.70); Title 17 ($0.60); Title 18 ($0.50); Title 20 ($1.00); Title 21 ($0.50); Title 26, Parts 1–79 ($0.35), Parts 80–169 ($0.50), Parts 170–182 ($0.35), Parts 183–299 ($0.30); Title 39 ($0.50).

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

CONTENTS—Continued

Commodity Stabilization Service Page
Rules and regulations:
Soil bank; acreage reserve program; tobacco ---- 1377
Wheat; marketing quotas, 1957 crop ---- 1355

Customs Bureau
Proposed rule making:
Vessels rebuilt abroad; documentation and use, and reports of such rebuilding upon entry ---- 1387

Federal Civil Defense Administration
Notices:
Executive Assistant Administrator et al.; delegations of authority with respect to determinations concerning Federal surplus property ---- 1424

Federal Maritime Board
Notices:
Stone Forwarding Co., Inc., and Luigi Serra, Inc.; agreement filed for approval ---- 1419

Federal Power Commission
Notices:
Hearings, etc.:
Champlin Oil & Refining Co ---- 1421
General American Oil Company of Texas and Crescent Corp ---- 1422
Phillips Petroleum Co ---- 1422
Sohio Petroleum Co ---- 1424
Virginia Electric and Power Co ---- 1422
Western Colorado Power Co ---- 1422

Federal Trade Commission
Rules and regulations:
Arrow Metal Products Corp. et al.; cease and desist order ---- 1377

Fish and Wildlife Service
Proposed rule making:
Alaska commercial fisheries; license required of salmon net fishermen ---- 1388
Rules and regulations:
Alaska commercial fisheries; miscellaneous amendments to subchapter ---- 1379

Indian Affairs Bureau
Rules and regulations:
Operation and maintenance charges:
Miscellaneous Indian irrigation projects ---- 1378
Wind River Irrigation Project, Wyoming ---- 1378

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau.

Labor Department
See Wage and Hour Division.

Securities and Exchange Commission
Notices:
Hearings, etc.:
Adams Express Co. and American International Corp ---- 1425
Georgia Power Co ---- 1425
Standard Shares, Inc ---- 1425

Treasury Department
See Coast Guard; Customs Bureau.

Veterans Administration
Rules and regulations:
Dependents and beneficiaries claims; dependency and indemnity compensation; correction ---- 1379

Wage and Hour Division
Rules and regulations:
Homeworkers in the fabric and leather glove industry; the handkerchief, square scarf, and art linen industry; the children's dress and related products industry; the women's and children's underwear industry; and the needlework and fabricated textile products industry in Puerto Rico ---- 1373

CODIFICATION GUIDE

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

Title 5 Page
Chapter I:
Part 6 (2 documents) ---- 1377
Title 6
Chapter IV:
Part 485 ---- 1377
Title 7
Chapter I:
Part 101 ---- 1355
Chapter VII:
Part 728 ---- 1355
Chapter IX:
Part 909 (proposed) ---- 1389
Part 921 (proposed) ---- 1397
Part 943 (proposed) ---- 1402
Part 945 (2 documents) ---- 1371, 1372
Part 1020 (proposed) ---- 1404
Part 1065 ---- 1372
Title 14
Chapter II:
Part 608 ---- 1378
Title 16
Chapter I:
Part 13 ---- 1377
Title 19
Chapter I:
Part 3 (proposed) ---- 1387
Part 4 (proposed) ---- 1387
Title 25
Chapter I:
Part 130 (2 documents) ---- 1378
Title 29
Chapter V:
Part 545 ---- 1373
Title 38
Chapter I:
Part 4 ---- 1379
Title 46
Chapter I:
Part 10 ---- 1379
Title 50
Chapter I:
Parts 101–124 ---- 1379–1386
Part 102 (proposed) ---- 1388

MARKETING CARDS AND MARKETING CERTIFICATES

Sec.
728.767 Issuance of marketing cards.
728.768 Issuance of marketing certificates.
728.769 Lost, destroyed, or stolen marketing cards or marketing certificates.
728.770 Cancellation of marketing cards and marketing certificates issued in error.

IDENTIFICATION OF WHEAT

Sec.
728.771 Time and manner of identification.
728.772 Identification by marketing card.
728.773 Identification by marketing certificate.
728.774 Identification by intermediate buyer's record and report.
728.775 Wheat identified as subject to the penalty and lien for the penalty.

PENALTY

728.776 Rate of penalty.
728.777 Lien for penalty.
728.778 Payment of penalties by producers.
728.779 Payment of penalties by buyers.
728.780 Remittance of penalties to the treasurer of the county committee.
728.781 Deposit of funds.
728.782 Refunds of money in excess of the penalty.
728.783 Stored farm marketing excess.
728.784 Delivery of the farm marketing excess to the Secretary.
728.785 Refund of penalty erroneously, illegally, or wrongfully collected.
728.786 Report of violations and court proceedings to collect penalty.

RECORDS AND REPORTS

728.787 Record to be kept and reports to be made by warehousemen, elevator operators, feeders, or other processors and buyers other than intermediate buyers.
728.788 Record to be kept and reports to be made by intermediate buyers.
728.789 Buyer's special reports.
728.790 Penalty for failure or refusal to keep records and make reports.
728.791 Records to be kept and reports to be made by producers.
728.792 Data to be kept confidential.
728.793 Enforcement.

SPECIAL PROVISIONS AND EXEMPTIONS

728.794 Farms on which the wheat acreage is not in excess of 15 acres or on which the normal production of the wheat acreage is less than 200 bushels.
728.795 Experimental wheat farms.
728.796 Federal and State Wildlife Refuge Farms.
728.797 Erroneous notice of wheat acreage allotment.
728.798 Redelegation of authority.

AUTHORITY: §§ 728.750 to 728.798 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 331-339, 362-368, 372-376, 52 Stat. 38, as amended; 55 Stat. 203, as amended; sec. 106, 70 Stat. 191; 7 U. S. C. 1301, 1331-1340, 1362-1368, 1372-1376.

GENERAL

§ 728.750 *Basis and purpose.* The regulations contained in §§ 728.750 to 728.798, inclusive, are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, and govern the identification and measurement of farms; the amount, adjustment, and review of the farm marketing quota and farm marketing excess; the issuance of marketing cards and certificates; the identification of marketings of wheat as subject to or not subject to the penalty and lien for the penalty; the rate of the penalty and the manner in which penalties shall be paid by producers and buyers; the refunding of penalty overpayments; the postponement or avoidance of penalty on excess wheat by storage, by delivery to the Secretary of Agriculture, or, in a subsequent year, by underplanting the allotment or producing a less than normal crop; the records and reports required to be made by wheat producers and handlers; and special provisions and exemptions applicable to farms on which 15 acres or less of wheat are planted, to farms on which the normal production of the wheat acreage is less than 200 bushels, to wheat produced by publicly-owned experiment stations, and to wheat grown on Federal and State Wildlife Refuge Farms. Prior to preparing §§ 728.750 to 728.798 inclusive, public notice (21 F. R. 7025) of the Secretary's intention to formulate and issue the regulations was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to the regulations in §§ 728.750 to 728.798 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended. Since 1957 wheat acreages are now being measured in some sections of the country and since farmers should be informed as soon as possible of these measured acreages and of the final dates by which their wheat acreages in excess of their farm allotments may be adjusted to such allotments, it is hereby found that compliance with the effective date provision of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and the regulations herein shall become effective upon the date of publication of this document in the FEDERAL REGISTER.

§ 728.751 *Definitions.* As used in this subpart and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

(a) "Department" means the United States Department of Agriculture.

(b) "Act" means the Agriculture Adjustment Act of 1938 and any amendments or supplements thereto.

(c) "Secretary" means the Secretary of Agriculture of the United States, or the officer of the Department acting in his stead pursuant to delegated authority.

(d) "Director" means the Director of the Grain Division, Commodity Stabilization Service, United States Department of Agriculture.

(e) "Committee" means according to context, one of the several committees defined as follows:

(1) "State committee" means the persons designated by the Secretary as the State Agricultural Stabilization and Conservation Committee of the Commodity Stabilization Service, pursuant to section 8 (b) of the Soil Conservation and Domestic Allotment Act.

(2) "County committee" means the persons elected within a county as the county committee, pursuant to the regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act.

(3) "Community committee" means the persons elected within a community as a community committee pursuant to the regulations governing the selection and functions of the Agricultural Stabilization and Conservation county and community committees under section 8 (b) of the Soil Conservation and Domestic Allotment Act.

(4) "Review committee" means the committee appointed by the Secretary of Agriculture to review farm marketing quotas as provided in section 363 of the act.

(f) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, political subdivision of a State, the Federal Government, or any agency thereof.

(g) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(h) "Landlord" or "owner" means a person who owns land.

(i) "Tenant" means a person other than a sharecropper who rents land from another person, whether or not he rents such land or part thereof to another person.

(j) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or of the proceeds thereof.

(k) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(l) "Producer" or "farmer" means a person who as owner, landlord, tenant, or sharecropper is entitled to all or a share of the 1957 wheat crop or of the proceeds thereof.

(m) "Buyer" means a person who buys wheat.

(n) "Transferee" means a person who acquires wheat from a producer or any other person by barter, exchange or gift.

(o) "Intermediate buyer" means any buyer or transferee who purchases or acquires any wheat prior to the time the wheat so purchased or acquired has been marketed either (1) to a warehouseman, elevator operator, feeder, or processor, or (2) to any other grain dealer who conducts his business in a manner substantially the same as a warehouseman or elevator operator.

(p) "Farm" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm or range land which the county committee determines is operated by the same person as a part of the same unit in producing range livestock, or with respect to the rotation of crops and with workstock, farm machinery, and labor, substantially separate from that for any other land; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land in-

cluded in the farm constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county or administrative area in which the principal dwelling is situated or, if there is no dwelling thereon, it shall be regarded as located in the county or administrative area in which the major portion of the farm is located.

(q) "Farm acreage allotment" means the wheat acreage allotment established for the farm under §§ 728.710 through 728.724 as published in the FEDERAL REGISTER under date of March 28, 1956 (21 F. R. 1895), and amendments thereto.

(r) "Wheat cover crop" means the acreage of wheat which does not reach maturity because it is, while still green, turned under, cut off or pastured off, to the extent that wheat will not mature as grain, not later than 30 days prior to the date wheat harvest normally begins in the county or areas within the county as determined by the Secretary upon recommendation of the county and State committees.

In accordance with the foregoing the dates in each county or areas of a county by which the acreage of wheat on the farm must be utilized in the prescribed manner as wheat cover crop are determined to be as follows:

ARKANSAS

May 20, 1957: All counties.

CALIFORNIA

May 1, 1957: Imperial.
May 15, 1957: Fresno, Kern (except for Tehachapi and Temblor Districts), Kings, Madera, Merced, Riverside (Palo Verde Valley), Tulare.
June 1, 1957: Kern (Tehachapi and Temblor Districts), Los Angeles, Mariposa, Nevada, Orange, Placer, Riverside (except for Palo Verde Valley), San Bernardino, San Diego, San Joaquin, Stanislaus, Ventura.
June 15, 1957: Alameda, Amador, Calaveras, El Dorado, Contra Costa, Lake, Marin, Monterey, Napa, San Benito, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Sonoma, Butte, Colusa, Glenn, Sacramento, Solano, Sutter, Tehama, Yola, Yuba, Santa Barbara, Shasta (for Cottonwood and Anderson Districts), Tuolumne.
July 1, 1957: Alpine, Inyo, Mono.
July 15, 1957: Siskiyou (for Shasta Valley), Mendocino.
August 1, 1957: Lassen, Modoc, Plumas, Trinity, Shasta (except for Cottonwood and Anderson Districts), Sierra.
August 15, 1957: Siskiyou (except for Shasta Valley).

COLORADO

June 5, 1957: Baca, Bent, Cheyenne, Crowley, Elbert (all land east of range 63W), Kiowa, Kit Carson, Lincoln, Otero and Prowers.
June 10, 1957: Adams, Arapahoe, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma.
June 15, 1957: Boulder, Douglas, Elbert (all land west of range 62W), El Paso, Huerfano, Jefferson, Larimer, Las Animas and Pueblo.
June 20, 1957: Custer, Delta, Dolores, Fremont, La Plata, Mesa, Montezuma, Montrose, Ouray and San Miguel.
July 15, 1957: Alamosa, Archuleta, Chaffee, Conejos, Costilla, Eagle, Garfield, Grand, Gunnison, Jackson, Moffat, Park, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache and Teller.

DELAWARE

May 31, 1957: All counties.

GEORGIA

April 25, 1957: Area I—Quitman, Randolph, Terrell, Lee, Crisp, Wilcox, Dodge, Wheeler, Montgomery, Toombs, Candler, Bulloch, Screven, and all counties South thereof.
May 10, 1957: Area II—Haralson, Paulding, Cobb, Fulton, Gwinnett, Barrow, Jackson, Madison, Franklin, and all counties South to Area I.
May 24, 1957: Area III—Polk, Bartow, Cherokee, Forsyth, Hall, Banks, Stephens, and all counties North thereof.

IDAHO

NONIRRIGATED

July 1, 1957: Ada, Canyon, Gem, Owyhee, Payette, Cassia, Lincoln, Minidoka, Washington.
July 15, 1957: Gooding, Jerome, Bannock, Bingham, Caribou, Franklin, Oneida, Power, Bonneville, Jefferson, Blaine, Twin Falls.
August 1, 1957: Adams, Boise, Elmore, Camas, Bear Lake, Butte, Custer, Clark, Fremont, Lemhi, Madison, Teton.
August 15, 1957: Valley.

IRRIGATED

July 1, 1957: Ada, Canyon, Elmore, Gem, Owyhee, Payette, Washington.
July 15, 1957: Cassia, Gooding, Jerome, Lincoln, Minidoka, Bannock, Franklin, Oneida, Power, Twin Falls.
August 1, 1957: Adams, Boise, Blaine, Camas, Bingham, Caribou, Bonneville, Clark, Jefferson.
August 15, 1957: Valley, Bear Lake, Butte, Custer, Fremont, Lemhi, Madison, Teton.

ELEVATION UNDER 3,500 FEET

July 15, 1957: Boundary, Kootenai, Nez Perce.
August 1, 1957: Benewah, Bonner, Clearwater, Idaho, Latah, Lewis.

ELEVATION OVER 3,500 FEET

August 1, 1957: Boundary, Nez Perce.
August 15, 1957: Benewah, Bonner, Clearwater, Idaho, Kootenai, Latah, Lewis.

ILLINOIS

May 25, 1957: Alexander, Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Green, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Scott, Shelby, Union, Wabash, Washington, Wayne, White, Williamson.
June 10, 1957: Adams, Boone, Brown, Bureau, Carroll, Cass, Champaign, Cook, De-Kalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iriquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, McDonough, McHenry, McLean, Macon, Marshall, Mason, Menard, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermillion, Warren, Whiteside, Will, Winnebago, Woodford.

INDIANA

June 1, 1957: Allen, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, La Grange, Lake, La Porte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Whitley.
May 15, 1957: All other counties.

IOWA

WINTER WHEAT

June 1, 1957: All counties.

SPRING WHEAT

June 10, 1957: All counties.

KANSAS

May 20, 1957: Allen, Barber, Bourbon, Butler, Chautauqua, Cherokee, Comanche, Cowley, Crawford, Elk, Greenwood, Harper, Harvey, Kingman, Labette, Montgomery, Neosho, Pratt, Reno, Sedgwick, Sumner, Wilson, Woodson.
May 25, 1957: Anderson, Atchison, Barton, Brown, Chase, Clark, Cloud, Clay, Coffey, Dickinson, Doniphan, Douglas, Edwards, Ellsworth, Ford, Franklin, Geary, Grant, Gray, Haskell, Hodgeman, Jackson, Jefferson, Johnson, Kiowa, Leavenworth, Lincoln, Linn, Lyon, McPherson, Marion, Marshall, Meade, Miami, Morris, Norton, Nemaha, Osage, Ottawa, Pawnee, Pottawatomie, Republic, Rice, Riley, Rush, Saline, Seward, Shawnee, Stafford, Stanton, Stevens, Wabaunsee, Washington, Wyandotte.
June 1, 1957: Decatur, Ellis, Finney, Gove, Graham, Greeley, Hamilton, Jewell, Kearny, Lane, Logan, Mitchell, Ness, Norton, Osborne, Phillips, Rooks, Russell, Scott, Sheridan, Smith, Trego, Wallace, Witchita.
June 5, 1957: Cheyenne, Rawlins, Sherman, Thomas.

KENTUCKY

June 10, 1957: All counties.

MARYLAND

May 31, 1957: Anne Arundel, Calvert, Charles, Caroline, Cecil, Dorchester, Kent, Prince Georges, St. Mary's, Somerset, Queen Annes, Talbot, Wicomico, Worcester.
June 10, 1957: Baltimore, Carroll, Frederick, Harford, Howard, Montgomery, Washington.
June 20, 1957: Allegany and Garrett.

MICHIGAN

June 10, 1957: All counties south of and including: Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Huron.
June 15, 1957: All other counties in the lower Peninsula.
June 25, 1957: Upper Peninsula counties.

MINNESOTA

June 30, 1957: All counties.

MISSOURI

June 1, 1957: All counties south of the Missouri River.
June 10, 1957: All counties north of the Missouri River.

MONTANA

WINTER WHEAT

July 11, 1957: All counties.

SPRING WHEAT

July 21, 1957: All counties.

NEBRASKA

June 1, 1957: Adams, Burt, Butler, Cass, Clay, Colfax, Cuming, Dodge, Douglas, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Hall, Hamilton, Harlan, Jefferson, Johnson, Kearney, Lancaster, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Red Willow, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Thurston, Washington, Webster, York.
June 15, 1957: Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Cedar, Chase, Cherry, Custer, Dakota, Dawson, Dixon, Dundy, Garfield, Grant, Greeley, Hayes, Hitchcock, Holt, Hooker, Howard, Keith, Keya Paha, Knox, Lincoln, Logan, Loup, McPherson, Madison, Merrick, Nance, Perkins, Pierce, Platte, Polk, Rock, Sherman, Stanton, Thomas, Valley, Wayne, Wheeler.
June 20, 1957: Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux.

NEW JERSEY

June 1, 1957: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, Salem.
June 8, 1957: Mercer, Middlesex, Monmouth, Somerset, Union.
June 15, 1957: Bergen, Essex, Hunderdon, Morris, Passaic, Sussex, Warren.

NEW MEXICO

May 1, 1957: Chaves, Eddy, Hidalgo, Otero, Dona Ana, Grant, Luna, Lea, Sierra.

May 15, 1957: Bernalillo, Curry, De Baca, Guadalupe, Lincoln, Quay, Roosevelt, Santa Fe, Socorro, Torrance, Valencia (Area east of Rio Puerco).

June 1, 1957: Colfax, Catron, Harding, Mora, McKinley, Rio Arriba, Sandoval, San Juan, San Miguel, Taos, Union, Valencia (Area west of Rio Puerco).

June 15, 1957: Any area above 7,000 feet elevation.

NEW YORK

June 5, 1957: Nassau, Suffolk.

June 15, 1957: All other counties.

NORTH CAROLINA

May 15, 1957: All counties.

NORTH DAKOTA

July 5, 1957: Adams, Barnes, Billings, Bowman, Burleigh, Cass, Dickey, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, La Moure, Logan, McIntosh, Mercer, Morton, Oliver, Ransom, Richland, Sargent, Sioux, Slope, Stark, Stutsman.

July 15, 1957: Benson, Bottineau, Burke, Cavalier, Divide, Eddy, Foster, Grand Forks, Griggs, McHenry, McKenzie, McLean, Mountrail, Nelson, Pembina, Pierce, Ramsey, Renville, Rolette, Sheridan, Steele, Towner, Traill, Walsh, Ward, Wells, Williams.

OHIO

June 11, 1957: All counties.

OKLAHOMA

April 15, 1957: Beckham, Caddo, Comanche, Cotton, Grady, Greer, Harmon, Jackson, Jefferson, Kiowa, Stephens, Tillman, Washita.

May 10, 1957: Beaver, Cimarron, Ellis, Harper, Texas, Woods and Woodward.

April 25, 1957: All other counties.

OREGON

WINTER WHEAT

June 15, 1957: Benton, Clackamas, Linn, Marion, Polk, Washington, Yamhill.

July 1, 1957: Wasco.

July 15, 1957: Baker, Douglas, Jackson, Josephine, Lane, Union.

July 20, 1957: Wallowa.

SPRING WHEAT

July 15, 1957: Benton, Clackamas, Linn, Marion, Polk, Washington, Yamhill.

August 1, 1957: Baker, Douglas, Jackson, Josephine, Lane, Wasco.

August 10, 1957: Union.

August 20, 1957: Wallowa.

ALL WHEAT

June 15, 1957: Clatsop, Columbia, Coos, Curry, Hood River, Lincoln, Multnomah, Tillamook.

July 1, 1957: Gilliam, Morrow, Sherman and Umatilla counties under 2,000 feet elevation, Malheur under 3,000 feet elevation.

July 15, 1957: Grant under 2,000 feet elevation, Harney, Malheur over 3,000 feet elevation.

July 20, 1957: Jefferson (non-irrigated).

July 25, 1957: Gilliam, Morrow and Sherman counties over 2,000 feet elevation.

August 1, 1957: Crook, Deschutes, Jefferson (irrigated), Klamath (non-irrigated), Lake, Umatilla over 2,000 feet elevation, Wheeler.

August 15, 1957: Grant over 2,000 feet elevation, Klamath (irrigated).

PENNSYLVANIA

June 7, 1957: Adams, Bedford, Berks, Bucks, Chester, Cumberland, Dauphin, Delaware, Franklin, Greene, Huntingdon, Juniata, Lancaster, Lebanon, Lehigh, Mifflin, Montgomery, Northhampton, Perry, Philadelphia, Schuylkill, Washington, York.

June 21, 1957: Allegheny, Armstrong, Beaver, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Indiana, Jefferson, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Monroe, Montour, Northumberland, Pike, Potter, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Wayne, Westmoreland, Wyoming.

SOUTH CAROLINA

May 15, 1957: All counties.

SOUTH DAKOTA

June 15, 1957: All counties.

TENNESSEE

May 31, 1957: All counties.

TEXAS

April 10, 1957: Brazoria, Calhoun, Chambers, Fort Bend, Galveston, Harris, Jackson, Jefferson, Liberty, Matagorda, Victoria, Wharton.

May 20, 1957: Dallam, Hansford, Hartley, Hutchinson, Lipscomb, Moore, Ochiltree, Sherman.

May 10, 1957: All other counties.

UTAH

June 20, 1957: Box Elder, Cache, Davis, Grand, Juab, Kane, Millard, Salt Lake, San Juan, Sevier, Tooele, Utah, Washington, Weber.

July 1, 1957: Beaver, Carbon, Duchesne, Emery, Iron, Piute, Sanpete, Uintah.

July 10, 1957: Daggett, Garfield, Morgan, Rich, Summit, Wasatch, Wayne.

VIRGINIA

June 15, 1957: Alleghany, Augusta, Bath, Bland, Botetourt, Buchanan, Carroll, Clarke, Craig, Dickenson, Floyd, Frederick, Giles, Grayson, Highland, Lee, Montgomery, Page, Patrick, Pulaski, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Tazewell, Warren, Washington, Wise, Wythe.

June 1, 1957: All other counties.

WASHINGTON

County and area and type of wheat	Dates
Adams:	
Winter wheat	June 30, 1957
Spring wheat	July 20, 1957
Asotin:	
All wheat:	
Areas 1 and 4	July 30, 1957
Area 2	July 1, 1957
Area 3	July 20, 1957
Area 5	Aug. 15, 1957
Benton:	
Winter wheat	June 30, 1957
Spring wheat dryland	June 30, 1957
Spring wheat irrigated	July 15, 1957
Chelan:	
Area A:	
Winter wheat	Aug. 25, 1957
Spring wheat	Sept. 1, 1957
Area B:	
Winter wheat	July 20, 1957
Spring wheat	Aug. 5, 1957
Clallam: All wheat	July 15, 1957
Clark: All wheat	July 20, 1957
Columbia:	
Area 1:	
Winter wheat	June 20, 1957
Spring wheat	June 30, 1957
Area 2:	
Winter wheat	July 5, 1957
Spring wheat	July 15, 1957
Area 3:	
Winter wheat	July 20, 1957
Spring wheat	July 30, 1957
Cowlitz:	
All wheat	July 20, 1957
Douglas:	
Winter wheat	July 15, 1957
Spring wheat	Aug. 10, 1957

WASHINGTON—Continued

County and area and type of wheat	Dates
Ferry:	
Winter wheat	Aug. 15, 1957
Spring wheat	Sept. 15, 1957
Franklin:	
Winter wheat	June 30, 1957
Spring wheat	July 10, 1957
Garfield—Winter wheat:	
Central Ferry area	June 20, 1957
Dodge, Lower Zumwalt, Lower Ping, Gould City areas	July 1, 1957
Mayview, Upper Ping, Upper Zumwalt, Pataha Flat, Dutch Flat, Lower Alpowa areas	July 15, 1957
Upper Alpowa, Peola, Columbia Center, Scoggin areas	July 30, 1957
Spring Wheat	
Central Ferry area	July 1, 1957
Dodge, Lower Zumwalt, Lower Ping, Gould City areas	July 10, 1957
Mayview, Upper Ping, Upper Zumwalt, Pataha Flat, Dutch Flat, Lower Alpowa areas	July 25, 1957
Upper Alpowa, Peola, Columbia Center, Scoggin areas	Aug. 10, 1957
Grant:	
All areas south of US Highway No. 2 except sub-irrigated areas of Wilson Creek	June 30, 1957
Sub-irrigated areas in Wilson Creek Community	Aug. 10, 1957
All area north of US Highway No. 2	July 15, 1957
Grays Harbor: All wheat	July 15, 1957
Island: All wheat	July 15, 1957
Jefferson: All wheat	July 15, 1957
King: All wheat	July 15, 1957
Kitsap: All wheat	July 15, 1957
Kittitas: All wheat	Aug. 10, 1957
Klickitat:	
West of Rock Creek and west of Goodnoe Hills area:	
Winter wheat	July 10, 1957
Spring wheat	July 30, 1957
Goodnoe Hills area and east of Rock Creek excepting north of area 2 miles south of the dividing line between Townships 4 and 5 in Ranges 19, 20, and 21:	
Winter wheat	June 30, 1957
Spring wheat	July 10, 1957
Area north of line 2 miles south of dividing line between Townships 4 and 5 in Ranges 19, 20, and 21:	
Winter wheat	July 10, 1957
Spring wheat	July 25, 1957
Lewis: All wheat	July 20, 1957
Lincoln:	
North of Highway No. 2 and Davenport-Harrington-Tokio Road East	July 25, 1957
South of Highway No. 2	July 15, 1957
Mason: All wheat	July 1, 1957
Okanogan:	
A, B, H, M Communities:	
Winter wheat	July 10, 1957
Spring wheat	July 30, 1957
C, D, E, F, G, I, J, K, L, N, O Communities:	
Winter wheat	Aug. 1, 1957
Spring wheat	Aug. 20, 1957
Pacific: All wheat	July 15, 1957
Pend Oreille: All wheat	Aug. 15, 1957
Pierce: All wheat	Aug. 1, 1957
San Juan: All wheat	Aug. 15, 1957
Skagit: All wheat	July 15, 1957
Skamania: All wheat	July 15, 1957

WASHINGTON—Continued

County and area and type of wheat	*Dates*
Spokane:	
Area due west on north boundary of Township 24 to where it intercedes the east boundary of Range 42 and then due south to county line	Aug. 5, 1957
All the remainder of the County	July 20, 1957
Stevens:	
Winter wheat	July 15, 1957
Spring wheat	Aug. 15, 1957
Thurston: All wheat	July 15, 1957
Wahkiakum: All wheat	July 31, 1957
Walla Walla:	
Dryland areas below elevation of airport	July 1, 1957
All other Dryland areas and irrigated section	Aug. 1, 1957
Whatcom: All wheat	July 15, 1957
Whitman:	
Eastern Whitman	July 25, 1957
Western Whitman	July 10, 1957
Yakima:	
Glade and the Moxee Dryland area	June 30, 1957
Central Valley area	July 10, 1957
Upper Valley area	July 30, 1957

WEST VIRGINIA

June 1, 1957: Berkeley, Boone, Cabell, Clay, Jackson, Jefferson, Kanawha, Lincoln, Logan, Mason, McDowell, Mingo, Putnam, Roane, Wayne, Wyoming.

June 10, 1957: Barbour, Braxton, Brooke, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harrison, Lewis, Marion, Marshall, Mineral, Monongalia, Morgan, Ohio, Pendleton, Pleasants, Ritchie, Taylor, Tyler, Upshur, Wetzel, Wirt, Wood.

June 15, 1957; Fayette, Greenbrier, Mercer, Monroe, Nicholas, Pocahontas, Preston, Raleigh, Randolph, Summers, Tucker, Webster.

WISCONSIN

June 20, 1957: Adams, Buffalo, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fon du Lac, Grant, Greene, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Pepin, Pierce, Portage, Racine, Richland, Rock, St. Croix, Sauk, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waushara, Winnebago.

July 5, 1957: Barron, Brown, Burnett, Calument, Chippewa, Clark, Door, Kewaunee, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Oconto, Oneida, Outagamie, Polk, Price, Rusk, Sawyer, Shawano, Sheboygan, Taylor, Vilas, Washburn, Waupaca, Wood.

July 15, 1957: Ashland, Bayfield, Douglas, Florence, Forest, Iron.

WYOMING

WINTER WHEAT

June 20, 1957: Gashen, Larmie, Platte.

July 5, 1957; Albany, Campbell, Carbon, Converse, Crook, Johnson, Natrona, Sheridan, Weston.

July 20, 1957: Big Horn, Fremont, Hot Springs, Park, Washakie.

August 1, 1957: Lincoln, Sublette, Sweetwater, Teton, Uinta.

SPRING WHEAT

June 30, 1957: Goshen, Laramie, Platte.

July 20, 1957: Big Horn, Campbell, Converse, Crook, Fremont, Hot Springs, Johnson, Natrona, Niobrara, Park, Sheridan, Washakie, Weston.

August 1, 1957: Albany, Carbon, Lincoln, Sublette, Sweetwater, Teton, Uinta.

(s) "Wheat mixture" means a mixture of wheat and other small grains (excluding vetch, Austrian winter peas, rough peas, and flax) which contains, when seeded, less than 50 percent by weight of wheat and which when harvested produced less than 50 percent of wheat by weight. An acreage will not be considered as having been devoted to a wheat mixture if the crops other than wheat fail to reach maturity and the wheat is permitted to reach maturity.

(t) "Wheat mixture counties" means counties in which the seeding of wheat mixtures is a normal farming practice determined to be as follows: All counties in the States of Arkansas, Georgia, Kentucky, Minnesota, North Carolina, South Carolina, Tennessee, Virginia and Wisconsin; in the State of Idaho the counties of Ada, Bannock, Bingham, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Clark, Elmore, Fremont, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls and Washington; in the State of Oregon the counties of Benton, Clackamas, Douglas, Lane, Linn, Malheur, Marion, Polk, Washington and Yamhill; and in the State of West Virginia, Monroe County.

(u) "Wheat acreage" means any acreage of seeded wheat, or self seeded (volunteer) wheat which reaches maturity, excluding any acreage (1) of a wheat mixture in wheat-mixture counties, or of a mixture of other grains and wheat in non-wheat-mixture counties which does not contain enough wheat to cause the grain to be graded as "mixed grain" under the Official Grain Standards of the United States (Part 26 of this title), (2) of wheat cover crop, (3) in case of a delayed notice of 1957 acreage of wheat, of unharvested wheat plowed or disced under within 15 days after such notice has been mailed to the operator of the farm, and (4) of unharvested wheat seeded in excess of the allotment which is completely destroyed by some cause beyond the control of the operator prior to (i) 30 days before the date wheat harvest normally begins in the county or areas within the county (as determined under paragraph (r) of this section) or (ii) within 15 days after a delayed notice of the acreage of wheat is mailed to the operator of the farm, unless the operator or his representative indicates in writing to the county office manager that such destroyed seeded acreage under this item (4) should be classified as wheat acreage. Notice of 1957 Acreage of Wheat (Form CSS-597), if practicable, should be mailed to the operator of the farm on which the first inspection shows there is an excess acreage of wheat at least 15 days prior to the date established under paragraph (r) of this section for utilizing wheat acreage as wheat cover crop; however, if for any reason the notice is not so mailed, it shall be mailed as soon thereafter as possible and upon mailing shall be fully effective and construed as a delayed notice under this paragraph. Wheat acreage shall not include any acreage of emmer, spelt, einkorn, Polish wheat and poulard wheat.

(v) "Excess wheat acreage" means the acreage of wheat determined for the farm which is in excess of the farm acreage allotment, except that there shall be no excess wheat acreage for any farm on which (1) the wheat acreage does not exceed 15 acres, (2) the farm normal yield times the wheat acreage is less than 200 bushels, (3) the wheat is grown for experimental purposes only by a publicly-owned experiment station, or (4) all the wheat is produced on a Federal or State wildlife refuge farm solely for wildlife feed and for seed for the production of wildlife feed on such wildlife refuge farm.

(w) "Normal yield" means the number of bushels of wheat established as the normal yield per acre for the farm under § 728.753.

(x) "Actual yield" means the number of bushels of wheat determined by dividing the number of bushels of wheat produced on the farm in 1957 by the 1957 wheat acreage on the farm.

(y) "Normal production" of any number of acres means the normal yield of wheat for the farm times such number of acres.

(z) "Actual production" of any number of acres means the actual yield of wheat per acre for the farm times such number of acres.

(aa) "Farm marketing quota" means the wheat marketing quota established under the Act for the farm for the 1957 crop.

(bb) "Farm marketing excess" means the amound of wheat determined for any farm under § 728.759 or § 728.762, whichever is applicable.

(cc) "Marketing year" means the period beginning July 1, 1957, and ending June 30, 1958, both dates inclusive.

(dd) "Market" means to dispose of wheat, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift, or by feeding (in any form) to poultry or livestock which or the products of which, are sold, bartered, or exchanged, or are to be so disposed of.

(1) The term "sale" means any transfer of title to wheat by a producer by any means other than barter, exchange, or gift. The penalty on excess wheat is due regardless of what use is made of the excess wheat.

(2) The terms "barter" and "exchange" mean transfer of title to wheat by a producer in return for wheat or any other commodity, service, or property, in cases where the value of the wheat or such other commodity, service or property is not considered in terms of money, or the transfer of title to wheat by a producer in payment of a fixed rental or other charge for land, or the payment of an amount of wheat in lieu of a cash charge for harvesting or milling wheat (commonly called "toll wheat").

(3) The term "gift" means any transfer of title to wheat accompanied by delivery of the wheat by a producer which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(4) "Marketed," "marketing," and for "market" shall have meaning corresponding to the term "market" in the connection in which they are used.

(ee) "Penalty" means the penalty provided in paragraph (2) of Public Law

No. 74, 77th Congress, as amended by section 3 of Public Law No. 117, 83rd Congress.

(ff) "Treasurer of the county committee" means the county office manager or the person designated by him to act as treasurer of the ASC county committee.

(gg) "State administrative officer" means the person employed to execute the policies of the State committee and to be responsible for the day-to-day operations of the office of the State committee, or the person acting in such capacity.

§ 728.752 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. Such forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment, Commodity Stabilization Service.

§ 728.753 *Normal yields*—(a) *Farms for which normal yields will be determined.* The county committee will determine a normal yield for each farm for which a farm marketing excess is required to be determined for the 1957 crop for each farm for which it is necessary to establish a normal yield to determine whether the farm falls within the 200 bushel exemption, for each farm for which a request is made to the county committee by the operator prior to seeding, and for each farm as required for the purposes of the provisions of § 728.783 (h) and (i). Determinations of farm normal yields shall be documented in a manner approved by the State committee and such determinations shall be subject to review and revision by the State committee or on behalf of the State committee by the State administrative officer, program specialist, or farmer fieldman. No notice of a farm normal yield shall be mailed to a producer until the yield has been approved by or on behalf of the State committee.

(b) *Yields based on reliable records.* Where reliable records of the actual average yield per acre for all of the ten calendar years immediately preceding the calendar year in which the yield is determined are available to the county committee, the normal yield per acre of wheat for the farm shall be determined to be the average of such yields, adjusted for abnormal weather conditions and trends in yields.

(c) *Appraised yields.* If for any year of such 10-year period records of the actual average yield are not available, or there was no actual yield, the normal yield per acre of wheat for the farm shall be appraised by the county committee, taking into consideration abnormal weather conditions during such 10-year period, the normal yield for the county, and the yields in years for which data were available. Where conditions affecting the production of wheat are not uniform within the county and the normal yield for the county is not representative of the normal yield for the farm, the county committee in appraising the normal yield for the farm shall also take into consideration the yields obtained on farms in the same locality which are similar with respect to types of soil, topography, and farming practices associated with the production of wheat.

IDENTIFICATION AND MEASUREMENT OF FARMS

§ 728.754 *Identification of farms.* Each farm as operated for the 1957 crop of wheat shall be identified by a farm serial number, assigned by the county committee, which shall not be changed, and all records pertaining to marketing quotas for the 1957 crop of wheat shall be identified by the farm serial number.

§ 728.755 *Measurement of farms.* The county committee shall provide for the measurement of all farms in the county having a 1957 wheat acreage allotment and any other farms in the county on which the committee has reason to believe there is wheat which could be available for harvest in 1957, regardless of its intended use, for the purposes of ascertaining with respect to each of such farms the acreage of wheat and whether such acreage is in excess of the farm wheat acreage allotment for 1957. A farm will be considered as being located in the county in which is located the ASC county office from which the 1957 wheat farm acreage allotment notice was sent to the operator and shall be retained in such status until the next crop year. Measurement shall be made under the general supervision of the county committee in accordance with the following provisions:

(a) *Reporter.* The measurement on the farm shall be made by an employee of the county committee who has been designated as a reporter and determined to be qualified to carry out the duties of a reporter by the county office manager. In addition, upon request of the county committee the State administrative officer may designate an employee of the State committee to serve as a reporter. A reporter may be assisted in the measurement of a farm by another reporter, community, county or State committeeman, county office manager, State committee representative, any employee of the ASC county office when authorized by the county office manager, or any employee of the Department when authorized by the Deputy Administrator for Production Adjustment, Commodity Stabilization Service. The reporter may request the operator or producer, or his representative, to designate all fields on the farm being utilized for growing wheat and otherwise to assist in measuring the farm. If requested, the operator or producer, or his representative, shall so designate all fields being utilized for growing wheat and may otherwise assist in measuring the farm. The reporter may utilize any such assistance from the operator or producer, or his representative.

(b) *Assignment.* The county office manager shall have responsibility for assigning in writing the farms in the county to be measured by a reporter. Upon request of any interested producer the reporter shall obtain certification from the county office manager that the reporter is the county office representative appointed to measure the wheat acreage on the farm in which the producer is interested.

(c) *Farm visit.* A reporter shall visit each farm assigned to him for measurement and enter thereon if such entry will facilitate measurement. Upon request he will exhibit to the farm operator, producer, or owner, his assignment to measure the farm.

(d) *Methods of measurement.* Measurement may be made by identification of fields or parts of fields by use of a map, aerial photograph, or by means of a steel or metallic tape or chain. No other measuring equipment shall be used unless approval in writing is obtained from the Deputy Administrator of Production Adjustment, Commodity Stabilization Service. Any combination of one or more of the foregoing methods may be employed. Measurement shall also be deemed to include an estimate when made in compliance with the provisions of paragraph (e) (1) of this section. The measurement will be entered by the reporter on the Form CSS-578 and filed in the ASC county office. Computations of acreages shall be made by an employee in the ASC county office from the data so obtained and the use of a planimeter or rotometer in connection therewith is authorized.

(e) *Measurement of wheat acreage.* (1) Upon his first visit to the farm for purposes of measurement the reporter assigned thereto shall (i) when there is no wheat acreage reserve agreement for the farm estimate the acreage planted to wheat including volunteer wheat and wheat mixtures in wheat-mixture counties where the total acreage of wheat is obviously less than 10 acres and all producers of wheat on the farm or their authorized representatives indicate on the Form CSS-578 that they will not apply for price support on 1957 wheat produced on the farm; and (ii) in all other cases measure all acreages on which wheat is growing except fields or parts of fields which are identified by the operator or producer as being fields of wheat mixtures in wheat-mixture counties, acreages to be used as cover crop, or volunteer wheat. The acreages of such wheat mixtures, cover crop, and volunteer wheat may be measured, and if not measured shall be estimated.

(2) All farms required to be measured under the provisions of subparagraph (1) (ii) of this paragraph which from such measurement (including estimates, if any) are found to have acreage on which wheat is growing in excess of the 1957 farm wheat acreage allotment shall be revisited by a reporter for the purposes of a second measurement after the period for adjusting excess acreage prior to harvest has expired, except that a revisit shall not be made to any farm on which the first inspection showed a total acreage of wheat not in excess of 15 acres unless a producer on such farm requests measurement and pays the cost thereof by the date specified on Notice of 1957 Acreage of Wheat (Form CSS-597), which date shall coincide with the latest date on which the adjustment may be

made as provided in § 728.751 (u). On this visit all acreage devoted to wheat which has not been adjusted prior to harvest so as not to qualify as wheat acreage in accordance with the regulations in this subpart or which does not qualify as a wheat mixture in wheat-mixture exemption counties shall be measured. In making such measurements, measurement data acquired on the first visit may be utilized.

(f) *Prior measurements.* Measurements made prior to the effective date of the regulations in this subpart, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1957 wheat acreage and the wheat acreage in excess of the 1957 farm wheat acreage allotment.

§ 728.756 *Reports and records of farm measurements.* A record shall be kept in the ASC county office of the measurements made on all farms. There shall be filed with the ASC State office a written report setting forth for each farm for which a farm marketing excess is determined (a) the farm serial number, (b) the name of the operator, (c) the total acreage in cultivation, (d) the farm acreage allotment, and (e) the wheat acreage.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 728.757 *Marketing quotas in effect.* Marketing quotas for the 1957 crop of wheat shall be applicable in the 1957 commercial wheat-producing area which comprises all States in the continental United States except the States of Alabama, Arizona, Connecticut, Florida, Louisiana, Maine, Massachusetts, Mississippi, Nevada, New Hampshire, Rhode Island and Vermont. Wheat marketing quotas shall be applicable to all wheat of the 1957 crop in the commercial wheat-producing area notwithstanding that it may be available for marketing prior to the beginning of the marketing year or subsequent to the end of the marketing year. Notwithstanding the inapplicability of wheat marketing quotas outside the 1957 commercial wheat-producing area, the regulations in this subpart shall be applicable to buyers and transferees outside such area.

§ 728.758 *Farm marketing quota.* The farm marketing quota for any farm for the 1957 crop of wheat shall be that number of bushels of wheat produced on the farm less the amount of the farm marketing excess for the farm.

§ 728.759 *Farm marketing excess.* The farm marketing excess for the 1957 crop of wheat for any farm shall be the normal production of the wheat acreage on the farm in excess of the farm acreage allotment therefor: *Provided,* That the farm marketing excess for any crop shall not be larger than the amount by which the actual production of such crop of wheat on the farm exceeds the normal production of the farm wheat acreage allotment if the producer establishes such actual production to the satisfaction of the Secretary.

§ 728.760 *Notice of farm marketing excess.* Written notice of the farm marketing excess for a farm shall be mailed to the operator of each farm for which a farm marketing excess is determined. Notice so given shall constitute notice to each producer having an interest in the 1957 wheat crop produced or to be produced on the farm. A copy of such notice shall also be mailed on the same date to each other wheat producer on the farm. Each notice shall contain a brief statement of the procedure whereby application for a review of the farm marketing quota, farm marketing excess, or any determination made in connection therewith may be had in accordance with section 363 of the act. A record of each notice containing the date of mailing the notice to the operator of the farm shall be kept among the permanent records in the ASC county office and upon request a copy thereof shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the wheat produced in 1957 on the farm for which the notice is given. Each notice shall contain the information necessary in each case to inform the producer as to the basis for the determination set forth in the notice and the effect thereof and shall be on Form MQ-93—Wheat.

§ 728.761 *Farms for which proper notice of 1957 farm marketing quota and farm marketing excess of wheat was not issued.* Where, for any reason, proper notice of the farm marketing quota and farm marketing excess and of the producer's right to obtain a downward adjustment in the farm marketing excess for his farm on account of actual production, and of his right to store or deliver to the Secretary the farm marketing excess of wheat established for the farm was not issued to the producer in sufficient time to allow him 30 days prior to the time in which he was required to make application for a downward adjustment, or to store or deliver to the Secretary the farm marketing excess, as prescribed by §§ 728.760, 728.762, 728.783 and 728.784, the producer shall be so notified by the county committee on Form MQ-93—Wheat and the producer may, within 30 days from the date such notice is mailed to him apply to the county committee for a downward adjustment in the amount of the farm marketing excess and may, within 30 days from the date such notice is mailed store or deliver to the Secretary the farm marketing excess as provided in §§ 728.762, 728.783 and 728.784. In the event application for downward adjustment in the farm marketing excess is made by the producer, a revised notice on Form MQ-93—Wheat with a copy of the determination of the county committee as provided in § 728.762 (b) shall be mailed to the operator of the farm, to the applicant if he is not such operator, and to all other interested producers.

§ 728.762 *Farm marketing excess adjustment*—(a) *Adjustment in the amount of the farm marketing excess.* Any producer having an interest in the wheat produced in 1957 on any farm for which there is a farm marketing excess may (1) within 60 days after the harvesting of wheat is normally substantially completed in the county or area in the county in which the farm is situated apply to the county office for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of wheat produced in 1957 on the farm, or (2) apply to the county office at any time prior to the institution of court proceedings to collect the penalty for a determination that there was no farm marketing excess for the farm because the actual production on the farm was not in excess of the normal production of the acreage allotment. Notwithstanding the foregoing provisions of this paragraph, whenever the county committee determines that no wheat has been or will be produced in 1957 on a farm with a farm marketing excess, the county committee may adjust the farm marketing excess and notify the operator of such adjustment, as provided in paragraph (b) of this section. The date on which the harvesting of wheat is normally substantially completed in the county or area in the county shall be determined by the State committee with the approval of the Secretary, taking into consideration recommendations which the county committee may make and, unless application for an adjustment in the farm marketing excess is made prior to the expiration of 60 calendar days next succeeding that date, or unless prior to the institution of court proceedings to collect the penalty with respect to the farm it is determined that there was no farm marketing excess for the farm, the farm marketing excess for any farm in the county as determined on the basis of the normal production of the excess wheat acreage for the farm shall be final as to the producers on the farm. The producer must furnish satisfactory proof to the county committee of his actual production. The county office shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered in the order in which made. The established dates on which wheat harvest is normally substantially completed have been determined as aforesaid as follows:

ARKANSAS

June 25, 1957: All counties.

CALIFORNIA

July 1, 1957: Imperial.

August 15, 1957: Butte, Colusa, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yola, Yuba.

September 1, 1957: Alameda, Contra Costa, Lake, Marin, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Sonoma.

September 15, 1957: Alpine, Amador, Calaveras, Del Norte, El Dorado, Humboldt, Inyo, Mariposa, Mendocino, Mono, Nevada, Placer, Tuolumne.

October 1, 1957: Lassen, Modoc, Plumas, San Luis Obispo, Shasta, Sierra, Siskiyou, Trinity.

COLORADO

August 15, 1957: Larimer, Boulder, Jefferson, El Paso, Pueblo, Huerfano, Las Animas and all counties East thereof.

November 1, 1957: Alamosa, Archuleta, Chaffee, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Fremont, Garfield, Grand, Jackson, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, San Miguel, Teller.

DELAWARE

August 1, 1957: All counties.

GEORGIA

July 1, 1957: Area I—Quitman, Randolph, Terrell, Lee, Crisp, Wilcox, Dodge, Wheeler, Montgomery, Toombs, Candler, Bulloch, Screven and all counties South thereof.
July 15, 1957: Area II—Haralson, Paulding, Cobb, Fulton, Gwinnett, Barrow, Jackson, Madison, Franklin, and all counties South to Area I.
August 1, 1957: Area III—Polk, Bartow, Cherokee, Forsyth, Hall, Banks, Stephens, and all counties North thereof.

IDAHO

September 1, 1957: Ada, Canyon, Gem, Owyhee, Payette.
September 15, 1957: Washington, Cassia, Gooding, Jerome, Minidoka, Twin Falls.
October 1, 1957: Benewah, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Adams, Boise, Elmore, Blaine, Camas, Lincoln, Bannock, Bingham, Caribou, Franklin, Oneida, Power, Bonneville, Clark, Fremont, Jefferson, Lemhi.
October 15, 1957: Bonner, Valley, Bear Lake, Butte, Custer, Madison, Teton.

ILLINOIS

July 31, 1957: All counties.

INDIANA

July 16, 1957: All counties.

IOWA

July 31, 1957: All counties.

KANSAS

July 30, 1957: All counties.

KENTUCKY

August 1, 1957: All counties.

MARYLAND

August 1, 1957: All counties except Garrett and Allegany.
September 1, 1957: Allegany and Garrett.

MICHIGAN

August 15, 1957: All counties south of and including Mason, Lake, Osceola, Clare, Gladwin and Arenac.
August 31, 1957: All other counties including the upper Peninsula.

MINNESOTA

September 2, 1957: All counties.

MISSOURI

July 30, 1957: All counties.

MONTANA

September 16, 1957: All counties.

NEBRASKA

July 20, 1957: Burt, Butler, Cass, Clay, Colfax, Cuming, Dodge, Douglas, Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Nuckolls, Otoe, Pawnee, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Thurston, Washington, Webster, York.
August 1, 1957: All other counties.

NEW JERSEY

July 24, 1957: All counties.

NEW MEXICO

July 15, 1957: Chaves, Eddy, Hidalgo, Otero, Dona Ana, Grant, Luna, Lea, Sierra.
August 1, 1957: Bernalillo, Curry, De Baca, Guadalupe, Lincoln, Quay, Roosevelt, Santa Fe, Socorro, Torrance, Valencia (area east of Rio Puerco).
August 15, 1957: Colfax, Catron, Sandoval, Harding, Mora, McKinley, Rio Arriba, San Juan, San Miguel, Taos, Union, Valencia (area west of Rio Puerco).
September 1, 1957: Any area above 7,000 feet elevation.

NEW YORK

August 15, 1957: All counties.

NORTH CAROLINA

July 15, 1957: All counties.

NORTH DAKOTA

October 1, 1957: All counties.

OHIO

July 18, 1957: All counties.

OKLAHOMA

July 1, 1957: For all counties except Beaver, Texas and Cimarron.
July 15, 1957: Beaver, Cimarron and Texas.

OREGON

September 1, 1957: Grant, Malheur, Umatilla.
September 15, 1957: Benton, Clackamas, Columbia, Douglas, Gilliam, Jackson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Union, Washington, Yamhill.
September 30, 1957: Wheeler.
October 1, 1957: Crook, Jefferson, Lake, Wasco.
October 15, 1957: Baker.
October 20, 1957: Harney.
November 1, 1957: Wallowa.
November 15, 1957: Deschutes.

PENNSYLVANIA

August 21, 1957: All counties.

SOUTH CAROLINA

July 1, 1957: All counties.

SOUTH DAKOTA

September 1, 1957: All counties.

TENNESSEE

July 31, 1957: All counties.

TEXAS

July 15, 1957: All counties.

UTAH

September 15, 1957: All counties.

VIRGINIA

September 1, 1957: Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Bland, Botetourt, Carroll, Craig, Floyd, Giles, Grayson, Montgomery, Patrick, Pulaski, Roanoke, Wythe, Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockingham, Rockbridge, Shenandoah, Warren.
July 20, 1957: All other counties.

WASHINGTON

August 15, 1957: Franklin.
August 31, 1957: Garfield, King.
September 1, 1957: Adams, Clark, Columbia, Cowlitz, East Ferry, Klickitat, Lincoln, Thurston, Walla Walla.
September 10, 1957: Grant, Douglas.
September 15, 1957: Asotin, Benton, Chelan, West Ferry, Spokane, Whitman.
September 20, 1957: Jefferson, Lewis, Mason.
September 30, 1957: Grays Harbor, Pierce, Skagit, Snohomish.
October 1, 1957: Okanogan, Pend Oreille, Yakima, Stevens.
October 15, 1957: Clallam, Island, Kittitas, San Juan, Whatcom.

WEST VIRGINIA

August 15, 1957: All counties.

WISCONSIN

September 1, 1957: All counties.

WYOMING

WINTER WHEAT

July 20, 1957: Goshen, Laramie, Platte.
August 5, 1957: Albany, Campbell, Carbon, Converse, Crook, Johnson, Natrona, Niobrara, Sheridan, Weston.
August 20, 1957: Big Horn, Fremont, Hot Springs, Park, Washakie.
September 1, 1957: Lincoln, Sublette, Sweetwater, Teton, Uinta.

SPRING WHEAT

July 30, 1957: Goshen, Laramie, Platte.
August 20, 1957: Big Horn, Campbell, Converse, Crook, Fremont, Hot Springs, Johnson, Natrona, Hiobrara, Park, Sheridan, Washakie, Weston.
September 1, 1957: Albany, Carbon, Lincoln, Sublette, Sweetwater, Teton, Uinta.

(b) *Procedure in connection with an application for an adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. The actual production of any farm shall be determined on the basis of the relevant facts, including past production on the farm; the actual yields during the same year of other farms in the community; the actual and normal yields of other farms in the community which are similar with regard to farming practices followed, type of soil, and productivity; the harvesting, processing, and sales of the commodity produced on the farm; farming practices followed on the farm; and weather and other factors affecting the production of wheat on the farm and in the locality in which the farm is situated. In the consideration of any application for an adjustment in the farm marketing excess, the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant, and the application may be disposed of upon the basis of such statement or evidence, together with other information bearing on or establishing the facts which is available to the county committee, unless the applicant appears before the county committee at the time fixed for considering the application and requests a hearing for the purpose of offering documentary evidence or oral testimony in support of the application. Every such hearing shall be open to the public. The county committee shall make its determination in connection with each application not later than five calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county

made as provided in § 728.751 (u). On this visit all acreage devoted to wheat which has not been adjusted prior to harvest so as not to qualify as wheat acreage in accordance with the regulations in this subpart or which does not qualify as a wheat mixture in wheat-mixture exemption counties shall be measured. In making such measurements, measurement data acquired on the first visit may be utilized.

(f) *Prior measurements.* Measurements made prior to the effective date of the regulations in this subpart, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1957 wheat acreage and the wheat acreage in excess of the 1957 farm wheat acreage allotment.

§ 728.756 *Reports and records of farm measurements.* A record shall be kept in the ASC county office of the measurements made on all farms. There shall be filed with the ASC State office a written report setting forth for each farm for which a farm marketing excess is determined (a) the farm serial number, (b) the name of the operator, (c) the total acreage in cultivation, (d) the farm acreage allotment, and (e) the wheat acreage.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 728.757 *Marketing quotas in effect.* Marketing quotas for the 1957 crop of wheat shall be applicable in the 1957 commercial wheat-producing area which comprises all States in the continental United States except the States of Alabama, Arizona, Connecticut, Florida, Louisiana, Maine, Massachusetts, Mississippi, Nevada, New Hampshire, Rhode Island and Vermont. Wheat marketing quotas shall be applicable to all wheat of the 1957 crop in the commercial wheat-producing area notwithstanding that it may be available for marketing prior to the beginning of the marketing year or subsequent to the end of the marketing year. Notwithstanding the inapplicability of wheat marketing quotas outside the 1957 commercial wheat-producing area, the regulations in this subpart shall be applicable to buyers and transferees outside such area.

§ 728.758 *Farm marketing quota.* The farm marketing quota for any farm for the 1957 crop of wheat shall be that number of bushels of wheat produced on the farm less the amount of the farm marketing excess for the farm.

§ 728.759 *Farm marketing excess.* The farm marketing excess for the 1957 crop of wheat for any farm shall be the normal production of the wheat acreage on the farm in excess of the farm acreage allotment therefor: *Provided,* That the farm marketing excess for any crop shall not be larger than the amount by which the actual production of such crop of wheat on the farm exceeds the normal production of the farm wheat acreage allotment if the producer establishes such actual production to the satisfaction of the Secretary.

§ 728.760 *Notice of farm marketing excess.* Written notice of the farm marketing excess for a farm shall be mailed to the operator of each farm for which a farm marketing excess is determined. Notice so given shall constitute notice to each producer having an interest in the 1957 wheat crop produced or to be produced on the farm. A copy of such notice shall also be mailed on the same date to each other wheat producer on the farm. Each notice shall contain a brief statement of the procedure whereby application for a review of the farm marketing quota, farm marketing excess, or any determination made in connection therewith may be had in accordance with section 363 of the act. A record of each notice containing the date of mailing the notice to the operator of the farm shall be kept among the permanent records in the ASC county office and upon request a copy thereof shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the wheat produced in 1957 on the farm for which the notice is given. Each notice shall contain the information necessary in each case to inform the producer as to the basis for the determination set forth in the notice and the effect thereof and shall be on Form MQ-93—Wheat.

§ 728.761 *Farms for which proper notice of 1957 farm marketing quota and farm marketing excess of wheat was not issued.* Where, for any reason, proper notice of the farm marketing quota and farm marketing excess and of the producer's right to obtain a downward adjustment in the farm marketing excess for his farm on account of actual production, and of his right to store or deliver to the Secretary the farm marketing excess of wheat established for the farm was not issued to the producer in sufficient time to allow him 30 days prior to the time in which he was required to make application for a downward adjustment, or to store or deliver to the Secretary the farm marketing excess, as prescribed by §§ 728.760, 728.762, 728.783 and 728.784, the producer shall be so notified by the county committee on Form MQ-93—Wheat and the producer may, within 30 days from the date such notice is mailed to him apply to the county committee for a downward adjustment in the amount of the farm marketing excess and may, within 30 days from the date such notice is mailed store or deliver to the Secretary the farm marketing excess as provided in §§ 728.762, 728.783 and 728.784. In the event application for downward adjustment in the farm marketing excess is made by the producer, a revised notice on Form MQ-93—Wheat with a copy of the determination of the county committee as provided in § 728.762 (b) shall be mailed to the operator of the farm, to the applicant if he is not such operator, and to all other interested producers.

§ 728.762 *Farm marketing excess adjustment*—(a) *Adjustment in the amount of the farm marketing excess.* Any producer having an interest in the wheat produced in 1957 on any farm for which there is a farm marketing excess may (1) within 60 days after the harvesting of wheat is normally substantially completed in the county or area in the county in which the farm is situated apply to the county office for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of wheat produced in 1957 on the farm, or (2) apply to the county office at any time prior to the institution of court proceedings to collect the penalty for a determination that there was no farm marketing excess for the farm because the actual production on the farm was not in excess of the normal production of the acreage allotment. Notwithstanding the foregoing provisions of this paragraph, whenever the county committee determines that no wheat has been or will be produced in 1957 on a farm with a farm marketing excess, the county committee may adjust the farm marketing excess and notify the operator of such adjustment, as provided in paragraph (b) of this section. The date on which the harvesting of wheat is normally substantially completed in the county or area in the county shall be determined by the State committee with the approval of the Secretary, taking into consideration recommendations which the county committee may make and, unless application for an adjustment in the farm marketing excess is made prior to the expiration of 60 calendar days next succeeding that date, or unless prior to the institution of court proceedings to collect the penalty with respect to the farm it is determined that there was no farm marketing excess for the farm, the farm marketing excess for any farm in the county as determined on the basis of the normal production of the excess wheat acreage for the farm shall be final as to the producers on the farm. The producer must furnish satisfactory proof to the county committee of his actual production. The county office shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered in the order in which made. The established dates on which wheat harvest is normally substantially completed have been determined as aforesaid as follows:

ARKANSAS

June 25, 1957: All counties.

CALIFORNIA

July 1, 1957: Imperial.

August 15, 1957: Butte, Colusa, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yola, Yuba.

September 1, 1957: Alameda, Contra Costa, Lake, Marin, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz, Sonoma.

September 15, 1957: Alpine, Amador, Calaveras, Del Norte, El Dorado, Humboldt, Inyo, Mariposa, Mendocino, Mono, Nevada, Placer, Tuolumne.

October 1, 1957: Lassen, Modoc, Plumas, San Luis Obispo, Shasta, Sierra, Siskiyou, Trinity.

COLORADO

August 15, 1957: Larimer, Boulder, Jefferson, El Paso, Pueblo, Huerfano, Las Animas and all counties East thereof.

November 1, 1957: Alamosa, Archuleta, Chaffee, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Fremont, Garfield, Grand, Jackson, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, San Miguel, Teller.

DELAWARE

August 1, 1957: All counties.

GEORGIA

July 1, 1957: Area I—Quitman, Randolph, Terrell, Lee, Crisp, Wilcox, Dodge, Wheeler, Montgomery, Toombs, Candler, Bulloch, Screven and all counties South thereof.
July 15, 1957: Area II—Haralson, Paulding, Cobb, Fulton, Gwinnett, Barrow, Jackson, Madison, Franklin, and all counties South to Area I.
August 1, 1957: Area III—Polk, Bartow, Cherokee, Forsyth, Hall, Banks, Stephens, and all counties North thereof.

IDAHO

September 1, 1957: Ada, Canyon, Gem. Owyhee, Payette.
September 15, 1957: Washington, Cassia, Gooding, Jerome, Minidoka, Twin Falls.
October 1, 1957: Benewah, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Adams, Boise, Elmore, Blaine, Camas, Lincoln, Bannock, Bingham, Caribou, Franklin, Oneida, Power, Bonneville, Clark, Fremont, Jefferson, Lemhi.
October 15, 1957: Bonner, Valley, Bear Lake, Butte, Custer, Madison, Teton.

ILLINOIS

July 31, 1957: All counties.

INDIANA

July 16, 1957: All counties.

IOWA

July 31, 1957: All counties.

KANSAS

July 30, 1957: All counties.

KENTUCKY

August 1, 1957: All counties.

MARYLAND

August 1, 1957: All counties except Garrett and Allegany.
September 1, 1957: Allegany and Garrett.

MICHIGAN

August 15, 1957: All counties south of and including Mason, Lake, Osceola, Clare, Gladwin and Arenac.
August 31, 1957: All other counties including the upper Peninsula.

MINNESOTA

September 2, 1957: All counties.

MISSOURI

July 30, 1957: All counties.

MONTANA

September 16, 1957: All counties.

NEBRASKA

July 20, 1957: Burt, Butler, Cass, Clay, Colfax, Cuming, Dodge, Douglas, Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Nuckolls, Otoe, Pawnee, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Thurston, Washington, Webster, York.
August 1, 1957: All other counties.

NEW JERSEY

July 24, 1957: All counties.

NEW MEXICO

July 15, 1957: Chaves, Eddy, Hidalgo, Otero, Dona Ana, Grant, Luna, Lea, Sierra.

August 1, 1957: Bernalillo, Curry, De Baca, Guadalupe, Lincoln, Quay, Roosevelt, Santa Fe, Socorro, Torrance, Valencia (area east of Rio Puerco).
August 15, 1957: Colfax, Catron, Sandoval, Harding, Mora, McKinley, Rio Arriba, San Juan, San Miguel, Taos, Union, Valencia (area west of Rio Puerco).
September 1, 1957: Any area above 7,000 feet elevation.

NEW YORK

August 15, 1957: All counties.

NORTH CAROLINA

July 15, 1957: All counties.

NORTH DAKOTA

October 1, 1957: All counties.

OHIO

July 18, 1957: All counties.

OKLAHOMA

July 1, 1957: For all counties except Beaver, Texas and Cimarron.
July 15, 1957: Beaver, Cimarron and Texas.

OREGON

September 1, 1957: Grant, Malheur, Umatilla.
September 15, 1957: Benton, Clackamas, Columbia, Douglas, Gilliam, Jackson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Union, Washington, Yamhill.
September 30, 1957: Wheeler.
October 1, 1957: Crook, Jefferson, Lake, Wasco.
October 15, 1957: Baker.
October 20, 1957: Harney.
November 1, 1957: Wallowa.
November 15, 1957: Deschutes.

PENNSYLVANIA

August 21, 1957: All counties.

SOUTH CAROLINA

July 1, 1957: All counties.

SOUTH DAKOTA

September 1, 1957: All counties.

TENNESSEE

July 31, 1957: All counties.

TEXAS

July 15, 1957: All counties.

UTAH

September 15, 1957: All counties.

VIRGINIA

September 1, 1957: Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Bland, Botetourt, Carroll, Craig, Floyd, Giles, Grayson, Montgomery, Patrick, Pulaski, Roanoke, Wythe, Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockingham, Rockbridge, Shenandoah, Warren.
July 20, 1957: All other counties.

WASHINGTON

August 15, 1957: Franklin.
August 31, 1957: Garfield, King.
September 1, 1957: Adams, Clark, Columbia, Cowlitz, East Ferry, Klickitat, Lincoln, Thurston, Walla Walla.
September 10, 1957: Grant, Douglas.
September 15, 1957: Asotin, Benton, Chelan, West Ferry, Spokane, Whitman.
September 20, 1957: Jefferson, Lewis, Mason.
September 30, 1957: Grays Harbor, Pierce, Skagit, Snohomish.
October 1, 1957: Okanogan, Pend Oreille, Yakima, Stevens.
October 15, 1957: Clallam, Island, Kittitas, San Juan, Whatcom.

WEST VIRGINIA

August 15, 1957: All counties.

WISCONSIN

September 1, 1957: All counties.

WYOMING

WINTER WHEAT

July 20, 1957: Goshen, Laramie, Platte.
August 5, 1957: Albany, Campbell, Carbon, Converse, Crook, Johnson, Natrona, Niobrara, Sheridan, Weston.
August 20, 1957: Big Horn, Fremont, Hot Springs, Park, Washakie.
September 1, 1957: Lincoln, Sublette, Sweetwater, Teton, Uinta.

SPRING WHEAT

July 30, 1957: Goshen, Laramie, Platte.
August 20, 1957: Big Horn, Campbell, Converse, Crook, Fremont, Hot Springs, Johnson, Natrona, Hiobrara, Park, Sheridan, Washakie, Weston.
September 1, 1957: Albany, Carbon, Lincoln, Sublette, Sweetwater, Teton, Uinta.

(b) *Procedure in connection with an application for an adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. The actual production of any farm shall be determined on the basis of the relevant facts, including past production on the farm; the actual yields during the same year of other farms in the community; the actual and normal yields of other farms in the community which are similar with regard to farming practices followed, type of soil, and productivity; the harvesting, processing, and sales of the commodity produced on the farm; farming practices followed on the farm; and weather and other factors affecting the production of wheat on the farm and in the locality in which the farm is situated. In the consideration of any application for an adjustment in the farm marketing excess, the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant, and the application may be disposed of upon the basis of such statement or evidence, together with other information bearing on or establishing the facts which is available to the county committee, unless the applicant appears before the county committee at the time fixed for considering the application and requests a hearing for the purpose of offering documentary evidence or oral testimony in support of the application. Every such hearing shall be open to the public. The county committee shall make its determination in connection with each application not later than five calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county

committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the questions of fact, and (3) the determination of the county committee as to the farm marketing quota and farm marketing excess. A revised notice on Form MQ–93—Wheat with a copy of the determination made as aforesaid shall be mailed to the operator of the farm, to the applicant if he is not such operator, and to all other interested producers. All county committee determinations made in connection with applications for adjustment in the farm marketing excess shall be subject to review and revision by the State committee or on behalf of the State committee by the State administrative officer, program specialist, or farmer fieldman. No notice of the determination shall be mailed to the operator until the determination has been approved by or on behalf of the State committee.

§ 728.763 *Publication of the farm acreage allotments, marketing quotas, and marketing excesses.* A record of the farm acreage allotments, farm marketing quotas, and farm marketing excesses established for farms in the county shall be made and kept freely available for public inspection in the ASC county office.

§ 728.764 *Marketing quotas not transferable.* A farm marketing quota established for a farm may not be assigned or otherwise transferred in whole or in part to any other farm.

§ 728.765 *Successors in interest.* Any person who succeeds to the interest of a producer in a farm or in a wheat crop produced on a farm for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the restrictions on the marketing of wheat. However, a successor to a deceased producer shall not be personally liable for an unpaid marketing quota penalty incurred by the producer prior to his death, but a suit may be brought to enforce the lien for the penalty against the wheat. If a successor in interest should acquire from a deceased producer wheat subject to the lien for the penalty, no marketing card or marketing certificate shall be issued to permit the successor in interest to market the wheat penalty free until the penalty has been satisfied.

§ 728.766 *Review of quotas*—(a) *Right to review by a review committee.* Any producer who is dissatisfied with the farm acreage allotment, normal yield, farm marketing quota, farm marketing excess, or other determination for his farm in connection with marketing quotas may, within 15 calendar days after the notice thereof was mailed to him apply in writing for a review by a review committee of such acreage allotment, normal yield, farm marketing quota, farm marketing excess or other determination in connection therewith: *Provided,* That if a review hearing has been held and determination made by a review committee with respect to the acreage allotment, normal yield, farm marketing quota, farm marketing excess, or other determination in connection therewith, no application by a producer for further review by a review committee with respect to such determination may be filed. Unless application for review is made within such period, the acreage allotment, normal yield, farm marketing quota, farm marketing excess, or other determination, as the case may be, shall be final as to the producers on the farm. Application for review and the review committee proceedings shall be in accordance with the review regulations (21 F. R. 9365) as issued by the Secretary (Part 711 of this chapter).

(b) *Action by county committee prior to review hearing.* Action shall be taken by the county committee prior to the review hearing in accordance with § 711.14 of the review regulations (21 F. R. 9365).

(c) *Court review.* If a producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

MARKETING CARDS AND MARKETING CERTIFICATES

§ 728.767 *Issuance of marketing cards*—(a) *Producers eligible to receive marketing cards.* The operator and all other producers on a farm shall be eligible to receive a marketing card (MQ–76—Wheat (1957)) if (1) no farm marketing excess is determined for the farm, (2) an amount equal to the penalty on the farm marketing excess has been received from the producer or any buyer as provided in § 728.778 or § 728.779, (3) the farm marketing excess is stored, as provided in § 728.783, or (4) the amount of the farm marketing excess has been delivered to the Secretary, as provided in § 728.784. Upon request a marketing card will be issued to any wheat producer for a farm outside the commercial wheat-producing area. Marketing cards will be delivered to producers at the office of the county committee, except that if the county committee determines that it would facilitate the effective administration of the Act marketing cards may be mailed to the producers entitled thereto. Each marketing card shall be serially numbered and shall show the names of the State and county and code number thereof and the serial number of the farm, the signature of the county office manager or his designee, the name and address of the producer to whom issued, and the countersignature of the producer to whom the card is issued, or his duly authorized agent, or a statement by the county office manager or his designee giving an explanation of the reason for which the countersignature cannot be made. The producers on a farm shall be ineligible to receive marketing cards if any producer on the farm owes any penalty for 1954, 1955, or 1956 excess wheat, or if determination of the 1957 wheat acreage has not been made and has been prevented by any producer on the farm. A producer shall not be considered to owe any penalty if he has avoided or postponed payment of the penalty through storage of excess wheat in accordance with applicable regulations.

(b) *Multiple farm producers eligible to receive marketing cards.* Any producer who is a wheat producer on more than one farm in a county shall not be eligible to receive a marketing card for any such farm in the county until, in accordance with the provisions of paragraph (a) of this section, he is eligible to receive a marketing card for each of such farms. However, only one wheat marketing card need be issued to a producer who has an interest in the wheat crop on more than one farm in the county, provided (1) the farm serial numbers of all such farms are entered on the marketing card, (2) the producer is eligible to receive a marketing card on each farm in the county in which he has an interest in the wheat crop, and (3) the producer's liability has not been reduced to a proportionate share of any such farm. The other producers on a farm for which the multiple farm producer would otherwise be eligible to receive a marketing card shall receive marketing cards with respect to the farm notwithstanding the ineligibility of the multiple farm producer. Where a producer is engaged in the production of wheat in more than one county (in the same State or in two or more States), the regulations outlined in this section for issuing marketing cards for multiple farms in a county may be followed with respect to all such farms, wherever situated, if the county committees of the respective counties or if the State committee determines that the procedure would be necessary to enforce the provisions of the act. The State committee may require any multiple farm producer to file with it a list of all farms on which he is engaged in the production of wheat, together with any other information deemed necessary to enforce the act.

(c) *Use of marketing cards.* The serial number of the farm or farms for which a marketing card is issued shall be entered on the marketing card. A marketing card shall not be used to identify wheat produced on any farm, the serial number of which is not entered on the card. A marketing card shall not be used to market any wheat which was not produced on a farm the serial number of which appears on the marketing card.

§ 728.768 *Issuance of marketing certificates.* The county office manager or his designee shall, upon request, issue a marketing certificate, Form MQ–94—Wheat, to any producer (a) who is eligible to receive a marketing card and who desires to market wheat by telegraph, telephone, mail, or by any means or method other than directly to and in the presence of the buyer or transferee, (b) whose liability has been reduced to a proportionate share of the entire penalty and discharge in accordance with the provisions of § 728.778 (c), (c) who

is ineligible to receive a marketing card solely because of penalties owed for 1954, 1955, or 1956 excess wheat, or (d) who is ineligible to receive a marketing card solely because of excess wheat produced on another farm as provided in § 728.767 (b). Upon request, a marketing certificate will be issued to any wheat producer outside the commercial wheat-producing area. Each marketing certificate shall show (1) the name and address of the producer to whom issued, (2) the names of the State and county and the code number thereof and the serial number for the farm, (3) the serial number of the marketing card assigned to the producer for the farm, (4) the signature of the county office manager or his designee, (5) the name of the buyer or transferee, (6) the number of bushels of wheat involved in the transaction, and (7) the signature of the producer. The original of the marketing certificate shall be issued to the producer for delivery to the buyer or transferee and the duplicate copy shall be retained in the ASC county office. A marketing certificate shall not be used to identify wheat produced on any farm the serial number of which is not entered on the certificate.

§ 728.769 *Lost, destroyed, or stolen marketing cards, marketing certificates, or soil bank delivery orders*—(a) *Report of loss, destruction, or theft.* In case a marketing card, marketing certificate, or producer's copy of soil bank delivery order (Form CCC–382 or CCC–103) delivered to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he is able, immediately notify the ASC county office of the following: (1) the name of the operator of the farm for which such marketing card, marketing certificate, or soil bank delivery order was issued; (2) the name of the producer to whom the marketing card, marketing certificate, or soil bank delivery order was issued, if someone other than the operator; (3) the serial number of the marketing card, marketing certificate, or soil bank delivery order, and (4) whether in his knowledge or judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings of county committee.* The county committee shall make or cause to be made a thorough investigation of the circumstances of such loss, destruction, or theft. If the county committee finds, on the basis of its investigation, that such marketing card, marketing certificate, or producer's copy of soil bank delivery order was in fact lost, destroyed, or stolen, it shall cause to be cancelled such marketing card, markteing certificate, or producer's copy of soil bank delivery order and instruct the county office manager to give notice to the producer to whom the marketing card, marketing certificate, or soil bank delivery order was issued that it is void and of no effect. The notice to that effect shall be in writing, addressed to the producer at his last-known address, and deposited in the United States mails. If the county committee also finds that there has been no collusion in connection therewith on the part of the producer to or for whom the marketing card, marketing certificate, or soil bank delivery order was issued, it shall cause to be issued to or for him a marketing card, marketing certificate, or producer's copy of soil bank delivery order to replace the lost, destroyed, or stolen marketing card, marketing certificate, or producer's copy of soil bank delivery order. Each marketing card, marketing certificate, or producer's copy of soil bank delivery order issued under this section shall bear across its face in bold letters the word "Duplicate." In case a marketing card, marketing certificate, or producer's copy of soil bank delivery order is cancelled, as provided in this section, the county office manager or his designee shall immediately notify the buyers, elevator operators, or warehousemen who serve the county, or the immediate vicinity of the farm, that the marketing card, marketing certificate, or producer's copy of soil bank delivery order is cancelled and of the issuance of any duplicate. Any person coming into possession of a cancelled marketing card, marketing certificate, or producer's copy of soil bank delivery order shall immediately return it to the ASC county office from which it was issued.

§ 728.770 *Concellation of marketing cards and marketing certificates issued in error.* Any marketing card or marketing certificate erroneously issued shall, immediately upon discovery of the error, be cancelled by the county office manager. The producer to whom such marketing card or marketing certificate was issued shall be notified in the manner prescribed in § 728.769 (b) that the marketing card or marketing certificate is void and of no effect and that it shall be returned to the ASC county office. Upon the return of such marketing card or marketing certificate, the county office manager shall cause to be endorsed thereon the notation "cancelled." In the event that such marketing card or marketing certificate is not returned immediately, the county office manager shall immediately notify the elevator operators, warehousemen, and buyers who serve the county, or in the immediate vicinity, that the marketing card or marketing certificate is cancelled. A copy of each notice provided for in this section, containing a notation thereon of the date of mailing shall be kept among the records of the ASC county office.

IDENTIFICATION OF WHEAT

§ 728.771 *Time and manner of identification.* Each producer of wheat and each intermediate buyer shall, at the time he markets any wheat, identify the wheat, including wheat in a mixture, to the buyer or transferee, in the manner hereinafter provided, as being subject to or not subject to the penalty or the lien for the penalty.

§ 728.772 *Identification by marketing card.* A marketing card (MQ–76—Wheat (1957)) shall, when presented to the buyer by the producer to whom it was issued, be evidence to the buyer that the wheat for which the marketing card was issued may be purchased without the payment of the penalty by him and that such wheat is not subject to the lien for the penalty.

§ 728.773 *Identification by marketing certificate.* A marketing certificate (MQ–94—Wheat), properly executed by the county office manager or his designee and the producer to whom it is issued, shall, when delivered to the buyer by the producer, be evidence that the amount of wheat shown thereon may be purchased without the payment of any penalty by him and that such wheat is not subject to the lien for penalty.

§ 728.774 *Identification by intermediate buyer's record and report.* The original and copy of an intermediate buyer's record and report (MQ–95—Wheat), properly executed by the first intermediate buyer and the producer of the wheat and any subsequent buyer in the manner outlined in §§ 728.787 (d) and 728.788 shall be evidence to any buyer that the wheat covered thereby is not subject to the lien for penalty and may be purchased by him without payment of any penalty in the event either (a) the MQ–95—Wheat shows the serial number of the marketing card, marketing certificate, or soil bank delivery order by which the wheat was identified and the signatures of the producer and intermediate buyer, or (b) the original MQ–95—Wheat bears the endorsement "Penalty Satisfied" and the signature and title of a treasurer of a county committee and the date thereof.

§ 728.775 *Wheat identified as subject to the penalty and lien for the penalty.* All wheat marketed by a producer or by an intermediate buyer which is not identified in the manner prescribed in § 728.772, § 728.773, or § 728.774 shall be taken by the buyer thereof as wheat subject to penalty and the lien for the penalty and the buyer of such wheat shall pay the penalty thereon at the rate prescribed in § 728.776. A person other than a producer or intermediate buyer offering wheat sweepings or spillage for sale shall obtain a certification from the elevator opertor, warehouseman, feeder, or processor, or other grain dealer who conducts his business in a manner substantially the same as an elevator operator or warehouseman, stating that the wheat had previously been marketed to the person executing the certificate if such is the fact. Such certification shall be kept as part of the records of the buyer who buys the sweepings or spillage. Any person other than a producer or intermediate buyer offering wheat accumulated from samples taken for grading and testing purposes shall obtain a certification from the grader or tester certifying that the wheat was an accumulation of samples. Such certification shall be kept as part of the records of the buyer who buys the samples. The quantity of wheat obtained by a producer by redemption of Soil Bank Certificates, Form CCC 379, if offered for sale, shall be taken by the buyer as penalty free if identified by the producer's copy of the soil bank delivery order, Form CCC–382 or Form CCC–103 completely filled in by the county committee.

PENALTY

§ 728.776 *Rate of penalty.* The rate of penalty shall be 45 percent of the parity price of wheat as of May 1, 1957.

§ 728.777 *Lien for penalty*. The entire amount of wheat produced in 1957 on any farm for which a farm marketing excess is determined shall be subject to a lien in favor of the United States for the amount of the penalty until the producers on the farm, in accordance with § 728.783, § 728.784, § 728.778, or § 728.779, store the farm marketing excess or deliver it to the Secretary, or until the amount of the penalty is paid.

§ 728.778 *Payment of penalties by producers*—(a) *Producers liable for payment of penalties*. Each producer having an interest in the wheat produced in 1957 on any farm for which a farm marketing excess is determined shall be liable to pay the amount of the penalty on the farm marketing excess as provided in this section. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of wheat produced on the farm.

(b) *Time when penalties become due*. The farm marketing excess for any farm shall be regarded as available for marketing and the penalty thereon shall become due at the time any wheat produced on the farm is harvested. Notwithstanding the foregoing, in any event, the amount of the penalty with respect to the farm marketing excess shall become due and be remitted not later than 60 calendar days after the date on which the harvesting of wheat is normally substantially completed in the county or area in the county in which the farm is situated, as determined in accordance with § 728.762 (a), or not later than 30 calendar days after notice of the farm marketing excess of wheat is mailed to the producer as provided in § 728.761: *Provided, however*, That the penalty on that amount of the farm marketing excess delivered to the Secretary pursuant to § 728.784 or § 728.761 shall not be remitted: *And provided further*, That the penalty on that amount of the farm marketing excess which is stored pursuant to § 728.783 or § 728.761 shall not be remitted until the time, and to the extent, of any depletion in the amount of wheat so stored not authorized as provided in § 728.783 (g).

(c) *Apportionment of the penalty*. The county committee may, upon application of any producer made (1) within 60 days after the harvesting of wheat is normally substantially completed in the county or area in the county in which the farm is situated (as established in § 728.762 (a)) or (2) in the case of a delayed notice of the farm marketing excess within 30 days from the date such notice is mailed to him determine his proportionate share of the penalty on the farm marketing excess, if pursuant to the application, the producer establishes the fact that he is unable to arrange with the other producers on the farm for the payment of the penalty on the entire farm marketing excess in accordance with § 728.783 or § 728.784, that his share of the wheat crop produced on the farm is marketed or disposed of by him separately and that he exercises no control over the marketing or disposition of the shares of the other producers in the wheat crop. The producer's proportionate share of the penalty on the farm marketing excess shall be that proportion of the entire penalty on the farm marketing excess which his share in the wheat produced in 1957 on the farm bears to the total amount of wheat produced in 1957 on the farm. When the producer pays his proportionate share of the penalty, or, in accordance with § 728.783 or § 728.784, stores or delivers to the Secretary the number of bushels required to postpone or avoid the payment of the penalty on his proportionate share, he shall not be liable for the remainder of the penalty on the farm marketing excess and he shall be entitled to receive marketing certificates issued in accordance with § 728.768 to be used by him only in the marketing of his proportionate share of the wheat crop produced in 1957 on the farm.

§ 728.779 *Payment of penalties by buyer*—(a) *Buyers liable for payment of penalties*. Each person within the United States who buys from the producer any wheat subject to the lien for the penalty shall be liable for and shall pay the penalty thereon. Wheat shall be taken as subject to the lien for the penalty unless the producer presents to the buyer a marketing card (MQ-76—Wheat (1957)), marketing certificate (MQ-94—Wheat), or a completed producer's copy of the soil bank delivery order, Form CCC-382 or CCC-103, as prescribed in §§ 728.772, 728.773 and 728.775, except that buyers whose places of business are outside the commercial wheat-producing area need not require identification as aforesaid of wheat produced outside the commercial wheat-producing area. In all cases where such buyer is not satisfied that the wheat was produced outside the commercial wheat-producing area, he should obtain the identification required herein.

(b) *Payment of penalties on account of the lien for the penalty*. Each person within the United States who buys wheat which is subject to the lien for the penalty shall pay the amount of the penalty on each bushel thereof in satisfaction of the lien thereon. Wheat purchased from any intermediate buyer shall be taken as subject to the lien for the penalty unless, at the time of sale, the intermediate buyer delivers to the purchaser the original and a copy of an intermediate buyer's record and report, MQ-95—Wheat, properly executed by the producer of the wheat and the first intermediate buyer, which show (1) the serial number of marketing card, marketing certificate, or soil bank delivery order by which the wheat covered thereby was identified when marketed, or (2) on the reverse side the statement "Penalty satisfied" and the signature and title of a treasurer of the county committee and the date thereof.

(c) *Time when penalties become due*. The penalty to be paid by any buyer pursuant to paragraph (a) or (b) of this section shall be due at the time the wheat is purchased and shall be remitted not later than 15 calendar days thereafter.

(d) *Manner of deducting penalties and issuance of receipts*. The buyer may deduct from the price paid for any wheat an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraph (a) or (b) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the wheat was purchased a receipt for the amount so deducted which shall be, in the case of wheat purchased from the producer by an intermediate buyer, on MQ-95—Wheat, and, in all other cases, on MQ-81—Wheat.

§ 728.780 *Remittance of penalties to to the treasurer of the county committee*. The penalty shall be delivered or mailed to the county committee. The penalty shall be remitted only in legal tender, or by check, draft, or money order drawn payable to the order of the Commodity Stabilization Service. All checks, drafts, and money orders tendered in payment of the penalty shall be received by the treasurer of the county committee subject to collection and payment at par. If the penalty is remitted by an intermediate buyer, the treasurer of the county committee shall show that the penalty is paid by entering on the reverse side of the original and first copy of the intermediate buyer's record and report, MQ-95—Wheat, the statement "Penalty satisfied" and his signature and title and the date thereof.

§ 728.781 *Deposit of funds*. All funds received in the office of the county committee in connection with penalties for wheat shall be scheduled and transmitted by the treasurer of the county committee on the day received or not later than the next succeeding business day, to the State committee, which shall cause such funds to be deposited to the credit of a special deposit account with the Treasurer of the United States in the name of the Chief Disbursing Officer of the Treasury Department (herein referred to as "special deposit account") to be held in escrow. In the event the funds so received are in the form of cash, the treasurer of the county committee shall deposit such funds in the ASC county committee bank account and issue a check in the amount thereof, payable to the order of the Commodity Stabilization Service. The treasurer of the county committee shall make and keep a record of each amount received in the county office, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the name of the person who marketed the wheat in connection with which the funds were remitted.

§ 728.782 *Refunds of money in excess of the penalty*—(a) *Determination of refunds*. The county committee and the treasurer of the county committee upon their own motion or upon the request of any interested person shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the security required for stored excess wheat or the penalty due. Any excess amount shall be refunded. Any refund shall be made only to persons who bore the

burden of the payment and who have not been reimbursed therefor. The excess amount shall first be applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any shall be applied so as to make refunds to the eligible producers. The amount to be refunded to each producer shall be either (1) the amount determined by apportioning the excess amount among the producers on the farm in the proportion that each contributed toward the payment, avoidance, or security of the penalty on the farm marketing excess, or (2) the amount which is in excess of the security required for stored excess wheat and the penalty due on that portion of the farm marketing excess for which the producer is separately liable. No refund shall be made to any buyer or transferee of any amount which he collected from the producer or another, deducted from the price or consideration paid for the wheat, or for which he was liable.

(b) *Certification of refunds.* The county office manager or the treasurer of the county committee shall notify the State committee of the amount which the county committee and its treasurer determine may be refunded to each person with respect to the farm, and the State committee shall cause to be certified to the Chief Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been remitted to the county committee and transmitted by the treasurer of the county committee to the State committee.

§ 728.783 *Storage of farm marketing excess*—(a) *Amount of wheat to be stored.* The number of bushels of wheat in connection with any farm which may be stored in order to postpone the payment of the penalty or with a view to avoiding such penalty shall be that portion of the farm marketing excess which has not been delivered to the Secretary or on which the penalty has not been paid. The amount of the farm marketing excess for the purpose of storage shall be the amount of the farm marketing excess as determined, at the time of storage, under § 728.759 or § 728.762, whichever is applicable.

(b) *Kinds of storage—commingling and substitution.* Excess wheat shall be stored either in an elevator or warehouse duly licensed and authorized to issue warehouse receipts under Federal or State laws, hereinafter referred to as "licensed storage," or in any other place adapted to the storage of wheat, hereinafter referred to as "non-licensed storage." Commingling and substitution shall be permissible in the case of licensed storage. In the case of non-licensed storage excess wheat for 1957 or any prior year may with the prior written approval of the county committee be commingled with stored excess wheat from any other year and any or all stored excess wheat of a prior year may be replaced by wheat produced by the same producer in 1957 on the same or any other farm if (1) the county committee gives prior written approval of such replacements; (2) the county committee determines that the 1957 wheat crop is of a quality equal to or better than the wheat of the prior year in storage and for which substitution is to be made; (3) the stored excess of the prior year which is removed from storage is replaced by an equivalent amount of the 1957 crop wheat within 30 days after such removal; and (4) the requirements of this section with respect to furnishing a bond or depositing funds in escrow are complied with. The removal of stored excess wheat of a prior crop from storage without compliance with all conditions precedent or subsequent to such removal shall constitute unauthorized depletion of the storage amount and shall be subject to penalty as provided in § 728.783 (g). Wheat in which the producer has an interest produced on any farm may be stored in any location to postpone the penalty on any excess wheat in which the same producer has an interest, provided the wheat so stored is determined by the county committee, to be of a quality equal to or better than the wheat produced on the farm with the excess. The storage of wheat in non-licensed storage shall be effective only if the producer submits a written statement showing the exact location of the stored wheat by quarter section or other comparable descriptive location in areas where description is not by quarter sections. Excess wheat for any year which was properly stored in non-licensed storage in order to postpone the payment of a penalty or with a view to avoiding such penalty may be moved to licensed storage if, prior to the movement of the wheat, a written request to do so is filed with the county committee and approval of such committee is granted in writing and if the wheat is moved and stored in licensed storage in accordance with paragraph (c) of this section within 15 days after approval is granted. When all requirements for licensed storage have been met in accordance with the foregoing provisions the bond or escrow funds held in connection with the non-licensed storage may be released. The penalty on any stored wheat removed from non-licensed storage without the prior written authorization from the county committee shall be due on such removal. Wheat stored in non-licensed storage shall be subject to inspection at all times by officers or employees of the Department, or members, officers or employees of the appropriate State or county committee.

(c) *Licensed storage; deposit of warehouse receipts in escrow.* The storage of excess wheat in licensed storage in order to postpone the payment of the penalty or with a view to avoiding such penalty shall be effective for such purposes only when a warehouse receipt covering the amount of wheat so stored is deposited with the treasurer of the county committee to be held in escrow. The warehouse receipt shall be an endorsed negotiable receipt or a non-negotiable receipt as to which the warehouseman or elevator operator has been notified in writing by the owner of such receipt and the treasurer of the county committee that it is being so deposited in escrow and that delivery of the wheat covered thereby is to be made under the terms of the deposit in escrow while such receipt remains so deposited. Any warehouse receipt so deposited shall be accepted only upon the condition that the producers by or for whom the wheat is stored shall be and shall remain liable for all charges incident to the storage of the wheat and that the county committee and the United States in no way shall be liable for such charges. Whenever the penalty with respect to wheat covered by the warehouse receipts is paid or otherwise satisfied in accordance with law, the warehouse receipt shall be returned to the person who deposited it.

(d) *Non-licensed storage bonds.* The storage of excess wheat in non-licensed storage in order to postpone the payment of the penalty or with a view to avoiding such penalty shall be effective only when a good and sufficient bond of indemnity, on a form prescribed for the purpose, is executed and filed with the treasurer of the county committee in an amount not less than the amount of the penalty on that portion of the farm marketing excess so stored, or funds are deposited in escrow as hereinafter provided. Each bond given pursuant to this paragraph shall be executed as principal by the producer storing the wheat and either by two persons as sureties who are not producers on the farm and who own real property with an unencumbered value of double the principal sum of the bond, exclusive of homestead exemptions, or by a corporate surety authorized to do business in the State in which the farm is situated and listed by the Secretary of the Treasury of the United States as an acceptable surety on bonds to the United States. Each bond of indemnity shall be subject to the conditions that the penalty on the amount of wheat stored shall be paid at the time, and to the extent, of the depletion of any amount stored which is not authorized under these regulations, and that if at any time any producer on the farm prevents the inspection of any wheat so stored the penalty on the entire amount stored shall be paid forthwith. Whenever the penalties secured by the bond of indemnity are paid or reduced for any cause, the treasurer of the county committee shall furnish the principal and the sureties with a written statement to that effect. A new bond covering all excess wheat of the producer stored in non-licensed storage and not covered by funds in escrow shall be required as a condition for commingling wheat or permitting substitution of 1957 wheat for stored excess wheat of prior years. In such case upon approval and acceptance of the new bond the old bond may be released. The bond of indemnity provided for in this paragraph may be waived by the county committee with the approval of the State committee if the excess was produced by a State or State institution or other agency of a State or by a Federal institution or Federal agency: *Provided,* That as a condition of the waiver the head of the State or Federal institution or State or Federal agency shall agree in writing to comply with all the other provisions of these regulations with respect to stored farm marketing excess.

(e) *Non-licensed storage; deposit of funds in escrow.* The storage of excess wheat in non-licensed storage in order to postpone the payment of the penalty or with a view to avoiding such penalty, if a bond is not furnished in compliance with §§ 728.750 to 728.798, shall be effective for such purpose only when an amount of money equal to the penalty on that portion of the farm marketing excess so stored is deposited with the Treasurer of the United States to be held in escrow to secure the payment of such penalty and the right of inspection during the period of storage. The treasurer of the county committee shall receive all checks, drafts, and money orders subject to collection and payment at par. Funds in escrow shall be subject to the condition that the penalty on the amount of wheat stored shall be paid at the time, and to the extent, of any depletion of the amount stored which is not authorized and that if at any time any producer on the farm prevents inspection of any wheat so stored, the penalty on the entire amount stored shall be paid forthwith. In case approval is granted to commingle wheat or to substitute 1957 wheat for wheat of prior years there shall be on deposit in escrow, pursuant to the provisions of this paragraph, funds which cover all excess wheat for any year stored by the producer in non-licensed storage pursuant to this section which is not covered by a bond given pursuant to paragraph (d) of this section. Whenever the penalty with respect to wheat covered by funds in escrow is paid or otherwise satisfied in accordance with law the amount of funds covering such wheat shall be released to the person who made the escrow deposit.

(f) *Time of storage.* Storage of wheat in connection with any farm in order to postpone the payment of the penalty or with a view to avoiding such penalty shall not be effective unless the provisions of paragraphs (a) and (b) and (c), (d) or (e) of this section are complied with prior to the expiration of the period allowed, in accordance with § 728.778 (b), or § 728.761, for the remittance of the penalty with respect to the farm marketing excess for the farm.

(g) *Depletion of stored excess wheat.* The penalty on the amount of excess wheat stored shall be paid by the producers on the farm at the time and to the extent of any depletion in the amount of wheat stored except as provided in paragraphs (h) and (i) of this section and except to the extent of the following: (1) The amount by which the stored excess wheat exceeds the farm marketing excess for the farm as determined in accordance with § 728.762, (2) the amount by which the stored excess wheat exceeds the amount of the farm marketing excess as determined by a review committee or as a result of a court review of the review committee determination, (3) the amount of any wheat destroyed by fire, weather conditions, theft, or any other cause beyond the control of the producer, provided the producer shows beyond a reasonable doubt that the depletion resulted from such cause and not from his negligence nor from any affirmative act done or caused to be done by him, and (4) the amount of any wheat delivered to the Secretary under the provisions of § 728.784. The penalty on the amount of any unauthorized depletion in the storage amount shall be at the rate applicable to the marketing year in which the stored excess wheat was produced, except that if the storage amounts of two or more crops are commingled or if the storage amount of one crop is replaced by wheat of another crop, as provided in paragraph (b) of this section, the penalty shall be computed first at the rate applicable to the marketing year for the oldest crop involved in the storage amount until the entire penalty for the storage amount of such crop is satisfied and thereafter in turn at the rate applicable to the marketing year for each of the next oldest crops involved in the storage amount until the entire penalty for the storage amount of each such crop is satisfied.

(h) *Underplanting the farm acreage allotment for a subsequent crop.* Whenever the wheat acreage on any farm for the 1958 or subsequent crop of wheat is less than the farm acreage allotment therefor, the producers on the farm who stored excess wheat in accordance with the foregoing provisions of this section shall, upon application made by them to the county committee, be entitled to remove from storage without penalty any wheat so stored by them, whether produced in a prior year on the farm or another farm, to the extent of the normal production of the number of acres by which the acreage planted to wheat is less than the farm acreage allotment. The amount of wheat which would otherwise be authorized to be removed from storage in connection with the farm under this paragraph shall be reduced to the extent that stored excess wheat from any other crop is authorized to be removed from storage in connection with the farm. The amount of wheat authorized to be removed from storage shall be apportioned among the several producers on the farm who have stored excess wheat to the extent of their need therefor in accordance with their shares in the acreage which was or could have been planted to wheat or in accordance with their agreement as to the apportionment to be made. A producer shall not be entitled to remove wheat from storage under this paragraph in connection with any farm unless, at the time the determination is made under this paragraph, the wheat is stored and owned by the producer and, at the end of the wheat seeding season for the crop for the area in which the farm is situated, the producer is entitled to share in the wheat crop which was or could have been planted on the farm. For the purpose of this paragraph the acreage planted to wheat shall be the wheat acreage on the farm plus the acreage diverted from the production of wheat under the Soil Bank acreage reserve program.

(i) *Producing a subsequent crop which is less than the normal production of the farm acreage allotment.* Whenever the actual production of wheat in 1958 or any subsequent year on any farm is less than the normal production of the farm acreage allotment therefor, the producers on the farm who stored excess wheat in accordance with the foregoing provisions of this section shall, upon application made by them to the ASC county office, be entitled to remove from storage without penalty, any wheat so stored by them, whether produced in the prior year on the farm or another farm, to the extent of the amount by which the normal production of the farm acreage allotment, less the normal production of the underplanted acreage for the farm which was or could have been determined under paragraph (h) of this section exceeds the amount of wheat produced on the farm in that year. The actual production of wheat on the farm shall include in addition to the wheat actually produced on the farm the production of wheat attributed to the Soil Bank acreage reserve for the farm on the basis of the yield used or which could have been used for determining the rate of payment per acre for the acreage reserve program. The amount of wheat which would otherwise be authorized to be removed from storage in connection with the farm under this paragraph shall be reduced to the extent that stored excess wheat from any other crop is authorized to be removed from storage in connection with the farm. The amount of wheat which is authorized to be removed from storage shall be apportioned among the several producers on the farm who have stored excess wheat to the extent of their need therefor in accordance with their proportionate shares in the wheat crop planted on the farm or in accordance with their agreement as to the apportionment to be made. The determination of the amount of wheat produced on the farm shall be made in accordance with the marketing quota regulations applicable to the crop. A producer shall not be entitled to remove wheat from storage under this paragraph for any farm unless, at the time the determination is made under this paragraph, the wheat is stored and owned by the producer and, at the time of harvest, the producer is entitled to a share in the wheat crop on the farm.

§ 728.784 *Delivery of the farm marketing excess to the Secretary*—(a) *Amount of wheat to be delivered.* The amount of wheat delivered to the Secretary in order to avoid the payment of the penalty in connection with any farm shall not exceed the amount of the farm marketing excess as determined, at the time of delivery, in accordance with § 728.759 or § 728.762, whichever is applicable.

(b) *Conditions and methods of delivery.* For and on behalf of the Secretary, the treasurer of the county committee for the county in which the farm for which the marketing excess is determined is situated shall accept the delivery of any wheat tendered to avoid the payment of the penalty. The delivery of the wheat for this purpose shall be effective only when the producers having an interest in the wheat to be so delivered convey to the Secretary all right, title, and interest in and to the wheat by executing a form provided for

this purpose, and (1) deliver the wheat to a wheat elevator or warehouse and tender to the treasurer of the county committee, the elevator or warehouse receipts for the amount of the wheat, or (2) if the producer shows to the satisfaction of the county committee that it is impracticable to deliver the wheat to an elevator or warehouse and receive an elevator or warehouse receipt therefor, deliver the wheat at a point within the county or nearby and within such time or times as may be designated by the county office manager. None of the wheat so delivered shall be returned to the producer. Insofar as practicable, the wheat so delivered shall be delivered to the Commodity Credit Corporation of the United States Department of Agriculture, and any wheat which it is impracticable to deliver to such Corporation shall be distributed to such one or more of the following classes of agencies or organizations as the State committee selects, which delivery the Secretary hereby determines will divert it from the normal channels of trade and commerce: Any Federal relief organization, the American Red Cross, State or municipal relief organization, Federal or State wildlife refuge project, or any voluntary relief organization registered with the Advisory Committee on Voluntary Foreign Aid of the International Cooperation Administration for the shipment for relief overseas.

(c) *Time of delivery.* Excess wheat may be delivered to the Secretary at any time within 60 calendar days after the date on which the harvesting of wheat is normally substantially completed in the county as determined in accordance with § 728.762 (a), or pursuant to § 728.761. Excess wheat may be delivered to the Secretary after such period only if the excess wheat was stored in accordance with the provisions of § 728.783 (a) through (f) and the wheat has not gone out of condition through any fault of the producer.

§ 728.785 *Refund of penalty, erroneously, illegally, or wrongfully collected.* Whenever, pursuant to a claim filed with the Secretary within two calendar years after payment to him of the penalty collected from any person, pursuant to the act, the Secretary finds that the penalty was erroneously, illegally, or wrongfully collected, and the claimant bore the burden of such penalty, he shall certify to the Secretary of the Treasury of the United States for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury of the United States, such amount as the claimant is entitled to receive as a refund of all or a portion of the penalty. Any claim filed pursuant to this section shall be made in accordance with regulations prescribed by the Secretary.

§ 728.786 *Report of violations and court proceedings to collect penalty.* It shall be the duty of the county office manager to report in writing to the State administrative officer each case of failure or refusal to pay the penalty or to remit the same as provided in §§ 728.778 through 728.780. It shall be the duty of the State administrative officer to report each such case in writing to the Office of the General Counsel of the Department, which shall have authority to refer such cases for the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties, as provided in section 376 of the act.

RECORDS AND REPORTS

§ 728.787 *Records to be kept and reports to be made by warehousemen, elevator operators, feeders, or processors, and buyers other than intermediate buyers*—(a) *Necessity for records and reports.* Each warehouseman, elevator operator, feeder, or processor, and each buyer other than an intermediate buyer, who buys, acquires, or receives wheat from the producer or intermediate buyer thereof shall in conformity with section 373 (a) of the act, keep the records and make the reports prescribed by this section, which the Secretary hereby finds to be necessary to enable him to carry out with respect to wheat the provisions of the act: *Provided,* That a warehouseman, elevator operator, feeder, or processor, or buyer other than an intermediate buyer, whose place of business is outside the commercial wheat-producing area need not keep records of the identification of wheat produced outside the commercial wheat-producing area.

(b) *Nature and availability of records.* Each warehouseman, elevator operator, feeder, or processor, and each buyer other than an intermediate buyer, shall keep, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to the wheat purchased, acquired, or received by him from the producers or the intermediate buyers thereof the following information: (1) The name and address of the producer of the wheat or the name and address of the person who acquired the wheat through redemption of a soil bank certificate, (2) the date of the transaction, (3) the amount of the wheat, (4) the serial number of the marketing card (MQ-76—Wheat (1957)), marketing certificate (MQ-94—Wheat), intermediate buyer's record and report (MQ-95—Wheat), or soil bank delivery order (CCC-382 or CCC-103) by which the wheat was identified, or the report and penalty receipt (MQ-81—Wheat), and (5) the amount of any lien for the penalty or of any penalty incurred in connection with the wheat purchased, acquired, or received by him. The record so made and all business records of such person required to keep such records shall be kept available for examination by the county office manager or any authorized representative of the State administrative officer or investigators and accountants (special agents) or other authorized representatives of the Director, Compliance and Investigation Division, Commodity Stabilization Service, United States Department of Agriculture, for two calendar years beyond the calendar year in which the marketing year ends. Such records shall include relevant books, papers, records, accounts, correspondence, contracts, documents, and memoranda, but shall be examined only for the purpose of ascertaining the correctness of any report made or record kept pursuant to the regulations in this subpart, or of obtaining the information required to be furnished in this subpart but not so furnished. The county office manager shall furnish, without cost, blank copies of MQ-97—Wheat which may be used for the purpose of keeping the record required under this section.

(c) *Records and reports in connection with wheat subject to penalty.* Each warehouseman, elevator operator, feeder, or processor, and each buyer other than an intermediate buyer, who purchases any wheat from the producer or intermediate buyer thereof which is not identified at the time the wheat is purchased in the manner provided in §§ 728.772, 728.773, 728.744 and 728.775 shall, with respect to each such transaction, execute the report and penalty receipt on MQ-81—Wheat and report to the treasurer of the county committee the following information: (1) The name and address of the producer or intermediate buyer from whom the wheat was purchased or acquired, (2) the date of the transaction, (3) the amount of the wheat, and (4) the amount of the penalty incurred in connection with the transaction, and whether an amount equivalent to penalty was deducted from the price or consideration paid for the wheat. Each record and report on MQ-81—Wheat shall be executed in triplicate. The person who executes MQ-81—Wheat shall retain one copy, give the original to the producer or intermediate buyer, as the case may be, which shall be the receipt to him for the amount of the penalty in connection with wheat, and mail or deliver the remaining copy to the treasurer of the county committee. It shall be presumed that wheat was not identified by MQ-76—Wheat (1957) as provided in § 728.772, or MQ-94—Wheat as provided in § 728.773, or MQ-95—Wheat as provided in § 728.774, or CCC-382 or CCC-103 as provided in § 728.775 if the serial number of the marketing card, marketing certificate, intermediate buyer's record and report, or soil bank delivery order does not appear on the records required to be kept pursuant to paragraph (b) of this section.

(d) *Records and reports in connection with wheat identified by intermediate buyer's records and reports and soil bank delivery orders.* Whenever wheat is identified by the intermediate buyer's record and report (MQ-95—Wheat) executed in accordance with § 728.788, the warehouseman, elevator operator, feeder, or processor, or the buyer other than an intermediate buyer, who purchases or acquires the wheat covered thereby shall retain the first copy as a record of the transaction and forward the original to the treasurer of the county committee as a report on the transaction in every case where he purchases or acquires all or the remainder of the wheat covered by the record and report. In all other cases, where the warehouseman, elevator operator, feeder or processor, or the buyer other than an intermediate buyer, purchases or acquires only a portion of the wheat covered by the intermediate buyer's record and report, he shall make a record and report of the transaction by endorsing on the reverse side of both the original and first copy his name and

signature, the amount of wheat purchased or acquired, and the date of the transaction and return the forms so endorsed to the intermediate buyer to be delivered to the person who finally purchases or acquires the remainder of the wheat. The provisions of this paragraph for endorsing the intermediate buyer's record and report when only a portion of the wheat covered by the report is purchased shall also be followed when only a portion of the wheat covered by a soil bank delivery order is purchased.

(e) *Records in connection with wheat identified by marketing certificates.* Whenever wheat is identified by a marketing certificate (MQ-94—Wheat), the warehouseman, elevator operator, feeder, or processor, or the buyer other than an intermediate buyer, who purchases the wheat so identified shall retain the marketing certificate as a record of the transaction.

(f) *Time and place of submitting reports.* Each report required by this section shall be submitted not later than 15 calendar days next succeeding the day on which the wheat was marketed to a warehouseman, elevator operator, feeder, or processor, or a buyer other than an intermediate buyer, to the treasurer of the county committee for the county in which the wheat was produced.

§ 728.788 *Records to be kept and reports to be made by intermediate buyers*—(a) *Necessity for records and reports.* Each intermediate buyer shall, in conformity with section 373 (a) of the act, keep the records and make the reports prescribed by this section, which the Secretary hereby finds to be necessary to enable him to carry out, with respect to wheat, the provisions of the act.

(b) *Form of record and report in connection with wheat purchased or acquired from producers.* Each intermediate buyer who purchases or acquires any wheat from the producer thereof shall, with respect to each such transaction, keep a record and make a report on the intermediate buyer's record and report (MQ-95-Wheat) of the following information: (1) The name and address of the producer from whom the wheat was purchased or acquired (2) the names of the county and State in which the wheat was produced, (3) the date of the transaction, (4) the number of bushels of wheat, (5) the serial number of the marketing card, marketing certificate or soil bank delivery order by which the producer identified the wheat at the time it was marketed, or if the wheat is not so identified, the amount of the penalty. and whether an amount equivalent to the penalty was collected or deducted from the price or consideration paid for the wheat, and (6) the year in which the wheat was harvested. The record and report shall be executed in quadruplicate and, after the entries described above are made, the intermediate buyer and producer shall certify to the correctness of the entries by signing the MQ-95—Wheat. One copy of MQ-95—Wheat so executed shall be retained by the producer as a record of the transaction and as a receipt for the amount equivalent to the penalty, if any, which was deducted from the price or consideration paid for the wheat. One copy of MQ-95—Wheat so executed shall be retained by the intermediate buyer as his record in connection with the transaction. Whenever wheat is identified by a marketing certificate (MQ-94—Wheat), the intermediate buyer shall attach the original of the marketing certificate to the first copy of MQ-95—Wheat to be delivered to the warehouseman, elevator operator, feeder, or processor, or buyer other than an intermediate buyer, who finally acquires the wheat covered by MQ-95—Wheat and marketing certificate MQ-94—Wheat. Whenever the intermediate buyer markets or delivers a portion of the wheat covered by a single MQ-95—Wheat to another and retains a portion of the wheat, the intermediate buyer shall obtain from the person to whom the portion of the wheat is marketed or delivered an endorsement on the reverse side of both the original and first copy of MQ-95—Wheat showing the name and signature of the person, the number of bushels of wheat marketed or delivered to him, and the date of the transaction.

(c) *Manner of making reports.* The intermediate buyer shall deliver the original and copy of the intermediate buyer's record and report MQ-95—Wheat to the warehouseman, elevator operator, feeder, or processor, or the buyer other than an intermediate buyer, to whom all of the remaining of the wheat covered thereby is marketed. When wheat is marketed or delivered by one intermediate buyer to another intermediate buyer, the original and first copy of MQ-95—Wheat shall be transmitted by one intermediate buyer to another and the last intermediate buyer shall deliver them to the warehouseman, elevator operator, feeder, or processor, or buyer other than an intermediate buyer. If all or the remainder of the wheat is not marketed or delivered to a warehouseman, elevator operator, feeder, or processor, or buyer other than an intermediate buyer, the last intermediate buyer shall within 15 days mail or deliver the original and first copy of the intermediate buyer's record and report to the treasurer of the county committee.

(d) *Reports to the treasurer of the county committee.* Each intermediate buyer shall, within 15 days after all Forms MQ-95—Wheat contained in a book have been executed or on December 31, 1957, whichever is the earlier, mail or deliver to the treasurer of the county committee from whom the book was obtained the executed copies and unexecuted sets of Form MQ-95—Wheat which were retained by him. Books of Form MQ-95—Wheat shall be reissued to any intermediate buyer upon request after December 31, 1957. In the event that the county committee or State committee has reason to do so, any or all intermediate buyers to whom books of Form MQ-95—Wheat were issued after December 31, 1957, may be requested to mail or deliver on or before June 30, 1958, to the treasurer of the county committee from whom the book was obtained, the executed copies and unexecuted sets of Form MQ-95—Wheat.

§ 728.789 *Buyer's special reports.* In the event that the county committee or State committee has reason to believe that any buyer has failed or refused to comply with these regulations, the buyer shall within 15 days after a written request therefor made by the county committee or State committee and deposited in the United States mails, registered and addressed to him at his last-known address, make a report verified as true and correct by affidavit, on MQ-97—Wheat to such committee with respect to all wheat purchased or acquired by him during the period of time as specified in the request. The report shall include the following information for each lot of wheat purchased or acquired from the persons specified or during the period specified: (a) The name and address of the producer of the wheat, (b) the date of the transaction, (c) the amount of wheat, (d) the serial number of the marketing card (MQ-76—Wheat (1957), marketing certificate (MQ-94—Wheat), soil bank delivery order CCC-382 or CCC-103), intermediate buyer's record and report (M-95—Wheat), or the report and penalty receipt (MQ-81—Wheat), and (e) the amount of the lien for the penalty or the amount of penalty incurred in conection with the wheat purchased or acquired.

§ 728.790 *Penalty for failure or refusal to keep records and make reports.* Any person required to keep the records or make the reports specified in § 728.787, § 728.788, or § 728.789 and who fails to keep any such record or make any such report or who makes any false report or keeps any false record shall, as provided in section 373 (a) of the act, be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than $500 for each such offense.

§ 728.791 *Records to be kept and reports to be made by producers.* Each producer with respect to the 1957 wheat crop shall keep the records and make the reports prescribed by this section, which the Secretary hereby finds to be necessary to enable him to carry out with respect to wheat the provisions of the act. Upon written requests of the county committee any producer shall, within 15 days from the date the request was mailed to him file with the treasurer of the county committee for the county in which the farm is situated a farm operator's report on MQ-98—Wheat showing for the farm the following information: (a) The total number of bushels of wheat produced thereon in 1957, (b) the name and address of each buyer or transferee of any wheat, (c) the amount of the wheat sold to each buyer, (d) the amount equivalent to the penalty which was deducted from the price or consideration for the wheat, (e) the amount of wheat of the 1957 crop disposed of other than by sale and the manner of disposition, (f) the amount of wheat of the 1957 crop on hand, and (g) wheat acreage for 1957.

§ 728.792 *Data to be kept confidential.* Except as otherwise provided herein, all data reported to or acquired by the Secretary pursuant to and in the manner provided in the regulations in

this subpart shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees, other local committees, and State committees, county agents, and officers and employees of such committees or county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any wheat, farm, or transaction covered by the particular data, such as records, reports, forms, or other information, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the act and then only in a suit or administrative hearing under Title III of the act.

§ 728.793 *Enforcement.* It shall be the duty of the county office manager to report in writing to the State administrative officer forthwith each case of failure or refusal to make any report or keep any record as required by §§ 728.789 through 728.791, and to so report each case of making any false report or record. It shall be the duty of the State administrative officer to report each such case in writing, in quintuplicate, to the Office of the General Counsel of the Department, which shall have authority to refer such cases for the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of the act.

SPECIAL PROVISIONS AND EXEMPTIONS

§ 728.794 *Farms on which the wheat acreage is not in excess of 15 acres or on which the normal production of the wheat acreage is less than 200 bushels*—(a) *Conditions of exemption.* A farm marketing quota for wheat for the 1957 crop shall not be applicable to any farm on which the wheat acreage for the 1957 crop is not in excess of 15 acres, or on which the normal production of the 1957 wheat acreage is less than 200 bushels.

(b) *Issuing marketing cards.* The county office manager or his designee shall, for each farm to which the provisions of this section are applicable, issue marketing cards and marketing certificates to the producers on the farm in the manner and subject to the conditions specified in §§ 728.767 to 728.770, inclusive.

§ 728.795 *Experimental wheat farms*—(a) *Conditions of exemption.* The penalty shall not apply to the marketing of any wheat of the 1957 crop grown for experimental purposes only on land owned or leased by any publicly owned agricultural experiment station and produced at public expense by employees of the experiment station, or to wheat produced for experimental purposes only by farmers pursuant to an agreement with a publicly owned experiment station whereby the experiment station bears the costs and risks incident to the production of the wheat and the proceeds from the crop inure to the benefit of the experiment station: *Provided,* That such agreement is approved by the State committee prior to the issuance of a marketing card for the farm. The production of foundation, registered or certified seed wheat will not be considered produced for experimental purposes only.

(b) *Issuing marketing cards.* The county office manager shall, upon the written application of a responsible executive officer of any publicly owned agricultural experiment station to which the exemption referred to in paragraph (a) of this section is applicable, issue a marketing card for the experiment station in the manner and subject to the conditions specified in §§ 728.767 to 728.770, inclusive.

§ 728.796 *Wildlife refuge farms.* The penalty shall not apply to the wheat produced on any farm operated by any Federal or State wildlife refuge farm where all the wheat on the farm is produced solely for wildlife feed or seed for the production of wildlife feed on such wildlife refuge farm. No marketing card or marketing certificate shall be issued to any producer on any such farm except under the provisions of §§ 728.767 and 728.768, 728. 794 and 728.795 but the exemption from penalty shall be granted by the county office manager upon the written application of the operator or responsible executive officer on any such farm stating that all the wheat produced on the farm will be used solely for wildlife feed and for seed for the production of wildlife feed on such wildlife refuge farm.

§ 728.797 *Erroneous notice of wheat acreage allotment.* In any case where through error in a county or State office the producer was officially notified in writing of a wheat acreage allotment for the 1957 crop larger than the finally approved acreage allotment and the State and county committees find that the producer, acting solely on the information contained in the erroneous notice, planted an acreage to wheat in excess of the finally approved acreage allotment, the producer will not be considered to have exceeded the acreage allotment unless he overplanted the allotment shown on the erroneous notice. The farm marketing quota and the farm marketing excess for the farm under the foregoing circumstances will be based on the acreage allotment contained in the erroneous notice, and if the acreage planted to wheat on the farm is adjusted to the allotment contained in the erroneous notice within the time limits for utilization of excess acreage as provided for in § 728.751 (r) or (u) (3) the farm will not be considered to be overplanted. Before a producer can be said to have relied upon the erroneous notice, the circumstances must have been such that the producer had no cause to believe that the acreage allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of wheat customarily planted; and all other pertinent facts should be taken into consideration. If the county committee determines that the producer was justified in relying on the erroneous notice of wheat acreage allotment for the farm, such determination shall be subject to review and approval by the State committee before the erroneous allotment is used by the county committee to determine the farm marketing quota and farm marketing excess for the farm.

§ 728.798 *Redelegation of authority.* Any authority delegated to the State committee by §§ 728.750 to 728.798 may be redelegated by the State committee.

Issued this 28th day of February 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 57-1676; Filed, Mar. 5, 1957; 8:51 a. m.]

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

PART 945—TOMATOES GROWN IN FLORIDA

INTERPRETATIVE RULE WITH RESPECT TO MEANING OF "PRODUCER"

Pursuant to the provisions of Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945) regulating the handling of tomatoes grown in Florida, effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter referred to as the "order," it is hereby found and determined that the issuance of the following interpretative rule for use in determining who shall be eligible to serve as a member or alternate member or to vote in the meetings held for the purpose of electing nominees for member and alternate member positions on the Florida Tomato Committee, the administrative agency for the operation of this program, will tend to effectuate the declared policy of the aforesaid act.

Such rule is as follows:

Interpretative rule with respect to the meaning of "producer". The term "producer" is defined in § 945.8 of the order as being any person engaged in a proprietary capacity in the production of tomatoes for market. Under the definition of "tomatoes" in § 945.5 of the order, such production must have been in the production area. Section 945.22 of the order provides that each person selected as a committee member or alternate must be a producer, or an officer or an employee of a corporate producer. Section 945.27 of the order provides that producers may vote for nominees for members and alternates on the Florida Tomato Committee, the administrative agency established pursuant to said marketing agreement and order.

Section 945.3 of the order defines a person as an individual, partnership, corporation, association, or other business unit. The term "person" is construed to mean the business unit which produces the tomatoes for market.

The prevailing principle which shall apply to the determination of "producer" is who or which interest as a unit, whether an individual, partnership, corporation, association, or any other business unit, has the authority to pass title to the tomatoes grown and made a part of the marketable supply of tomatoes. In other words, the terms shall be limited to those who have an ownership in tomatoes produced in the production area.

"Producer" means any person, as above defined: (1) Who or which owns and farms land resulting in his or its ownership of the tomatoes produced thereon; (2) who or which rents or farms land, resulting in his or its ownership of all or a portion of the

tomatoes produced thereon; or (3) who or which owns land which he or it does not farm and, as rental for such land, obtains the ownership of a portion of the tomatoes produced thereon.

The term "partnership" shall be deemed to include a husband and wife with respect to land, the title to which, or leasehold interest in which, is vested in them as tenants in common, joint tenants, tenants by entirety, or, under community property laws, as community property. The term "partnership" shall also be deemed include individuals, partnerships or corporations which join together by agreement, informal or otherwise, for the purpose of growing tomatoes and which, as a unit, have authority to transfer title to such tomatoes at the time they are harvested or subsequent thereto. The term "partnership" shall also include so-called "joint ventures," wherein one or more parties to the arrangement contributes capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of tomatoes and the authority to transfer title to the tomatoes so produced from that business unit to some other parties in the marketing chain.

Each legal entity, whether an individual, a partnership, a "joint venture," or a corporation, so engaged in the production of tomatoes for market shall have one vote for each position which is to be filled for the district for which he or it is eligible to vote. In the case of a partnership or a "joint venture," such vote shall not be accepted in the absence of unanimous agreement of the respective members. In the case of a corporation, such vote shall be cast pursuant to the authorization of its board of directors.

In the case of a person who owns land which he or it does not farm but, as rental for such land, obtains the ownership of a portion of the tomatoes produced thereon, such person shall be regarded as the producer of that portion and entitled to one vote, and the tenant on such land shall be regarded as the producer of the remaining portion produced on such land and also entitled to one vote.

In order to insure that a person is a "producer" eligible to vote, he must have produced tomatoes for market in a proprietary capacity in the production area during the then current fiscal period, i. e., between August 1 of the previous year and July 31 of the then current year.

It is hereby found that it is unnecessary, impracticable, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, or to postpone the effective date of this document later than the date of its publication in the FEDERAL REGISTER (see 5 U. S. C. 1001 et seq.) for the reason that the necessary information for the formulation of this rule did not become available until February 25, 1957, and said rule is necessary for use and application in nomination meetings to elect nominees for member and alternate member positions on the Florida Tomato Committee to be held on or about March 13, 1957.

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

Dated: March 1, 1957, to become effective as of the date of the publication of this document in the FEDERAL REGISTER.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-1687; Filed, Mar. 5, 1957; 8:54 a. m.]

[945.303, Amdt. 3]

PART 945—TOMATOES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945) regulating the handling of tomatoes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedures, and postpone the effective date of this amendment later than March 6, 1957, (5 U. S. C. 1001 et seq.) in that: (i) The time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of tomatoes, in the manner set forth below, on and after the effective date of this amendment; (iii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date; (iv) reasonable time is permitted, under the circumstances, for such preparation; (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area; and (vi) this amendment relieves restrictions on the handling of tomatoes grown in the production area during the period from the effective date hereof until March 9, 1957.

Order, as amended. The provisions of subparagraph (1) of paragraph (b) of § 945.303 (22 F. R. 757, 812, 885, 925) are hereby amended to read as follows:

(1) During the period from March 6, 1957, through June 30, 1957, no person shall handle any tomatoes for shipment outside the production area unless such tomatoes are of a diameter not less than 1⅞ inches (size 7 x 8 and larger).

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

Dated: March 5, 1957.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 57-1747; Filed, Mar. 5, 1957; 11:18 a. m.]

[Tomato Reg., Amdt. 2]

PART 1065—TOMATOES

IMPORT RESTRICTIONS

Pursuant to the requirement contained in section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), § 1065.2 *Tomato Regulation No. 2*, as amended (22 F. R. 811, 946), is hereby further amended as follows:

1. Amend paragraph (a) *Import restrictions* to read as follows:

(a) *Import restrictions.* During the period from March 6, 1957, through June 30, 1957, and subject to Part 1060 of this chapter applicable to the importation of listed commodities and the requirements of this section, no person shall import any tomatoes unless such tomatoes are of a diameter not less than 1⅞ inches.

2. Delete subparagraph (6) of paragraph (d) and paragraph (e).

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendatory regulation beyond that herein specified (5 U. S. C. 1001 et seq.) in that (i) the requirements established by this amendment import regulation are issued pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 State. 906, 1047, which makes such amended regulation mandatory; (ii) the same regulations will be in effect on domestic shipments of tomatoes under Marketing Agreement No. 125 and Order No. 45 (7 CFR 945.303; 22 F. R. 757, 812, 925, F. R. Doc. 57-1747, *supra*); (iii) compliance with this tomato import regulation should not require any special preparation by importers which cannot be completed by the effective date; (iv) during the period from the effective date hereof until March 9, 1957, this amendment would impose less severe restrictions on the importation of tomatoes than would be imposed by § 1065.2 Tomato Regulation No. 2 (22 F. R. 811, 946) if it were not amended; (v) the regulations hereby established for tomatoes that may be imported into the United States are equivalent or comparable to those imposed upon domestic tomatoes under the aforesaid marketing agreement and order; and (vi) in fixing the effective time of this amended regulation, due consideration and allowance has been given to the time required, in the case of imports of tomatoes, for their transportation and entry into the United States after picking.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c. Interprets or applies Sec. 401, 68 Stat. 906, 1047; 7 U. S. C. 608e)

Dated: March 5, 1957.

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

[F. R. Doc. 57-1748; Filed, Mar. 5, 1957; 11:18 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 545—HOMEWORKERS IN THE FABRIC AND LEATHER GLOVE INDUSTRY; THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY; THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY; THE WOMEN'S AND CHILDREN'S UNDERWEAR INDUSTRY; AND THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

MISCELLANEOUS AMENDMENTS

Notice was published in the FEDERAL REGISTER (22 F. R. 432–436) on January 23, 1957, that the Administrator of the Wage and Hour Division, United States Department of Labor, proposed to amend Part 545, Code of Federal Regulations (29 CFR Part 545). Interested persons were given 30 days in which to submit views, arguments or data on the proposal.

Several comments have been received from interested persons. After consideration of all relevant matter presented, I conclude that the proposal should be adopted except for two items in schedule B numbered 172 and 177, which are revised to read as follows:

No.	Operation	Piece rate	Unit of payment
172	After first thread (for example, for hemstitching)	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	
177	After first thread (for example, for hemstitching)	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	

As so revised, the proposed amendment to Part 545 is adopted as set forth below.

Signed at Washington, D. C., this 1st day of March 1957.

NEWELL BROWN,
Administrator.

1. The caption of Part 545 is amended to read: "Part 545—Homeworkers in the Fabric and Leather Glove Industry; the Handkerchief, Square Scarf, and Art Linen Industry; the Children's Dress and Related Products Industry; the Women's and Children's Underwear Industry; and the Needlework and Fabricated Textile Products Industry in Puerto Rico."

2. Section 545.1 is amended to read:

§ 545.1 *Applicability.* The provisions of this part shall apply to persons in activities relating to homeworkers engaged in commerce or in the production of goods for commerce in the fabric and leather glove industry; the handkerchief, square scarf, and art linen industry; the children's dress and related products industry; the women's and children's underwear industry; and the needlework and fabricated textile products industry in Puerto Rico as defined in Parts 715, 716, 717, 718, and 719 of this chapter.[1]

3. Footnote 2 to § 545.3 (a) is amended to read:

[2] See § 545.13 for the schedule of piece rates prescribed in accordance with § 545.9. As an example of how to state the piece rate schedule designation, if "plain scallops" are to be made on articles in the "children's dress and related products industry," the full piece rate schedule designation would be "Operation 74, Col. 3."

[1] Persons engaged in activities relating to homeworkers in other industries in Puerto Rico are subject to Part 681 of this chapter.

4. Footnote 4 to § 545.7 (c) is redesignated footnote 5 and amended to read:

[5] See footnote 4.

5. Section 545.9 is amended to read:

§ 545.9 *Minimum piece rates prescribed by the Administrator.* Pursuant to the provisions of section 6 (a) (2) of the act, each homeworker shall be paid in lieu of the applicable hourly rate established by the wage orders for the fabric and leather glove industry; the handkerchief, square scarf, and art linen industry; the children's dress and related products industry; the women's and children's underwear industry; and the needlework and fabricated textile products industry, not less than the piece rates prescribed in § 545.13 for the operations described therein.

6. Delete footnote 5 to § 545.10 (a).

7. Section 545.13 is amended to read:

§ 545.13 *Piece rates established in accordance with § 545.9.*

SCHEDULE A—PIECE RATES SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR INDUSTRY, THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY, AND THE BLOUSE AND NECKWEAR CLASSIFICATION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO[1]

No.	Operation	Women's and children's underwear industry		Children's dress and related products industry	Blouse and neckwear classification, needlework and fabricated textile products industry	Unit of payment
		Silk and synthetic underwear (1)	Cotton underwear (2)	(3)	(4)	
		Cents	*Cents*	*Cents*	*Cents*	
1	Arenilla (seed stitch), close, ½" squares	42.00	37.80	42.00	48.00	Per dozen squares.
2	Arenilla (seed stitch), scattered, ½" squares.	21.00	18.90	21.00	24.00	Do.
3	Arrows, filled in, ¼"	10.50	9.45	10.50	12.00	Per dozen.
4	Back stitch on yokes, armholes, etc	[2] 23.33	[2] 21.00	33.33	40.00	Per yard.
5	Basting bias with cord	11.55	10.41	11.55	13.20	Do.
6	Basting darts before sewing	[2] 12.18	[2] 10.97	17.50	20.88	Do.
7	Basting for fagoting	3.16	2.85	3.16	3.61	Do.
8	Basting hems, 1" to 6" wide	[2] 7.00	[2] 6.30	10.00	12.00	Do.
9	Basting lace incidental to sewing on lace with solid cord stitch.	6.05	5.44	6.05	6.91	Do.
10	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch.	[2] 4.38	[2] 3.95	6.26	7.50	Do.
11	Bias piping, joined, double, over 10 stitches per inch.	14.00	12.60	14.00	16.00	Do.
12	Bias piping, joined, single, over 10 stitches per inch.	17.50	15.75	17.50	20.00	Do.
13	Bias piping, second seam joined double, set flat on garment with running stitch.	21.09	18.97	21.09	24.10	Do.
14	Blanket stitch, folding included, 18 stitches per inch.	39.67	35.70	39.67	45.34	Do.
15	Buttons sewed on with double thread, 2 to 3 stitches.	[2] 4.57	[2] 4.11	6.51	7.82	Per dozen.
16	Buttonhole, stamped, ⅜" long	[2] 15.10	[2] 13.58	21.54	25.85	Do.
17	Buttonholes, stamped, ½" long	[2] 20.07	[2] 18.06	28.69	34.42	Do.
18	Buttonhole stitch, close	31.50	28.35	31.50	36.00	Per yard.
19	Buttonhole stitch for joining seams	31.50	28.35	31.50	36.00	Do.
20	Cord, twisted, over basting	3.50	3.15	3.50	4.00	Per dozen inches.
21	Cutting material applied over lace with solid cord stitch.	4.80	4.32	4.80	5.49	Per yard.
22	Cutting material under lace or at seams, straight outline, following handsewing operation.	1.97	1.77	1.97	2.25	Do.
22.1	Cutting material under lace or at seams, straight outline following machine operations (formerly operation No. 93).	3.15	3.15	2.81	3.38	Do.
23	Dots, baby, not finished off, 2 to 3 stitches.	2.92	2.64	2.92	3.34	Per dozen.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches.	4.62	4.18	4.62	5.28	Do.
25	Eyelets, up to ⅛" diameter	7.80	7.03	7.80	8.91	Do.
26	Eyelets, 3/16" diameter	14.00	12.60	14.00	16.00	Do.
27	Fagoting, straight lines	48.75	43.87	48.75	55.71	Per yard.
28	Fagoting, twisted lines	23.33	21.00	23.33	26.66	Do.
29	Feather stitch, 12 stitches per inch	23.33	21.00	23.33	26.66	Do.
30	Feather stitch cord	12.28	11.06	12.28	14.03	Do.
31	Flat fell seams, first seam by machine	[2] 13.67	[2] 12.30	19.51	23.42	Do.
32	Flat roll	[2] 10.62	[2] 9.55	15.14	18.17	Do.

See footnotes at end of table.

SCHEDULE A—PIECE RATES SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR INDUSTRY, THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY, AND THE BLOUSE AND NECKWEAR CLASSIFICATION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Women's and children's underwear industry: Silk and synthetic underwear (1)	Women's and children's underwear industry: Cotton underwear (2)	Children's dress and related products industry (3)	Blouse and neckwear classification, needlework and fabricated textile products industry (4)	Unit of payment
		Cents	Cents	Cents	Cents	
33	French knots, not finished off	1.46	1.31	1.46	1.67	Per dozen.
34	French seams, over 12 stitches per inch	[2] 8.75	[2] 7.89	12.50	15.00	Per yard.
35	French seams, first seam by machine, 9 to 12 stitches per inch.	[2] 5.78	[2] 5.18	8.26	9.90	Do.
36	Furunecos, with tape	52.50	47.25	52.50	60.00	Do.
37	Furunecos, without tape	42.00	37.80	42.00	48.00	Do.
38	Guariquenas	3.50	3.15	3.50	4.00	Per dozen.
39	Half roll (with colored or emb. thread)	11.48	10.34	11.48	13.12	Per yard.
40	Hemming stitch for felling, 2 to 3 stitches per inch.	[2] 6.12	[2] 5.51	8.74	10.50	Do.
41	Hemming stitch for felling cuffs, collars, plackets and waist bands, 8 to 10 stitches per inch.	[2] 15.66	[2] 14.09	22.37	26.85	Do.
42	Hemstitch double (tru-tru), 4 threads in a bundle, thread drawing not included.	43.40	39.06	43.40	49.60	Do.
43	Hemstitch, single, 4 threads in a bundle, thread drawing not included.	22.78	20.53	22.78	26.03	Do.
44	Lace, joined with whipping switch	36.46	32.81	36.46	41.67	Do.
45	Lace, sewed on with hemming stitch or round roll.	17.50	15.75	17.50	20.00	Do.
46	Leaves, open, ¼" long	14.00	12.60	14.00	16.00	Per dozen.
47	Leaves, open ⅜" to ½" long	21.00	18.90	21.00	24.00	Do.
48	Leaves, simple	1.31	1.20	1.31	1.50	Do.
49	Leaves, solid, not finished off, ⅛" long	3.84	3.45	3.84	4.39	Do.
50	Leaves, solid, not finished off, ¼" long	4.67	4.20	4.67	5.34	Do.
51	Leaves, solid, not finished off, ⅜" to ½" long.	7.00	6.30	7.00	8.00	Do.
52	Leaves, solid, finished off, ⅝" to ¾" long	14.00	12.60	14.00	16.00	Do.
53	Loops, knitted, ¼ inch	4.38	3.94	4.38	5.00	Do.
54	Loops, knitted, 1 inch to 1½ inch	7.36	6.63	7.36	8.41	Do.
55	Loops, made with buttonhole stitch	10.50	9.45	10.50	12.00	Do.
56	Mounting fagoting appliques, including pinning and basting to garment, first seam with running stitch, felled seam with hemming stitch.	41.82	37.66	41.82	47.79	Per yard.
57	Overcasting seams	[2] 7.44	[2] 6.70	10.64	12.77	Do.
58	Pasadas, short, 1 inch to 8 inches		3.27			Per dozen pasadas.
59	Patches, sewed on with single point de turc.	69.72	62.74	69.72	79.68	Per yard.
59.1	Patches, rectangular, sewed on with blind stitch, up to 1½".	4.40	3.96	4.40	5.03	Per dozen inches.
59.2	Patches, sewed on with solid cord, cutting and basting included.	68.60	61.74	68.60	78.40	Per yard.
60	Pin stitch, thread drawing not included, 1" squares.	84.00	75.60	84.00	96.00	Per dozen squares.
61	Point de turc, double, with embroidery thread.	34.82	31.36	34.82	39.80	Per yard.
62	Point de turc, plain, with embroidery thread.	20.42	18.36	20.42	23.34	Do.
63	Randa, bundles twisted but not tied, thread drawing not included.	8.75	7.87	8.75	10.00	Do.
64	Randa, Don Gonzalez, thread drawing not included.	36.75	33.06	36.75	42.00	Do.
65	Randa, Mexican, tied at center only, thread not included.	10.50	9.45	10.50	12.00	Do.
66	Ribbons, setting ends of	4.80	4.32	4.80	5.48	Per dozen.
67	Rolling armholes and reboques	[2] 17.88	[2] 16.10	25.54	30.65	Per yard.
68	Rose buds, worm stitch, 4 worms, 1 or 2 colors or tones.	10.40	9.36	10.40	11.88	Per dozen.
69	Running stitch on darts, 8 to 10 stitches per inch.	[2] 8.75	[2] 7.89	12.50	15.00	Per yard.
70	Running stitch for felling, very close stitch.	[2] 8.75	[2] 7.89	12.50	15.00	Do.
71	Running stitch on hems up to 1" wide, 12 stitches per inch.	[2] 9.40	[2] 8.45	13.46	16.15	Do.

See footnotes at end of table.

SCHEDULE A—PIECE RATES SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR INDUSTRY, THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY, AND THE BLOUSE AND NECKWEAR CLASSIFICATION OF THE NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Women's and children's underwear industry: Silk and synthetic underwear (1)	Women's and children's underwear industry: Cotton underwear (2)	Children's dress and related products industry (3)	Blouse and neckwear classification, needlework and fabricated textile products industry (4)	Unit of payment
		Cents	Cents	Cents	Cents	
72	Running stitch on lace	9.29	8.35	9.29	10.61	Per yard.
73	Running stitch for plain sewing	[2] 6.32	[2] 5.69	9.04	10.85	Do.
74	Scallops, plain, cutting included	35.23	31.69	35.23	40.26	Do.
75	Shadow stitch, up to ⅜" wide	67.67	60.90	67.67	77.34	Do.
76	Shell, 4 to 5 stitches per inch	12.00	10.82	12.00	13.71	Do.
77	Shirring, material to be measured before shirring.	7.05	6.35	7.05	8.06	Do.
78	Shirring and basting lace edging, material to be measured after shirring.	8.47	7.64	8.47	9.68	Do.
79	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring.	15.22	13.70	15.22	17.39	Do.
80	Shoulder straps, set with buttonhole stitch, 14½" x ¼", measured after turning, sewing up to ⅝" at each end at strap.	41.37	37.22			Per dozen straps.
81	Size tickets set with hemming stitch, cutting tickets included.	[2] 7.00	[2] 6.30	10.00	12.00	Per dozen inches.
82	Smocking	.29	.26	.29	.33	Per dozen stitches.
83	Snaps, sewing on, both sides	[2] 7.00	[2] 6.30	10.00	12.00	Per dozen.
84	Solid cord stitch on gores and embroidery.	32.90	29.63	32.90	37.60	Per yard.
85	Solid cord stitch to sew on lace	29.75	26.76	29.75	34.00	Do.
86	Spiders, 4 legs	7.00	6.30	7.00	8.00	Per dozen.
87	Spiders, 8 legs	13.68	12.32	13.68	15.63	Do.
88	Tacks, set for fagoting	3.50	3.16	3.50	4.00	Do.
89	Tucks, stamped, 1/16" to ¼" wide, up to 6" long.	10.95	9.85	10.95	12.52	Do.
90	Tucks, pin, stamped up to 7" long	11.54	10.38	11.54	13.19	Do.
91	Tucks, pin, unstamped, up to 6" long	14.00	12.60	14.00	16.00	Do.
93	(See operation No. 22.1.)					
94	Turning belts, machine sewn, 29" x ½" measured after turning.	13.02	13.02	11.62	13.95	Per dozen belts.
95	Turning belts, machine sewn 60" x ½", measured after turning.	16.54	16.54	14.77	17.73	Do.
96	Turning shoulder pads, 5¾" long, with an unsewed slit of 1" for turning.	8.45	8.45	7.54	9.05	Per dozen pads.
97	Turning shoulder straps, 14½" x ¼", measured after turning.	25.95	25.95			Per dozen straps.

[1] For definitions of "hand-embroidery," "hand-sewing," and "other operations," and current minimum wage rates, see applicable sections of wage orders.

[2] Piece rate not applicable when operation is performed on a wholly machine made item.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

No.	Operation	Piece rate (cents)	Unit of payment
99	Arenillas (seed stitch), close, ½" squares	30.00	Per dozen squares.
100	Arenillas (seed stitch), scattered, ½" squares	15.00	Do.
101	Arrows, filled in, ¾" long	7.50	Per dozen.
102	Basting lace for setting with straight sewing stitch	1.43	Per dozen inches.
103	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch	1.25	Do.
103.1	Basting and folding hem on edges up to 1½" hem	.98	Do.
104	Blind hemstitch	5.00	Do.
105	Buttonhole stitch, 16 stitches per inch	5.00	Do.
106	Buttonhole stitch, 24 to 30 stitches per inch	7.50	Do.
107	Chain stitch, 4 stitches per inch	1.25	Do.
108	Chain stitch, 8 stitches per inch	2.50	Do.
109	Cord, solid, on stem	7.83	Do.

[1] For definitions of "hand embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Piece rate (cents)	Unit of payment
110	Cord, twisted, over basting	2.50	Per dozen inches.
111	Cord or embroidery solid, without filling, up to ⅛" thick [2]	7.50	Do.
112	Crouching or flat cord, 4 stitches per inch	1.25	Do.
113	Cross stitch, 6 crosses per inch	5.33	Do.
114	Cut work with buttonhole stitch, 24 to 30 stitches per inch	10.00	Do.
114.1	Daisies, 12 to 15 stitches, with double embroidery thread	7.50	Per dozen
115	Diamonds, filled in, ¼" to ⅜" wide	7.50	Do.
116	Dots, baby, not finished off, 2 to 3 stitches	2.08	Do.
117	Dots, large, not filled in, finished off, 12 stitches	3.75	Do.
118	Dots, large, filled in, finished off, over 12 stitches	7.50	Do.
119	Dots, large, not filled in, finished off, over 12 stitches	5.00	Do.
120	Dots, medium, not filled in, finished off 8 to 9 stitches	3.30	Do.
120.1	Dots, medium, in groups, not finished off, 5 stitches with double embroidery thread.	2.13	Do.
120.2	Dots, medium, in groups, finished off, 5 stitches, with double embroidery thread.	2.83	Do.
121	Embroidery, solid 3/16 to ¾ thick, averages 28 stitches per inch [2]	10.00	Per dozen inches.
122	Embroidery, solid, straight or diagonal, same as image stitch, filled in, loose.	10.00	Do.
123	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose.	7.50	Do.
124	Eyelets, ⅛ diameter	5.58	Per dozen.
125	Feather stitch, 12 stitches per inch	5.56	Per dozen inches.
126	Feather stitch cord	2.93	Do.
127	Flat hems without pasada	5.09	Do.
128	French knots, not finished off	1.05	Per dozen.
128.1	French knots, finished off, with double embroidery thread	2.00	Do.
129	Guariquenas	2.50	Do.
130	Hand or French rolling, 10 stitches or less per inch	7.07	Per 48 inches.
131	Hand or French rolling, 11 stitches or more per inch	8.49	Do.
132	Hand-rolling 1 side of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching runs to the end on 1 side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than ¼" nor more than 1"; and (b) Only 1 side of each corner is hand-rolled; and the hand-rolling is not longer than 1".	16.67	Per dozen handkerchiefs.
133	Hand-rolling both sides of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching does not run to the end of either side of any corner; and the space left open for hand-rolling at each side of the corners is not less than ¼" nor more than 1"; and (b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 1 inch on either side of any corner.	33.33	Do.
134	Hand-rolling both sides of a corner; the piece rate shall apply under the following conditions: (a) The machine-stitching runs to the end on 1 side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than ¼" nor more than 1"; and (b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 2 inches on any corner.	41.67	Do.
135	Hemstitch, double (tru-tru), 4 threads in a bundle, thread drawing not included.	10.33	Per dozen inches.
136	Hemstitch, single, 4 threads in a bundle, thread drawing not included	5.43	Do.
137	Initials, simple, with hoops	25.00	Do.
138	Initials, simple, without hoops	15.50	Do.
139	Lace, joined at corners with hemming stitch	7.50	Do.
140	Leaves, simple	.93	Per dozen.
141	Leaves, solid, not finished off, ¼" long	3.33	Do.
142	Leaves, solid, not finished off, ⅜" to ½" long	5.00	Do.
143	Leaves, solid, not finished off, ⅝" to ¾" long	10.00	Do.
144	Loops, made with worm stitch, ¼"	1.67	Do.
145	Pasadas, 11" x 11" to 14" x 14", linen up to 1,600 count, inclusive	[3] 5.00	Per dozen pasadas.
146	Pasadas, 11" x 11" to 14" x 14", linen 1,700 count and over	[3] 7.00	Do.
147	Pasadas, 15" x 15", linen up to 1,600 count, inclusive	[3] 8.50	Do.
148	Pasadas, 15" x 15", linen 1,700 count and over	[3] 10.50	Do.
149	Pasadas, 16" x 16" to 20" x 20", linen up to 1,400 count inclusive	[3] 12.00	Do.
150	Pasadas, short, 1" to 7", linen up to 1,600 count inclusive	[3] 2.60	Do.
	Pasadas, short:		
151	Cambric, 1" to 10"	5.00	Do.
152	Crash, 1" to 10"	3.75	Do.
153	Cambric, 10½" to 18"	10.00	Do.
154	Crash, 10½" to 18"	7.50	Do.

See footnotes at end of table.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]—Continued

No.	Operation	Piece rate (cents)	Unit of payment
155	Patches, circular, sewed on with hemming stitch, cutting included	5.47	Per dozen inches.
156	Patches, irregular outline, sewed on with hemming stitch, cutting included.	9.53	Do.
156.1	Patches, irregular outline, sewed on with blind stitch, up to inches	7.00	Do.
156.2	Patches, irregular outline, sewed on with blind stitch, over 4 inches	3.56	Do.
157	Patches, rectangular, sewed on with hemming stitch, cutting included	4.49	Do.
158	Pin stitch, thread drawing not included, 1" squares	60.00	Per dozen squares.
159	Randa, Don Diego, thread-drawing not included	11.25	Per dozen inches.
160	Randa, Mexican, tied at center only, thread drawing not included	2.50	Do.
161	Randa, simple, not stitched at either side, thread drawing not included	1.89	Do.
162	Rose buds, worm stitch, 4 worms, 2 colors or tones	7.42	Per dozen.
163	Scallops, plain, cutting included	8.39	Per dozen inches.
164	Shadow stitch, up to ⅜" wide	16.11	Do.
165	Spiders, 4 legs	5.00	Per dozen.
166	Spiders, 8 legs	9.78	Do.

[1] For definitions of "hand embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

[2] These piece rates have been set on the basis of O. N. T. thread No. 5, corded, which average 28 stitches per inch of solid cord. If corded threads are used which are not so thick, the rate should be increased in proportion to the increase in the number of stitches per inch. If corded thread No. 11 is used, 15 percent must be added to the piece rates established for thread No. 5.

[3] For each additional count of 100, add 1 cent.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

No.	Operation	Piece rate (cents) (1) Cambric	Piece rate (cents) (2) Crash	Unit of payment
	THREAD DRAWING			
	Art linens, first thread, not coming out at edge:			
167.0	Stamped 1" to 10"	1.79		Per dozen threads.
167.2	Not stamped 1" to 10"	2.23	1.33	Do.
	Art linens, unstamped, first thread, all-around, not coming out at edge:			
167.4	Doilies 12" x 18"	9.99	8.13	Per dozen pieces.
	Napkins:			
167.6	12" x 12"	7.99	6.77	Do.
167.7	15" x 15"	9.99	8.13	Do.
167.8	18" x 18"	11.99	9.39	Do.
	Scarves:			
168.0	17" x 36"	17.64	12.64	Do.
168.1	17" x 45"	20.64	14.26	Do.
168.2	17" x 54"	23.64	15.83	Do.
	Squares:			
168.3	36" x 36"	23.99	15.99	Do.
168.4	45" x 45"	29.97	19.01	Do.
168.5	54" x 54"	35.97	22.21	Do.
	Art linens, unstamped, first thread at one end, coming out at both edges:			
	Towels:			
168.6	9" x 15"		1.26	Do.
168.7	15" x 24"		1.83	Do.
168.8	18" x 30"		2.10	Do.
169	Art linens, after first thread	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.		

[1] For definitions of "hand-embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

No.	Operation	Piece rate (cents)	Unit of payment
	THREAD DRAWING		
	Ladies' handkerchiefs:		
170	First thread around edge, cotton or linen up to 1600 count inclusive.	2.50	Per dozen threads.
171	First thread, inside, cotton or linen, up to 1600, count inclusive.	3.13	Do.
172	After first thread (for example, for hemstitching)	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	
	Men's handkerchiefs:		
173	First thread around edge, linen up to 1500 count, inclusive, 16" x 16" to 20" x 20".	3.75	Do.
174	First thread around edge, linen 1600 count and over, 16" x 16" to 20" x 20".	4.38	Do.
175	First thread, inside, linen up to 1500 count, inclusive, 16" x 16" to 20" x 20".	4.38	Do.
176	First thread, inside, linen 1600 count and over, 16" x 16" to 20" x 20".	5.00	Do.
177	After first thread (for example, for hemstitching)	For second and third threads, 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.	

[1] For definitions of "hand embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

[Unit of payment, per dozen]

No.	Operation	Dollies			Napkins			Table scarves			Squares			Tablecloths		
		8" x 16"	10" x 14"	12" x 18"	12" x 12"	15" x 15"	18" x 18"	17" x 36"	17" x 45"	17" x 54"	36" x 36"	45" x 45"	54" x 54"	54" x 72"	72" x 72"	72" x 90"
179	Half roll, cambric and crash, at 2.73 cents per dozen inches	$1.31	$1.31	$1.63	$1.31	$1.63	$1.97	$2.90	$3.39	$3.89	$3.93	$4.92	$5.90	$6.89	$7.87	$8.87
180	Hand or French rolling, 10 stitches or less per inch, cambric and crash, at 1.77 cents per dozen inches	.85	.85	1.07	.85	1.07	1.27	1.87	2.19	2.51	2.56	3.19	3.82	4.46	5.09	5.72
	Hemming stitch over pasada, measuring all around edge:															
181	Cambric at 3.27 cents per dozen inches	1.57	1.57	1.96	1.57	1.96	2.35	3.46	4.05	4.64	4.70	5.88	7.05	8.23	9.41	10.58
182	Crash, at 3.07 cents per dozen inches	1,48	1.48	1.83	1.48	1.83	2.22	3.24	3.79	4.36	4.42	5.53	6.64	7.71	8.82	9.93
	Second seams, for separate borders, measuring all around edge:															
183	Cambric, at 3.27 cents per dozen inches	1.57	1.57	1.96	1.57	1.96	2.35	3.46	4.05	4.64	4.70	5.88	7.05	8.23	9.41	10.58
184	Crash, at 3.07 cents per dozen inches	1.48	1.48	1.83	1.48	1.83	2.22	3.24	3.79	4.36	4.42	5.53	6.64	7.71	8.82	9.93
	Second seams, for separate borders, with French corners, measuring all around edge:															
185	Cambric, at 3.68 cents per dozen inches	1.76	1.76	2.22	1.76	2.22	2.65	3.90	4.57	5.23	5.29	6.64	7.95	9.28	10.58	11.93
186	Crash, at 3.27 cents per dozen inches	1.57	1.57	1.96	1.57	1.96	2.35	3.46	4.05	4.64	4.70	5.88	7.05	8.23	9.41	10.58

[1] For definition of "hand-embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

SCHEDULE B—PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SQUARE SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO [1]

No.	Operation	Piece rate (cents)	Unit of payment
	SCALLOP CUTTING		
	Hand-cutting machine-embroidered, shallow, curved scallops on handkerchiefs or square scarves:		
187.4	Small, measuring from 5/16" up to, but not including 5/8", along outside edge.	0.26	Per dozen scallops.
187.5	Medium, measuring from 5/8" up to, but not including 7/8", along outside edge.	.33	Do.
187.6	Large, measuring from 7/8" to, and inclusive of, 1¼", along outside edge.	.49	Do.
	NEEDLEPOINT OPERATIONS [2]		
200	Compact florals, figures and landscapes	26.00	Per 1,000 stitches.
201	Scattered florals	28.00	Do.
202	Scattered florals consisting of borders or garlands only	30.00	Do.
203	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design.	28.00	Do.
204	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design.	30.00	Do.
205	Two cents (2.0¢) must be added to the above piece rates to cover thumbtack mounting on frame for each piece of canvas. Employers using other methods must set individual rates for mounting and removing canvas in accordance with § 545.10.		

[1] For definitions of "hand embroidery" and "other operations" and current minimum wage rates, see applicable section of wage order.

[2] *Exceptions.* These piece rates do not apply to the following types of needlepoint. For these, and all other varieties of needlepoint not covered by the schedule and definitions, piece rates must be set by employers in accordance with Regulations 545.10.

1. Florals having more than 10,000 stitches.
2. Florals having more than 36 color tones.
3. Figures and landscapes having more than 3,000 stitches.
4. Figures and landscapes having more than 25 color tones.
5. Petit point.
6. Stamped grospoint.

Definitions. 1. A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas.

2. A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

SCHEDULE C—PIECE RATE SCHEDULE FOR THE FABRIC AND LEATHER GLOVE INDUSTRY IN PUERTO RICO [1]

No.	Operation	Ladies' woven or knitted fabric gloves (1)	Leather gloves [2] Ladies' (2)	Leather gloves [2] Men's (3)	Unit of payment
		Cents	*Cents*	*Cents*	
188	Buttons, slip stitches with tape, 1 button per glove			49.500	Per dozen pairs.
189	Buttonholes, stitched in and outside, one buttonhole per glove.			66.000	Do.
190	Crede stitch, 5 to 6 stitches per inch	0.313			Per inch.
191	Egyptian stitch, 5 to 6 stitches per inch		0.453		Do.
192	Feather stitch, 5 to 6 stitches per inch	.375	.569		Do.
193	Large stitch (husky), 5 to 6 stitches per inch			.407	Do.
194	Regular stitch, 5 to 6 stitches per inch	.246	.427	.407	Do.
195	Slip stitch, hem only, 5 to 6 stitches per inch	.159	.292	.292	Do.
196	Slip stitch, reinforcement on slit, 5 to 6 stitches per inch, when sewing has been faced on by machine.		.292	.292	Do.
197	Swagger stitch, 5 to 6 stitches per inch	.246	.427	.407	Do.
198	Whip stitch, 5 to 6 stitches per inch	.246	.427	.407	Do.

[1] Piece rates apply only to hand-sewing operations. For description of operations included under "hand-sewing," see definitions in applicable section of the wage order.

[2] The hourly minimum wage rates applicable to leather gloves are also applicable to combination leather and fabric gloves. However, piece rates for combination leather and fabric gloves must be set by employers in accordance with § 545.10.

(Secs. 6, 11, 52 Stat. 1062, as amended, 1066, as amended; 29 U. S. C. 206, 211)

[F. R. Doc. 57-1683; Filed, Mar. 5, 1957; 8:53 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF THE AIR FORCE

Effective upon publication in the FEDERAL REGISTER, paragraph (b) (4) of § 6.107 is revoked and paragraph (d) (1) is added as set out below.

§ 6.107 *Department of the Air Force.* * * *

(d) *United States Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and one Instructor in Music (Choirmaster).

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-1681; Filed, Mar. 5, 1957; 8:52 a. m.]

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF STATE

Effective upon publication in the FEDERAL REGISTER, paragraph (b) (6) of § 6.302 is amended as set out below.

§ 6.302 *Department of State.* * * *
(b) *Bureau of Inspection, Security and Consular Affairs.* * * *
(6) Deputy Administrator for Refugee Relief.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-1682; Filed, Mar. 5, 1957; 8:52 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6471]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

ARROW METAL PRODUCTS CORP. ET AL.

Subpart—*Advertising falsely or misleadingly*: § 13.30 *Composition of goods;* § 13.135 *Nature*: Product or service. Subpart—*Furnishing means and instrumentalities of misrepresentation or deception*: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—*Using misleading name*—Goods: § 13.2280 *Composition;* § 13.2315 *Nature.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Arrow Metal Products Corporation (Haskell, N. J.) et al., Docket 6471, Feb. 20, 1957]

In the Matter of Arrow Metal Products Corporation, a Corporation, and Awnair Corporation of America, a Corporation, and Alex Levine, James V. Cosman, and Wm. N. Gurtman, Individually and as Officers of Each of Said Corporations

This proceeding was heard by a hearing examiner on the complaint of the Commission charging two corporate manufacturers, with places of business at Haskell and Wayne, N. J., with using the term "Porcenamel" to describe the organic plastic resin finish or coating of their metal awnings, component parts for metal awnings, or enamel-coated metal strips and pieces.

Following hearings in due course, the hearing examiner made his initial decision, including findings of fact, conclusions of law and order to cease and desist, from which respondents appealed. The Commission, having heard the matter, on February 20 rendered its decision denying the appeal and adopting the findings, conclusions, and order contained in the initial decision.

The order to cease and desist is as follows:

It is ordered, That respondents Arrow Metal Products Corporation, a corporation, its officers, Awnair Corporation of America, a corporation, its officers, and Alex Levine, James V. Cosman and Wm. N. Gurtman, individually and as officers of said corporations, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of metal awnings, component parts for metal awnings, or enamel coated metal strips and pieces in commerce, as "commerce" is defined in the act, do forthwith cease and desist from:

Using the term "Porcenamel," or any other word, phrase or term of similar import or meaning implying porcelain enamel, to describe the finish or coating of the aforesaid products or of any other products which are not in fact finished or coated with porcelain enamel.

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order contained in said initial decision.

Issued: February 20, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-1668; Filed, Mar. 5, 1957; 8:49 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter D—Regulations Under Soil Bank Act

PART 485—SOIL BANK

SUBPART—ACREAGE RESERVE PROGRAM

SUPPLEMENT I

The regulations governing the 1957 acreage reserve part of the Soil Bank Program, 21 F. R. 10449, as amended in 22 F. R. 494, 971 and 973 are hereby supplemented as follows:

In the case of tobacco, except cigar binder tobacco types 51 and 52, the maximum acreage limitations specified in § 485.211 (a) (2) (v) are hereby removed and acreage up to 100 percent of the farm allotment may be placed in the acreage reserve: *Provided,* That the acreage limitations specified in § 485.211 (a) (2) (v) shall remain applicable in a county with respect to any type of tobacco for which the total of the farm allotments in the county exceeds 2,000 acres if the State and county committees determine that the total acreage likely to be placed in the acreage reserve would exceed 45 percent of the total of such farm allotments and that the placing of such acreage in the acreage reserve

would have a serious adverse effect on the county's farm economy.

(Sec. 124, Pub. Law 540, 84th Cong.)

Issued at Washington, D. C., this 28th day of February 1957.

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-1675; Filed, Mar. 5, 1957; 8:51 a. m.]

TITLE 25—INDIANS

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

PART 130—OPERATION AND MAINTENANCE CHARGES

WIND RIVER IRRIGATION PROJECT, WYOMING

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Public Law 404—79th Congress, 60 Stat. 238) and authority contained in the acts of Congress approved August 1, 1914; May 18, 1916; and March 7, 1928, (38 Stat. 583; 25 U. S. C. 383; 39 Stat. 142; and 45 Stat. 210; 25, U. S. C. 387) and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 351, Amendment No. 1; 16 F. R. 5454-7), notice was given of the intention to modify Section 130.95 of Title 25, Code of Federal Regulations dealing with irrigable lands of the Wind River Indian Irrigation Project to read as follows:

§ 130.95 *Charges.* In compliance with the provisions of the Acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 25 U. S. C. 385; 45 Stat. 210, 25 U. S. C. 387) the operation and maintenance charges for the lands under the Wind River Irrigation Project, Wyoming, for the calendar year 1957 and subsequent years until further notice, are hereby fixed at $2.60 per acre for the assessable area under the constructed works on the diminished Wind River Project and at $2.50 per acre on the Ceded Wind River Project; except in the case of all irrigable trust patent Indian land which lies within the Ceded Reservation and which is benefited by the Big Bend Drainage District where an additional assessment of $0.45 (45 cents) per acre is hereby fixed.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385)

Interested persons were thereby given opportunity to participate in the preparation of this modification by submitting their views or arguments, in writing, to the Area Director within 44 days from the date of publication of said notice. A number of objections having been received and after full consideration on the merits having been overruled, the said section is hereby amended and the rate fixed, for the season of 1957 and thereafter until further notice, as stated above.

PERCY E. MELIS,
Area Director.

[F. R. Doc. 57-1656; Filed, Mar. 5, 1957; 8:46 a. m.]

PART 130—OPERATION AND MAINTENANCE CHARGES

MISCELLANEOUS INDIAN IRRIGATION PROJECTS

Order fixing operation and maintenance charges on miscellaneous Indian Irrigation Projects (San Carlos Reservation and San Xavier, Arizona; Miscellaneous Navajo Units, Arizona and New Mexico; Tongue River, Montana; Duck Valley and Pyramid Lake, Nevada; Warm Springs, Oregon).

On December 13, 1956 there was published in the FEDERAL REGISTER (Vol. 21, No. 241, page 9950) a revised notice of intention to amend § 130.105 *Charges*, of Title 25, Code of Federal Reglations, Chapter I, Subchapter L, Part 130, dealing with operation and maintenance assessments against irrigable lands of Miscellaneous Indian Irrigation Projects, by establishing the basic water charge for the Burns Indian Village, Warm Springs Agency, at $12.65 per acre per annum.

Interested persons desiring to participate in formulating the amendment were thereby given opportunity to participate by submitting data or argument within thirty days from the date of publication of the notice to the Area Director, Portland, Oregon. No written or oral communications were received within the period specified. Therefore, § 130.105 is amended to read as follows:

§ 130.105 *Charges.* Pursuant to the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387), a part of the reimbursable cost of operating and maintaining the irrigation projects named in this section is apportioned on a per-acre basis against the irrigable lands of the respective projects for the calendar year 1957 and for each succeeding calendar year until further order, in the amounts designated below for each project, and there is assessed against each acre of irrigable land to which water can be delivered through the constructed works of the respective projects, the amounts designated for each project, to be applied in the reimbursement of such apportionments:

Project and agency	*Per acre (per annum)*
Duck Valley, Western Shoshone	$3.40
Miscellaneous Units, Navajo	.50
Pyramid Lake Unit, Carson	5.15
San Carlos Reservation Unit, San Carlos	.50
San Xavier Unit, Sells	1.00
Tongue River Unit, Tongue River	.25
Warm Springs Unit, Warm Springs	2.00
Burns Indian Village, Warm Springs	12.65

(Secs: 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385)

GLENN L. EMMONS,
Commissioner.

FEBRUARY 28, 1957.

[F. R. Doc. 57-1657; Filed, Mar. 5, 1957; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 188]

PART 608—RESTRICTED AREAS

ALTERATION; TEMPORARY RESTRICTED AREA, SLEDGE HAMMER, LA.

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

Part 608 is amended as follows:

In § 608.26, the Sledge Hammer, Temporary Restricted Area, Louisiana, is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Sledge hammer, La., temporary restricted area (Beaumont and Shreveport).	"Beginning at latitude 31°47'30", longitude 93°24'30", which is the north boundary of Civil Airway Red 30; thence northeast to latitude 32°01'00", longitude 92°49'30"; thence north-northwest to latitude 32°14'30", longitude 92°53'30"; thence north-northeast to latitude 32°26'30", longitude 92°50'00"; thence easterly along the southern boundary of Civil Airway Red 10 to latitude 32°25'15", longitude 92°29'30"; thence south-southwest to latitude 32°15'00", longitude 92°32'30"; thence south-southeast to latitude 31°51'00", longitude 92°25'00"; thence west-southwest to latitude 31°37'00", longitude 93°02'30", which is the northern boundary of Civil Airway Red 30, thence along the northern boundary of Red 30 to the point of beginning".	Surface to 3,000 feet mean sea level.	Continuous	Maneuver Director, Camp Polk, La.

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

This amendment shall be effective from May 20, 1957, through May 24, 1957.

[SEAL]

S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 57-1653; Filed, Mar. 5, 1957; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

DEPENDENCY AND INDEMNITY COMPENSATION

Correction

In Federal Register Document 57-1200, published at page 951 of the issue for Friday, February 15, 1957, the first sentence of paragraph (a) of § 4.431a should read: "Evidence received in the Social Security Administration in support of a claim filed on or after January 1, 1957, for benefits under Title II of the Social Security Act will be considered to have been received in the Veterans Administration as of the date of receipt in Social Security Administration."

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

Subchapter B—Merchant Marine Officers and Seamen

[CGFR 57-10]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

LICENSE AS MASTER OF RIVER STEAM OR MOTOR VESSELS

The description of service requirements for a license as a master of river steam or motor vessels in 46 CFR 10.05-17 describes the license issued by the United States Coast Guard as an "original" license. Since it is impossible for a license as master of river steam or motor vessels to be on "original" license as defined in 46 CFR 10.02-3, the amendment in this document to 46 CFR 10.05-17 changes the term "original license" to "license."

Because this amendment to 46 CFR 10.05-17 is editorial in nature, it is hereby found that compliance with the Administrative Procedure Act respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof, is unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), and Treasury Department Order No. 167-14, dated November 26, 1954 (19 F. R. 8026), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendment to § 10.05-17 is prescribed and shall become effective upon the date of publication of this document in the FEDERAL REGISTER:

§ 10.05-17 *Master of river steam or motor vessels.* The minimum service required to qualify an applicant for a license as master of steam or motor vessels navigating rivers exclusively is at least 3 years' service in the deck department of steam or motor vessels: *Provided*, That, 1 year of such service shall have been as licensed mate or pilot of steam or motor vessels, and, 1 year shall have been on river steam or motor vessels.

(R. S. 4405, as amended, 4462, as amended; 46 U. S. C. 375, 416. Interprets or applies R. S. 4417a, as amended, 4426, as amended, 4427, as amended, 4438, as amended, 4439, as amended, 4445, as amended, 4447, as amended, sec. 2, 29 Stat. 188, sec. 1, 34 Stat. 1411, secs. 1, 2, 3, 49 Stat. 1544, as amended, sec. 3, 54 Stat. 346, as amended, secs. 2, 68 Stat. 484, 675; 46 U. S. C. 391a, 404, 405, 224, 226, 231, 233, 225, 237, 367, 1333, 239b, 198)

Dated: February 28, 1957.

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

[F. R. Doc. 57-1660; Filed, Mar. 5, 1957; 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 developed at a series of public hearings held throughout Alaska and in Seattle, Washington, written briefs submitted by the public, scientific data secured by United States Fish and Wildlife Service personnel, and in compliance with the Notice of Intention to Adopt Amendments issued by the Secretary of the Interior on July 12, 1956 (21 F. R. 5375, July 18, 1956) it has been determined that the amendments herein adopted are necessary to permit maximum utilization of the resources, consistent with sound conservation. These provisions shall become effective 30 days after their publication in the FEDERAL REGISTER.

PART 101—DEFINITIONS

1. A new section designated 101.20 is added to read as follows:

§ 101.20 *Depth of net.* The perpendicular distance between cork line and lead line expressed as either linear units of measurement or as a number of meshes, including all of the web of which the net is composed.

2. A new section designated 101.21 is added to read as follows:

§ 101.21 *Trolling.* Taking or attempting to take fish by means of a lure or baited hook attached to a line drawn through the water.

PART 102—GENERAL PROVISIONS

1. Section 102.8 is amended to read as follows:

§ 102.8 *Registration of fishing boats and gear.* Except as hereinafter provided, no boat nor unit of fishing gear shall be used in commercial fishing unless and until it shall have been properly registered with a local representative of the United States Fish and Wildlife Service for the initial registration area of intended operation (as hereinafter defined) in accordance with provisions of this section. Any person desiring to register any boat or unit of fishing gear shall furnish to the said local representative full and complete information as to the size, type, and identity of boat, number of fishermen in crew, description of gear, and the fishery (salmon, herring, crab, etc.) in which such gear and boat is intended to be used. A United States Fish and Wildlife Service registration number shall be assigned to each boat and unit of fishing gear.

(a) Each salmon fishing net, and each boat intended to be used with such net shall be registered not later than 30 calendar days prior to the opening of the fishing season. No salmon fishing net registered for one registration area may thereafter be used in any other registration area during that calendar year, nor may any boat registered to fish for salmon with a net or nets in one registration area be used to fish for salmon with a net or nets in any other registration area during that calendar year: *Provided*, That late registration or transfer of registered nets or boats to another registration area may be permitted by the Administrator of Alaska Commercial Fisheries upon a determination that (1) conservation of the salmon runs will result therefrom, or (2) conservation of the salmon runs will not be adversely affected and such transfer is justified upon the grounds of hardship or for other valid reasons.

(b) All other fishing gear and boats shall be registered for the calendar year at any time prior to use in commercial fishing in the registration area of intended operation. Prior to transfer to another registration area, intention to transfer shall be reported to the area representative of the United States Fish and Wildlife Service: *Provided*, That this section shall not apply to fishing gear or boats used solely in fishing for halibut.

(c) Each registration area shall be assigned a code letter. Registration areas are defined as follows:

Code letter: *Registration area*
A—Southeastern Alaska area.
D—Yakutat area and Yakataga District of the Bering River-Yakataga area.
E—Prince William Sound area; Copper River area; Bering River-Yakataga area.
H—Cook Inlet area; Resurrection Bay area.
K—Kodiak area.
M—Aleutian Islands area; Alaska Peninsula area; Chignik area.
T—Bristol Bay area; and after July 31, the Northeast district of the Alaska Peninsula area.
Y—Yukon district of the Kotzebue-Yukon-Kuskokwim area.

(d) Evidence of proper registration shall be kept immediately available at all times during fishing operations and shall be shown upon request to any authorized representative of the United States Fish and Wildlife Service or the United States Coast Guard.

(e) Registration plates, when furnished, shall be displayed in a prominent place on the port side of the boat or on the face of the trap.

2. Section 102.9 is amended in text by deleting "a distinctive number, letter or name which shall identify each particular stake net, set net, trap net, pound

net, or fish wheel, such letters and" and substituting in lieu thereof, "the permanently assigned United States Fish and Wildlife Service registration number."

3. Section 102.36a is amended in paragraph (b) by deleting, "except that this requirement shall not apply to tangle nets prior to January 1, 1955."

PART 103—KOTZEBUE-YUKON-KUSKOKWIM AREA

1. Section 103.5 is amended to read as follows:

§ 103.5 *Gear restrictions.* Fishing is prohibited except with gill nets: *Provided,* That in the Yukon district such nets may not have mesh less than 8½ inches stretched measure, and: *Provided further,* That fish wheels may be used in the Yukon and Kuskokwim districts.

PART 104—BRISTOL BAY AREA

1. Section 104.3 is amended in paragraphs (a), (b), (c), (d), and (e) by deleting the last sentence of each paragraph.

2. Section 104.5 is amended in paragraph (a) and the first sentence of text in paragraph (b) to read as follows:

(a) In the period June 24 to July 26, the statutory weekly closed period of 36 hours is extended so as to limit fishing to the number of days per week set out in the following table, wherein the number of days of fishing is governed by the total number of units of gear registered for fishing in the respective districts as of 6 o'clock postmeridian of the Friday immediately preceding the week in which fishing is permitted.

Units of gear by district				Days of fishing per week
Naknek-Kvichak	Nushagak	Egegik	Ugashik	
534	534	227	113	1
382-533	382-533	162-226	83-112	1.5
267-381	267-381	114-161	60-82	2.0
229-266	229-266	97-113	53-59	2.5
191-228	191-228	81-96	45-52	3.0
153-190	153-190	65-80	37-44	3.5
133-152	133-152	57-64	34-36	4.0
132	132	56	33	5.0

(b) "For the purposes of this section, a unit a gear is considered to be one 150-fathom drift gill net as fished from a two-man boat."

3. Section 104.9 is amended in text by deleting "the initials of the operator" and substituting in lieu thereof "the permanent United States Fish and Wildlife Service registration number."

4. Section 104.10 is amended in text by deleting "June 25" and substituting in lieu thereof "June 24" wherever it appears.

5. A new section designated 104.11a is added to read as follows:

§ 104.11a *Operation of salmon gill nets.* In the period from June 24 to July 25: (a) No gill net registered as a set gill net may be used as a drift gill net, nor may any gill net registered as a drift gill net be used as a set net; (b) No fisherman licensed to operate or assist in operating a drift gill net shall operate a set gill net; and no fisherman licensed to operate a set gill net shall operate or assist in operating a drift gill net; (c) During any weekly open fishing period the picking of any gill net shall be deemed to be a part of the fishing operation and shall be performed only on a registered net by the fishermen licensed to operate a particular legal limit of gear.

6. Section 104.50 is amended in text by deleting "June 23" and substituting in lieu thereof "June 22."

PART 105—ALASKA PENINSULA AREA

1. Section 105.2 is amended in paragraphs (d), (e), (f), and (g) to read as follows:

(d) Northwestern: All waters on the north side of the Alaska Peninsula between Lagoon Point and Unimak Pass, excluding Bechevin Bay.

(e) Southwestern: All waters on the south side of the Alaska Peninsula between Cape Pankof light and Kenmore Head, including Bechevin Bay.

(f) Southcentral: All waters south of the Alaska Peninsula between Kenmore Head and the south side of Cape Aliaksin at 160 degrees 45 minutes west longitude, including all of the Shumigan Islands, except Korovin Island.

(g) Southeastern: All waters on the south side of the Alaska Peninsula from a point at 160 degrees 45 minutes west longitude on the south side of Cape Aliaksin to Andronica Island light, thence to the eastern boundary of the area.

2. Section 105.3a is amended to read as follows:

§ 105.3a *Open seasons and gear.* Fishing is prohibited except:

(a) Northeastern district: (1) From 6 o'clock antemeridian July 10 to 6 o'clock postmeridian September 13 west of the northern entrance to Port Heiden at 57 degrees north latitude, and (2) From August 1 to September 13 with gill nets only, east of the northern entrance to Port Heiden at 57 degrees north latitude.

(b) Bear River district: From 6 o'clock antemeridian June 24 to 6 o'clock postmeridian September 13.

(c) Port Moller district: From 6 o'clock antemeridian June 21 to 6 o'clock postmeridian September 13.

(d) Northwestern district: From 6 o'clock antemeridian May 27 to 6 o'clock postmeridian July 26.

(e) Southwestern district: From 6 o'clock antemeridian May 27 to 6 o'clock postmeridian August 2, and from 6 o'clock antemeridian August 14 to 6 o'clock postmeridian September 13.

(f) Southcentral district: From 6 o'clock antemeridian May 27 to 6 o'clock postmeridian August 2, and from 6 o'clock antemeridian August 14 to 6 o'clock postmeridian September 13.

(g) Southeastern district: From 6 o'clock antemeridian May 27 to 6 o'clock postmeridian August 2, and from 6 o'clock antemeridian August 14 to 6 o'clock postmeridian August 23.

(h) Unimak district: From 6 o'clock antemeridian May 27 to 6 o'clock postmeridian August 2, and from 6 o'clock antemeridian August 14 to 6 o'clock postmeridian September 13.

3. Section 105.5 is amended in paragraph (a) to read as follows:

(a) Bear River district: Over and above the provisions of section 102.8, fishing is prohibited in the Bear River district with any unit of gear unless and until it has been registered with a local representative of the United States Fish and Wildlife Service. In the period from June 24 through August 9, fishing shall be governed according to the following table wherein the number of days of fishing is controlled by the number of units of gear registered for fishing in the Bear River district prior to June 20. A fishing day is designated as beginning at 6 o'clock antemeridian of each day and ending at 6 o'clock postmeridian of the same day.

BEAR RIVER TABLE OF EFFORT AND DAYS OF ALLOWABLE FISHING TIME PER WEEK

Fishing days:	*Units of gear*
1	100 and over.
2	80–90.
3	70–79.
4	60–69.
5	Less than 60.

For the purposes of this section, one drift gill net of not more than 200 fathoms in length shall equal 1 unit of gear and one purse seine shall equal 2.9 units of gear. When the allowable fishing time per week is less than 2 days, fishing will commence on Monday at 6 o'clock antemeridian and will be continuous for the entire period. If the allowable fishing time is 2 days to 5 days per week, fishing will begin at 6 o'clock antemeridian Monday and 6 o'clock antemeridian Thursday and continue for one-half of the total time allowed.

4. Section 105.15 is deleted.

5. Section 105.19 is amended in sections (e), (f), (g), and (h), and by adding a new paragraph designated (n) to read as follows:

(e) Canoe Bay, tributary to Pavlof Bay, in the inner bay at all times and in the outer bay after July 16.

(f) All waters of Ozinski (Orzenoi) Bay within 1,000 yards of any salmon stream.

(g) Balboa Bay: All waters of the bay (1) North of a line extending due west from Reef Point, and (2) inside a line in Left Hand Bay from a point at 55 degrees 31 minutes 36 seconds north latitude, 160 degrees 42 minutes 54 seconds west longitude to a point at 55 degrees 33 minutes 12 seconds north latitude, 160 degrees 42 minutes 6 seconds west longitude, after August 2.

(h) Ivanof Bay: Within 1,000 yards of any salmon stream north and east of Road Island.

* * * * *

(n) Clark and Grub Gulch Bays; and Dorenoi Bay inside a line from a point at 55 degrees 38 minutes north latitude, 160 degrees 24 minutes 6 seconds west longitude to a point at 55 degrees 39 minutes 18 seconds north latitude, 160 degrees 22 minutes 30 seconds west longitude, after August 2.

PART 107—CHIGNIK AREA

1. Section 107.1 is amended in text to read as follows: "The Chignik Area is hereby defined to include all waters of Alaska on the south side of the Alaska Peninsula between the southern entrance to Imuya Bay near Kilokak Rocks, and the western point at the entrance to Kuiukta Bay, including adjacent islands."

2. Section 107.2 is amended in paragraphs (a), (b), and (c) to read as follows:

(a) Western district: From 6 o'clock antemeridian July 1 to 6 o'clock postmeridian August 2; and from 6 o'clock antemeridian August 14 to 6 o'clock postmeridian August 23.

(b) Chignik Bay district: From 6 o'clock antemeridian June 17 to 6 o'clock postmeridian August 30.

(c) Eastern district: From 6 o'clock antemeridian July 1 to 6 o'clock postmeridian August 2.

3. Section 107.3 is amended in paragraph (b) to read as follows:

(b) Chignik Bay district: From 6 o'clock postmeridian Monday to 6 o'clock antemeridian Wednesday; from 6 o'clock postmeridian Wednesday to 6 o'clock antemeridian Friday; and from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

4. Section 107.6 is amended in paragraph (b) to read as follows:

(b) The use of purse seines is prohibited except in the Western district, and in the Eastern district east of Cape Kunmik.

5. Sections 107.13 and 107.14 are suspended through December 31, 1957.

6. Section 107.15 is amended in paragraphs (a) and (b), and by adding paragraphs (c), (d), and (e) to read as follows:

(a) Chignik Lagoon: (1) Within a line from a point on the mainland at 56 degrees 18 minutes 00 seconds north latitude, 158 degrees 36 minutes 42 seconds west longitude, to a point on the north side of Chignik Island at approximately 56 degrees 17 minutes 30 seconds north latitude, 158 degrees 34 minutes 54 seconds west longitude, thence to a point on the east side of Chignik Island at 56 degrees 16 minutes 48 seconds north latitude, 158 degrees 34 minutes 38 seconds west longitude, thence to Green Point on the mainland at 56 degrees 16 minutes 44 seconds north latitude, 158 degrees 33 minutes 52 seconds west longitude, and (2) all waters of Mallard Duck Bay inside a line from Green Point to Chignik Island; both effective in 1957 only.

(b) Aniakchak Lagoon: All waters of the lagoon and within 500 yards of the entrance.

(c) Yantarni Lagoon: All waters of the lagoon and within 500 yards of the entrance.

(d) Nakalilok Lagoon: All waters of the lagoon and within 500 yards of the entrance.

(e) Kujulik Bay: All waters in the southwest end of the bay inside a line from a point at approximately 56 degrees 35 minutes 52 seconds north latitude, 157 degrees 59 minutes 00 seconds west longitude, to a point at 56 degrees 34 minutes 00 seconds north latitude, 157 degrees 57 minutes 30 seconds west longitude.

PART 108—KODIAK AREA

1. Section 108.1 is amended in text to read as follows:

§ 108.1 *Definition.* The Kodiak area is hereby defined to include all waters of Alaska from the southern entrance to Imuya Bay near Kilokak Rocks, to Cape Douglas, including Kodiak, Afognak, and adjacent islands.

2. Section 108.2 is amended in headnote to read: "§ 108.2 *Definitions, fishing districts and sections,*" and is also amended in paragraphs (a), (b), and (c), and by adding a new paragraph designated (b-1) to read as follows:

(a) Alitak district: All waters between Cape Trinity and Low Cape.

(1) Moser-Olga Bay section; inside a line from the southernmost point of Miller Island to the southernmost point of High Rock.

(2) Alitak Bay section; all other waters of the district.

(b) Red River district: All waters from Low Cape to Sturgeon Head.

(b-1) Sturgeon River district: All waters from Sturgeon Head to Cape Karluk.

(c) Karluk district: All waters from Cape Karluk to Broken Point.

(1) Inner Karluk section; all waters from Cape Karluk to Cape Uyak.

(2) Uyak Bay section; all waters inside a line from Cape Kuliuk to the Uyak Postoffice.

(3) Outer section; all other waters of the district.

3. Section 108.3 is amended to read as follows:

§ 108.3 *Open seasons, Karluk district.* Fishing is prohibited except from 6 o'clock antemeridian June 3 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28: *Provided,* That fishing is prohibited, (1) Prior to 6 o'clock antemeridian July 8 in the Uyak section, and (2) from 6 o'clock postmeridian July 19 to 6 o'clock antemeridian July 29 in the Inner Karluk section.

4. Section 108.3a is amended to read as follows:

§ 108.3a *Open seasons, Mainland district.* Fishing is prohibited except from 6 o'clock antemeridian July 8 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

5. Section 108.3b is amended to read as follows:

§ 108.3b *Open seasons, Afognak district.* Fishing is prohibited except from 6 o'clock antemeridian July 8 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

6. Section 108.3c is amended to read as follows:

§ 108.3c *Open seasons, General district.* Fishing is prohibited except from 6 o'clock antemeridian July 8 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

7. Section 108.4 is amended to read as follows:

§ 108.4 *Open season, Red River district.* Fishing is prohibited except from 6 o'clock antemeridian July 8 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

8. A new section designated 108.4a is added to read as follows:

§ 108.4a *Open seasons, Sturgeon River district.* Fishing is prohibited except from 6 o'clock antemeridian June 3 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

9. Section 108.5 is amended to read as follows:

§ 108.5 *Open seasons, Alitak district.* Fishing is prohibited except from 6 o'clock antemeridian July 1 to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28; *Provided,* That in the Alitak Bay section fishing is prohibited prior to 6 o'clock antemeridian July 8.

10. Section 108.5a is amended to read as follows:

§ 108.5a *Open seasons, Uganik district.* Fishing is prohibited except from 6 o'clock antemeridian July 8, to 6 o'clock postmeridian August 13, and from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 28.

11. Section 108.5b is amended to read as follows:

§ 108.5b *Weekly closed period.* Prior to September 5, the weekly closed period is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday: *Provided,* That after August 1 in the Moser-Olga Bay section of the Alitak district, the weekly closed period is further extended to include the period from 6 o'clock postmeridian Tuesday to 6 o'clock antemeridian Thursday.

12. Section 108.10 is amended to read as follows:

§ 108.10 *Fishing limited, Olga and Moser Bays.* Fishing is prohibited (a) in Olga Bay, except with set or anchored gill nets along the south shore from the latitude of Stockholm Point to a point at 57 degrees 4 minutes 23 seconds north latitude, 154 degrees 6 minutes 38 seconds west longitude, and along the eastern shore from a point at 57 degrees 4 minutes 23 seconds north latitude, 154 degrees 5 minutes 2 seconds west longitude, to a point at 154 degrees west longitude, and along the north shore from a point at 154 degrees 3 minutes west longitude to the latitude of Stockholm Point; and (b) in Moser Bay except with set or anchored gill nets south of a line from 57 degrees 0 minutes 11 seconds north latitude, 154 de-

grees 7 minutes 58 seconds west longitude, to 57 degrees 1 minute 27 seconds north latitude, 154 degrees 8 minutes 32 seconds west longitude.

13. A new section designated 108.16a is added to read as follows:

§ 108.16a *Gear, Sturgeon River district.* Fishing is prohibited in the Sturgeon River district except by purse seines and set or anchored gill nets.

14. Section 108.24 is amended in paragraphs (i) and (s) to read as follows:

(i) Terror Bay: All waters within the bay south of 57 degrees 44 minutes 41 seconds north latitude.

* * * * *

(s) Barling Bay: All waters of the bay.

PART 109—COOK INLET AREA

1. Section 109.2 is amended in text to read as follows:

§ 109.2 *Open seasons.* (a) Northern and North Central districts: (1) From 9 o'clock antemeridian May 27 to 9 o'clock antemeridian June 24 with gill nets only, of which no legal limit shall have more than 35 fathoms of mesh less than 8½ inches stretched measure, (2) From 9 o'clock antemeridian June 24 to 9 o'clock postmeridian August 12, and (3) From 9 o'clock antemeridian August 19 to 9 o'clock postmeridian September 20 with gill nets only.

(b) South Central district: (1) From 9 o'clock antemeridian May 27 to 9 o'clock postmeridian August 12, and (2) From 9 o'clock antemeridian August 19 to 9 o'clock postmeridian September 20 with gill nets only.

(c) Southern district: (1) From 9 o'clock antemeridian May 27 to 9 o'clock postmeridian August 12, and (2) From 9 o'clock antemeridian September 2 to 9 o'clock postmeridian September 10.

(d) Outer district: (1) From 9 o'clock antemeridian July 11 to 9 o'clock antemeridian July 17, and (2) From 9 o'clock antemeridian July 25 to 9 o'clock antemeridian August 7.

2. Section 109.2a is amended in paragraph (a) to read as follows:

(a) (1) In the Northern, North Central, South Central, and Southern districts prior to July 1 from 9 o'clock antemeridian Friday to 9 o'clock antemeridian Monday and from 9 o'clock antemeridian Tuesday to 9 o'clock antemeridian Thursday. In the period July 1 to July 27 inclusive, the number of fishing days per week shall be governed by the total number of units of gear registered for fishing in these districts as of the preceding June 1 in accordance with the following table:

Units of gear:	*Days of fishing per week*
1540	1.0
1290–1539	1.5
1050–1289	2.0
880–1049	2.5
770–879	3.0
700–769	3.5
650–699	4.0
649	5.0

(2) For the purposes of this section, one set of set net gear shall equal 1 unit of gear; one drift gill net shall equal 2 units of gear; one hand trap shall equal 4 units of gear; and one pile trap shall equal 8.5 units of gear.

(3) When the allowable fishing time is one day per week, fishing will be permitted from 9 o'clock antemeridian Monday to 9 o'clock antemeridian Tuesday. When the allowable fishing time is more than one day and less than three days per week, fishing will commence at 9 o'clock antemeridian on Monday and 9 o'clock antemeridian on Thursday, and will be continuous thereafter for one-half of the total fishing time allowed. When the allowable fishing time is three or three and one-half days per week, the fishing time shall be divided into three equal parts starting at 9 o'clock antemeridian on each Monday, Wednesday and Friday. When the allowable fishing time is four days or more per week, fishing will commence at 9 o'clock antemeridian Monday and be continuous thereafter for the total fishing time allowed. As used in this section "day" refers to a period of twenty-four hours.

3. Section 109.6 is amended in the last sentence of text to read as follows: The use of drift gill nets is prohibited in the Northern, Southern and Outer districts.

4. A new section designated 109.7a is added to read as follows:

§ 109.7a *Use of gill nets restricted.* In the period from July 1 to July 27: (a) No gill net registered as a set gill net may be used as a drift gill net, nor may any gill net registered as a drift gill net be used as a set net; (b) No fisherman licensed to operate or assist in operating a drift gill net shall operate a set gill net; and no fisherman licensed to operate a set gill net shall operate or assist in operating a drift gill net; (c) During any weekly open fishing period the picking of any gill net shall be deemed to be a part of the fishing operation and shall be performed only on a registered net by fishermen licensed to operate a particular legal limit of gear.

5. Section 109.8 is amended in text to read as follows: "Each drift gill net in operation shall have a suitable bright red keg, buoy or cluster of floats at each end which shall be plainly and legibly marked with the permanent registration number of the United States Fish and Wildlife Service, as well as the initials of the operator, and bright red double floats shall be attached to the cork line at 25-fathom intervals."

6. Section 109.15e is amended as follows: By deleting from the proviso the words "6 o'clock antemeridian" and substituting in lieu thereof "9 o'clock antemeridian June 24"; by amending paragraph (c), (3) to read as follows:

(3) From 60 degrees 65 minutes 34 seconds north latitude, 150 degrees 44 minutes 13 seconds west longitude to the latitude of Birch Hill at approximately 60 degrees 14 minutes 00 seconds north latitude;

and by adding to paragraph (c) a new subparagraph (4) as follows:

(4) From the latitude of Gray Cliff to the southern boundary of the district at Boulder Point.

7. Section 109.15f is amended in the proviso by deleting "6 o'clock antemeridian June 25" and substituting in lieu thereof "9 o'clock antemeridian June 24", and in paragraph (a) subparagraph (2) to read as follows:

(2) From 60 degrees 45 minutes 56 seconds north latitude, 151 degrees 44 minutes 27 seconds west longitude, to 60 degrees 43 minutes 53 seconds north latitude, 151 degrees 48 minutes 36 seconds west longitude and, from 60 degrees 24 minutes 36 seconds north latitude, 152 degrees 16 minutes 35 seconds west longitude, to 60 degrees 24 minutes 14 seconds north latitude, 152 degrees 15 minutes 23 seconds west longitude.

8. Section 109.15g is revised in paragraphs (a) (1) and (b) (18), and by deleting subparagraphs (19), (20), and (21) of paragraph (b).

(a) * * *

(1) From 60 degrees 16 minutes 11 seconds north latitude, 152 degrees 29 minutes 54 seconds west longitude, to 60 degrees 14 minutes 14 seconds north latitude, 152 degrees 32 minutes 37 seconds west longitude and; from 60 degrees 13 minutes 25 seconds north latitude, 152 degrees 34 minutes 39 seconds west longitude to the latitude of Chisik Island Light.

* * * * *

(b) * * *

(18) From 60 degrees 04 minutes 51 seconds north latitude, 151 degrees 37 minutes 55 seconds west longitude to the latitude of the United States Fish and Wildlife Service marker marking the northern limit of the closed area at the mouth of Ninilchik River.

9. Section 109.15i is deleted.

10. Section 109.16 is amended in paragraph (c) to read as follows:

(c) Kamishak Bay: All waters within one statute mile of any salmon stream.

11. Section 109.25 is amended by adding a new paragraph designated (c) to read as follows:

(c) The float of each crab pot shall be plainly and legibly marked with the permanent United States Fish and Wildlife Service registration number and all pots fished under a single registration shall be consecutively numbered, starting with the number one.

12. Section 109.51a is amended in text to read as follows: "Personal use fishing shall be limited to a take of not to exceed 10 salmon per person per day by hook and line of which not more than two may exceed 16 inches in length."

PART 110—RESURRECTION BAY AREA

1. A new section designated 110.1a is added to read as follows:

§ 110.1a *Definitions, fishing districts.* (a) Eastern district: All waters east of 149 degrees 30 minutes west longitude.

(b) Western district: All waters west of 149 degrees 30 minutes west longitude.

2. Section 110.3 is amended to read as follows:

§ 110.3 *Open seasons.* Fishing is prohibited except (a) Eastern district, from

9 o'clock antemeridian August 1 to 6 o'clock postmeridian September 14, (b) Western district, from:

(1) 9 o'clock antemeridian July 1 to 9 o'clock antemeridian July 17, and

(2) from 9 o'clock antemeridian July 25 to 9 o'clock postmeridian August 8.

3. A new section designated 110.10a is added to read as follows:

§ 110.10a. *Size of beach seines.* No beach seine shall be less than 125 meshes in depth or less than 90 fathoms in length measured on the cork line. For the purpose of determining the depth of seines, measurements will be made on the basis of 3½ inches stretched measure between knots.

4. Section 110.50 is amended to read as follows:

§ 110.50 *Closed waters.* Fishing for, taking or molesting any salmon is prohibited in Bear Creek and Lake, Grouse Creek and Lake, and Salmon Creek, prior to 6 o'clock antemeridian August 15.

5. A new section designated 110.51 is added to read as follows:

§ 110.51 *Bag limit.* Personal use fishing shall be limited to a take of not to exceed 10 salmon per person per day with hook and line, of which not more than two shall exceed 16 inches in length.

PART 111—PRINCE WILLIAM SOUND AREA

1. Section 111.2 is amended to read as follows:

§ 111.2 *Open seasons.* Fishing, except trolling, is prohibited except in (a) Eshamy district from 6 o'clock antemeridian July 10 to 6 o'clock postmeridian August 22, (b) general district, from 6 o'clock antemeridian July 10 to 6 o'clock antemeridian August 10: *Provided,* That the number of purse seines registered prior to June 10 does not exceed 135. Should more than 135 purse seines be registered prior to June 10, the fishing season will be shortened according to the following table.

Number of purse seines:	Season closing date (6 o'clock antemeridian)
135 or less	August 10.
136–140	August 9.
141–145	August 8.
146–150	August 7.
151–155	August 6.
156–160	August 5.
161–165	August 3.
166–170	August 2.
171–180	August 1.

2. Section 111.11 is amended as follows: (Notice)—Effective only through December 31, 1957, § 111.11 is amended by deleting paragraphs (b), (f), (g), (h) (1), (i) (2), (j), (k), (n), (p), (q), (r), (s), (t), (u), (v), (w), (y), (aa) and (bb); and revising paragraphs (a), (d), and (z), so that §111.11 as changed reads as follows:

§ 111.11 *Areas open to traps.* (a) Knight Island: From a point on the southeast coast at 60 degrees 10 minutes north latitude southerly to Point Helen.

(c) Bainbridge Island: Within 2,500 feet of a point at 60 degrees 11 minutes 42 seconds north latitude, 148 degrees 2 minutes 32 seconds west longitude.

(d) Chenega Island: Along the southeastern coast from a point 2 statute miles north of Chenega Point to a point 1 statute mile north of Chenega Point.

(e) Mainland Coast within 2,500 feet westerly of a point at 60 degrees 24 minutes 58 seconds north latitude, 147 degrees 57 minutes 50 seconds west longitude.

(h) Western side of Valdez Arm: from 60 degrees 58 minutes 10 seconds north latitude, to 60 degrees 59 minutes 10 seconds north latitude.

(i) Southwest coast of Bligh Island: Within 2,500 feet of a point at 60 degrees 49 minutes 6 seconds north latitude, 146 degrees 48 minutes 55 seconds west longitude.

(l) Within ½ statute mile of Porcupine Point.

(m) Mainland coast, near Knowles Head: Within 2,500 feet of a point at 60 degrees 41 minutes 40 seconds north latitude, 146 degrees 39 minutes 54 seconds west longitude.

(o) From a point on the coast 1 statute mile northwestward of the light at Gravina Point to a point on the coast 2 statute miles northwestward of the light on Gravina Point, making an open area of 1 statute mile.

(x) Montague Island: Along the coast from a point on the south side of MacLeod Harbor at 59 degrees 52 minutes 20 seconds north latitude, 147 degrees, 50 minutes 32 seconds west longitude to a point at 59 degrees 52 minutes 10 seconds north latitude, 147 degrees 51 minutes 32 seconds west longitude.

(z) Western coast of Montague Island: From Point Bazil on the north side of the entrance to Hanning Bay northeasterly along the coast 1 statute mile.

3. Section 111.12 is amended: (1) By revising paragraphs (k) and (w); (2) By adding new paragraphs (aa), (bb), (cc), (dd), and (ee); and (3) By deleting paragraph (x).

(k) (1) Port Valdez: All waters east of 146 degrees 39 minutes 00 seconds west longitude.

(2) East side of Valdez Arm, Jack Bay: All waters east of 146 degrees 35 minutes 32 seconds west longitude, and within 1,000 yards of the terminuses of the two streams on the south shore of the bay.

(3) Valdez Arm, the bay locally known as Sawmill Bay: All waters within 1,000 yards of the terminus of the salmon stream on the west shore of the bay north of the lagoon.

* * * * *

(w) (1) Hinchinbrook Island, Anderson Bay: All waters at the heads of the two bays, inside lines drawn from a point at (1) 60 degrees 28 minutes 00 seconds north latitude, 146 degrees 32 minutes 45 seconds west longitude to a point at 60 degrees 27 minutes 54 seconds north latitude, 146 degrees 31 minutes 50 seconds west longitude, and (2) from a point at 60 degrees 27 minutes 45 seconds north latitude, 146 degrees 29 minutes 00 seconds west longitude to a point at 60 degrees 28 minutes 10 seconds north latitude, 146 degrees 27 minutes 00 seconds west longitude.

(2) Hinchinbrook Island, Hawkins Cutoff: All waters west of a line extending from a point at 60 degrees 27 minutes 15 seconds north latitude, 146 degrees 21 minutes 30 seconds west longitude to a point at 60 degrees 24 minutes 30 seconds north latitude, 146 degrees 19 minutes 30 seconds west longitude.

* * * * *

(aa) Port Gravina, Comfort Cove: All waters within 1,000 yards of the terminus of the stream at the head of the cove.

(bb) (1) Port Fidalgo, Two Moon Bay: All waters within 1,000 yards of the terminus of the stream at the head of the east arm.

(2) Port Fidalgo, Landlock Bay: All waters within 1,000 yards of the terminus of the stream at the head of the bay.

(cc) Wells Bay: All waters within 1,000 yards of the terminus of each of the two streams at the extreme head.

(dd) Port Nellie Juan: All waters within 1,000 yards of the terminuses of the following three streams located at approximately (1) 60 degrees 35 minutes 30 seconds north latitude, 148 degrees 15 minutes 00 seconds west longitude, (2) 60 degrees 34 minutes north latitude, 148 degrees 20 minutes 30 seconds west longitude, and (3) 60 degrees 35 minutes 40 seconds north latitude, 148 degrees 24 minutes west longitude.

(ee) (1) Montague Island, MacLeod Harbor: All waters within 1,000 yards of the terminus of all salmon streams at the head of the bay.

(2) Montague Island, Hanning Bay: All waters within 1,000 yards of the terminus of the stream at the head.

(3) Montague Island, Zaikof Bay: All waters within 1,000 yards of the terminus of the stream on the south shore nearest the head of the bay.

(4) Montague Island, Port Chalmers: All waters east of a line extending from a point at 60 degrees 14 minutes 20 seconds north latitude, 147 degrees 13 minutes 47 seconds west longitude, to a point at 60 degrees 15 minutes 25 seconds north latitude, 147 degrees 10 minutes 47 seconds west longitude.

PART 113—BERING RIVER-YAKATAGA AREA

1. Section 113.1 is amended in text after the word "waters" by adding "of Alaska".

2. Section 113.5 is amended to read as follows:

§ 113.5 *Weekly closed period.* Fishing is prohibited from 6 o'clock antemeridian Saturday to 6 o'clock antemeridian Monday, and from 6 o'clock antemeridian Wednesday to 6 o'clock postmeridian Thursday: *Provided,* That the mid-week closure shall not apply in the Bering River district after August 10.

3. Section 113.8 is amended in paragraph (b) by deleting from the text "or boat".

PART 114—YAKUTAT AREA

1. Section 114.2a is amended in paragraphs (a), (b), and (e) as follows: (a) by deleting "June 1" and substituting in lieu thereof "June 3", paragraph (b) is re-established to read as follows:

(b) Situk-Ahrnklin Inlet: From 6 o'clock antemeridian June 24 to 6 o'clock postmeridian September 30. (e) By deleting "June 17" and substituting in lieu thereof "June 15."

2. Section 114.2b is amended by deleting "March 15" and substituting in lieu thereof "April 15."

3. Section 114.4 is amended to read as follows:

§ 114.4 *Weekly closed periods.* The weekly closed period is extended as follows:

(a) Prior to August 11: From 6 o'clock postmeridian Thursday to 6 o'clock antemeridian Monday, except that the closure on the Alsek River shall be from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

(b) After August 11: From 12 o'clock noon Saturday to 12 o'clock noon Monday.

PART 115—SOUTHEASTERN ALASKA AREA SALMON FISHERIES, GENERAL REGULATIONS

1. Section 115.4a is amended in text by deleting "and Burroughs Bay" and substituting in lieu thereof "Sumner Strait in the vicinity of Red and Salmon Bays, North Clarence Strait in the vicinity of Lake Bay, and the Portland Canal section of the Southern district."

2. Section 115.6d is amended in the headnote to read "*Closed season in outside waters, king salmon,*" and in text by deleting "March 15" and substituting in lieu thereof "April 15."

3. Section 115.6e is amended by deleting the final sentence of text.

4. Section 115.10 is amended in headnote to read "*Special season registration,*" and in text by inserting "or for drift gill net fishing along the northeast shore of Prince of Wales Island," immediately after the words "chum salmon fishing."

5. A new center heading is created designated "PERSONAL USE FISHERY" and a new section designated 115.50 is added thereunder to read as follows:

§ 115.50 *Restrictions on taking king salmon by hook and line.* The taking of king salmon in salt water by hook and line for sport or personal use shall be limited to:

(a) The use of not to exceed one line per person.

(b) A bag limit of fifty pounds and one fish.

(c) Fish over either: (1) 26 inches from tip of snout to fork of tail, or (2) six pounds dressed weight.

PART 116—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

Section 116.12 is deleted.

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

1. Section 117.3 is amended in headnote to read "*Open seasons and weekly closed periods,*" and in text by deleting "During these seasons" and substituting in lieu thereof "Except subsequent to August 1 in the Western section."

2. Effective only through December 31, 1957, § 117.11 is amended by deleting paragraphs (a), (b), (c), (g), (h), (i) (2), (j), (l) (1), and (m), and by revising paragraphs (f), (i) (1), (k), and (l) (2).

(f) Chichagof Island: Within 2,500 feet of a point at 58 degrees 16 minutes 26 seconds north latitude, 135 degrees 49 minutes 56 seconds west longitude.

* * * * *

(i) Pleasant Island: (1) Within 2,500 feet of a point at 58 degrees 20 minutes 11 seconds north latitude, 135 degrees 41 minutes 20 seconds west longitude.

* * * * *

(k) Mainland: Along the coast on the east side of Excursion Inlet (1) within 2,500 feet of a point at 58 degrees 15 minutes 24 seconds north latitude, 135 degrees 19 minutes 31 seconds west longitude; (2) within 2,500 feet of a point at 58 degrees 14 minutes 13 seconds north latitude, 135 degrees 17 minutes 34 seconds west longitude.

(l) Chichagof Island: Northeast Coast * * * (2) within 2,500 feet of a point at 58 degrees 5 minutes 43 seconds north latitude, 135 degrees 13 minutes 21 seconds west longitude * * *.

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

1. Section 118.4 is amended in text by deleting "September 30" and substituting in lieu thereof "October 11."

2. Section 118.5 is amended in text (1) by deleting "August 18" and substituting in lieu thereof "August 17"; (2) by deleting "During this season" and substituting in lieu thereof "Prior to August 15"; and (3) in the proviso by deleting "September 1" and substituting in lieu thereof "September 2"; and by adding "prior to September 25" at the end.

3. Section 118.6 is amended in headnote to read "*Open seasons and weekly closed periods, central and southern sections,*" and in text (1) by deleting "August 18" and substituting in lieu thereof "August 17"; (2) by deleting "During this season" and substituting in lieu thereof "Prior to August 15"; and (3) by deleting "6 o'clock antemeridian" from the proviso and substituting in lieu thereof "12 o'clock noon."

4. A new section designated 118.6a is added to read as follows:

§ 118.6a *Open seasons and weekly closed periods, western section.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian June 24 to 6 o'clock postmeridian August 24. Prior to August 20 the weekly closed period, except for trolling, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

5. Effective only through December 31, 1957, § 118.16 is amended by deleting paragraphs (a), (b), (c), (d) (1) and (3), (e), (g), (j) (1), (l), (m) (1) and (2); and by revising paragraphs (i), (j) (2) and (5).

(i) Mansfield Peninsula: West coast (1) from 58 degrees 12 minutes north latitude to 58 degrees 10 minutes 45 seconds north latitude; (2) within (a) 2,500 feet of a point at 58 degrees 7 minutes 13 seconds north latitude; and (b) from 58 degrees 9 minutes 30 seconds north latitude to 58 degrees 8 minutes north latitude.

(j) Admiralty Island: West coast * * * (2) within 2,500 feet of a point at 57 degrees 43 minutes 23 seconds north latitude, (5) from 58 degrees 1 minute north latitude to 57 degrees 58 minutes 10 seconds north latitude.

6. Section 118.17 is amended in text in paragraphs (v) and (w) by adding the following proviso: "*Provided,* That this shall not apply to trolling."

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

1. Section 119.2a is amended in paragraph (c) to read as follows:

(c) Southern section: All waters south of a line from Point Ellis to Patterson Point.

2. Section 119.3 is amended in headnote to read: "*Open seasons and weekly closed periods,*" and in text in paragraph (a) in the second sentence by deleting (1) "During this season" and substituting in lieu thereof "Prior to September 25"; (2) by deleting "Thursday" and substituting in lieu thereof "Friday"; (3) in paragraph (b) by deleting "and southern"; (4) by deleting "August 18" and substituting in lieu thereof "August 17"; (5) by deleting "During this season", and substituting in lieu thereof "Prior to August 15"; (6) by deleting "6 o'clock antemeridian" from the proviso and substituting in lieu thereof "12 o'clock noon"; and is further amended by adding a new paragraph designated (c) to read as follows:

(c) Southern section: From 6 o'clock antemeridian June 24 to 6 o'clock postmeridian August 24. Prior to August 20, the weekly closed period, except for trolling, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

3. A new section designated 119.3a is added to read as follows:

§ 119.3a *Closed area and season, trolling.* Trolling is prohibited during the month of May in Stephens Passage north of Midway Island and in Lynn Canal north of the latitude of Point Retreat and in all contiguous waters.

4. Effective only through December 31, 1957, § 119.9 is amended by deleting paragraphs (b), (c) (1), (e) (1), (f) (1), (2) and (4), (j), (k) (3); and by revising paragraphs (a), (d), (e) (2), (g), and (k) (2) and (4):

(a) Mainland, east side of Stephens Passage: Within 2,500 feet of a point at 57 degrees 35 minutes 49 seconds north latitude, 133 degrees 37 minutes 48 seconds west longitude.

* * * * *

(d) Mainland, Frederick Sound: (1) Within 2,500 feet of a point at 57 degrees 11 minutes 32 seconds north latitude, 133 degrees 32 minutes 27 seconds west longitude; (2) within 2,500 feet of a point at 57 degrees 10 minutes 52 seconds

north latitude, 133 degrees 32 minutes 44 seconds west longitude.

(e) Admiralty Island: Southeast coast * * * (2) within 2,500 feet of a point at 57 degrees 20 minutes 59 seconds north latitude, 133 degrees 52 minutes 53 seconds west longitude.

* * * * *

(g) Admiralty Island: Southeast coast (1) within 2,500 feet of a point at 57 degrees 5 minutes 18 seconds north latitude, 134 degrees 22 minutes 54 seconds west longitude; (2) within 2,500 feet of a point at 57 degrees 4 minutes 2 seconds north latitude, 134 degrees 25 minutes 20 seconds west longitude; and (3) within 2,500 feet of a point at 57 degrees 3 minutes 38 seconds north latitude, 134 degrees 26 minutes 50 seconds west longitude.

* * * * *

(k) Kuiu Island: Northwest coast * * * (2) within 2,500 feet of a point at 56 degrees 45 minutes 51 seconds north latitude, 134 degrees 23 minutes 30 seconds west longitude; * * * and (4) within 2,500 feet of a point at 56 degrees 51 minutes 39 seconds north latitude, 134 degrees 23 minutes 30 seconds west longitude; and within 2,500 feet of a point at 56 degrees 50 minutes 27 seconds north latitude, 134 degrees 25 minutes 11 seconds west longitude.

5. Section 119.10 is amended in paragraph (a) by changing the period at the end of the text to a comma and adding "except for trolling." And in paragraph (p) to read as follows:

(p) Taku Inlet and River: All waters north of the latitude of the survey marker "Lip," which is approximately three-fourths of a mile south of Taku Point.

6. Section 119.11 is amended in paragraph (a) and by adding a new paragraph designated (e) to read as follows:

(a) Auke Creek, and within 500 yards outside its mouth.

* * * * *

(e) Stephens Passage, north of Midway Island and in Lynn Canal north of the latitude of Point Retreat and all contiguous waters, exclusive of the Chilkat River and the Taku Inlet-Port Snettisham section during the month of May.

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

1. Section 120.2 is amended by inserting "Hour Point" between "Chichagof Peak" and "Babbler Point."

2. Section 120.3a is amended to read as follows:

§ 120.3a *Weekly closed period.* From May 1 to September 24 inclusive, the weekly closed period is extended to include the period from 12 o'clock noon Thursday to 12 o'clock noon Monday.

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

1. Section 121.1 is amended by inserting "Hour Point," between "Babbler Point," and "Chichagof Peak."

2. A new section designated 121.2a is added to read as follows:

§121.2a *Definitions, fishing sections.* (a) Anan section: Ernest Sound, Bradfield Canal, and contiguous waters, excluding Zimovia Strait, northwest of a line from Thorns Point to an unnamed islet at approximately 56 degrees 06 minutes 10 seconds north latitude, 132 degrees 06 minutes west longitude.

(b) General section: All other waters of the district.

3. Section 121.3 is amended to read as follows:

§ 121.3 *Open season, Anan section.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian July 15 to 6 o'clock postmeridian August 17. Prior to August 15 the weekly closed period, except for trolling, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

4. Section 121.4 is amended to read as follows:

§ 121.4 *Open season, General section; exception.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian July 22 to 6 o'clock postmeridian August 24. Prior to August 20 the weekly closed period, except for trolling, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday: *Provided,* That the above prohibitions do not apply to drift gill nets between 125 and 300 fathoms in length with mesh not less than five and one-half inches stretched measure, from 6 o'clock antemeridian June 17 to 6 o'clock postmeridian July 19 in open fishing waters within two miles of the Prince of Wales Island shoreline lying between 56 degrees 16 minutes 30 seconds north latitude on the south and east, and 133 degrees 21 minutes 30 seconds west longitude on the north and west.

5. Effective only through December 31, 1957, § 121.10 is amended by deleting paragraphs (b), (c), (d), (e) (1), (f), (g), and (j) (1); and by revising paragraph (e) (2):

(e) Prince of Wales Island: Northwest coast * * * (2) within 1,500 feet of a point at 56 degrees 20 minutes 41 seconds north latitude, 133 degrees 38 minutes 4 seconds west longitude.

6. Section 121.11 is amended in paragraph (t) by inserting "cutoff" after "Petersburg road."

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

1. Section 122.4 is amended in headnote by replacing the period with a semicolon and adding "exception." and by adding a proviso to read: "*Provided,* That the above prohibitions shall not apply to drift gill nets less than 125 fathoms and more than 300 fathoms in length with mesh not less than 5½ inches stretched measure, from 6 o'clock antemeridian June 17 to 6 o'clock postmeridian July 19 in open fishing waters of Kashevarof Passage and Whale Pass lying between Prince of Wales Island and a line extending from Coffman Island successively to Beck Island, Rose Island, the southwest shore of Blashke Island, and the southern extremity of West Island."

2. Section 122.5 is amended to read as follows:

§ 122.5 *Open seasons, Central section.* Fishing is prohibited, except (1) for trolling from 6 o'clock antemeridian April 15 to 6 o'clock postmeridian October 31 and (2) from 6 o'clock antemeridian July 22 to 6 o'clock postmeridian August 26. During the latter season the weekly closed period, except for trolling, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

3. Section 122.5a is amended by deleting "August 29" and substituting in lieu thereof "August 30" and by deleting "6 o'clock antemeridian" from the proviso and substituting in lieu thereof "12 o'clock noon."

Section 122.5b is amended in text by deleting "During these seasons" and substituting in lieu thereof "Prior to August 20."

4. Section 122.6 is amended in text by deleting "Claude Point to Point Lees" and substituting in lieu thereof "Nose Point to Snail Point."

5. Effective only through December 31, 1957, § 122.8 is amended by deleting paragraphs (b), (g), (i), (k) (2), (m) (3), (n), (o), (r) (1) and (3), (t) (2), (u) (1), (w) (2), (cc), (dd), (ff), (ii), (jj), (kk), (ll), (mm), (oo), (pp), (qq), and (ss), and by revising paragraphs (a), (c), (d), (e), (h), (k) (1), (3), (4) and (5), (m) (2), (p), (x), (z), (bb), (ee), and (hh).

(a) Etolin Island: West coast within 2,500 feet of a point at 56 degrees 8 minutes 42 seconds north latitude, 132 degrees 43 minutes 8 seconds west longitude.

* * * * *

(c) West coast of: (1) Marsh Island, and (2) the northwesternmost island of the Screen Islands group.

(d) East Island: East coast within 2,500 feet of a point at 56 degrees 10 minutes 6 seconds north latitude, 132 degrees 54 minutes 13 seconds west longitude.

(e) Prince of Wales Island: East coast within 2,500 feet of a point at 56 degrees 9 minutes 40 seconds north latitude, 132 degrees 53 minutes 31 seconds west longitude.

* * * * *

(h) Onslow Island: West coast within 2,500 feet of a point at 55 degrees 52 minutes 27 seconds north latitude, 132 degrees 23 minutes 29 seconds west longitude.

(k) Cleveland Peninsula: West coast (1) within 2,500 feet of a point at 55 degrees 44 minutes 11 seconds north latitude, 132 degrees 15 minutes 45 seconds west longitude; * * * (3) within 2,500 feet of a point at 55 degrees 36 minutes 15 seconds north latitude, 132 degrees 11 minutes 38 seconds west longitude; (4) within (i) 2,500 feet of a point at 55 degrees 33 minutes 33 seconds north latitude, and (ii) within 2,500 feet of a point

at 55 degrees 33 minutes 1 second north latitude; and (5) within 2,500 feet of a point at 55 degrees 30 minutes 45 seconds north latitude, 132 degrees 0 minutes 55 seconds west longitude.

* * * * *

(m) Gravina Island: * * * (2) within (i) 2,500 feet of a point at 55 degrees 18 minutes 48 seconds north latitude, (ii) 2,500 feet of a point at 55 degrees 16 minutes 58 seconds north latitude, (iii) 2,500 feet of a point at 55 degrees 15 minutes 11 seconds north latitude, (iv) 2,500 feet of a point at 55 degrees 13 minutes 43 seconds north latitude, (v) 2,500 feet of a point at 55 degrees 10 minutes 48 seconds north latitude, (vi) 2,500 feet of a point at 55 degrees 10 minutes 0 seconds north latitude, and (vii) within 2,500 feet of a point at 55 degrees 9 minutes 10 seconds north latitude.

* * * * *

(p) Annette Island: Within (1) 2,500 feet of a point at 55 degrees 5 minutes 41 seconds north latitude, and (2) 2,500 feet of a point at 55 degrees 0 minutes 45 seconds north latitude.

* * * * *

(x) Prince of Wales Island: East coast including adjacent rocks, within 2,500 feet of a point at 54 degrees 57 minutes 19 seconds north latitude.

* * * * *

(z) Prince of Wales Island: East coast within 2,500 feet of a point at 54 degrees 50 minutes 8 seconds north latitude, 131 degrees 57 minutes 39 seconds west longitude.

* * * * *

(bb) Prince of Wales Island: East coast within 2,500 feet of a point at 54 degrees 42 minutes 57 seconds north latitude, 132 degrees 0 minutes 38 seconds west longitude.

* * * * *

(ee) Prince of Wales Island: South coast within 2,500 feet of a point at 54 degrees 41 minutes 50 seconds north latitude, 132 degrees 10 minutes west longitude.

* * * * *

(hh) Cleveland Peninsula: Within 2,500 feet of a point at 55 degrees 32 minutes 43 seconds north latitude, 131 degrees 56 minutes 17 seconds west longitude.

6. Section 122.9 is amended

(1) In paragraph (a) by adding the following proviso: "*Provided*, That these closures shall not apply to fishing for chum salmon during any fall season."

(2) In paragraph (c) to read:

(c) Cholmondeley Sound: (1) Kitkun Bay, (2) the canal entering Dora Bay from the south, and (3) all waters west of and including Sunny Cove: *Provided*, That this closure shall not apply to trolling, nor to fishing for chum salmon during any fall season.

(3) By deleting paragraph (f).

(4) In paragraph (t) by adding "except during any fall chum salmon season.

(5) In paragraph (u) by deleting "the latitude of Snail Point" and substituting in lieu thereof "a line from Nose Point to Snail Point".

(6) By deleting paragraph (w).

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

1. Section 123.3 is amended in the proviso by deleting "6 o'clock antemeridian" and substituting in lieu thereof "12 o'clock noon."

2. Effective only through December 31, 1957, § 123.6 is amended by deleting paragraphs (a), (g), (i), (k), (p), (u) and (v); and by revising paragraphs (d), h), (l), (m), (o), (1), (q), and (t).

(d) San Fernando Island: Northern coast within 2,500 feet of a point at 55 degrees 34 minutes 12 seconds north latitude, 133 degrees 24 minutes 39 seconds west longitude.

* * * * *

(h) Prince of Wales Island: San Christoval Channel within 2,500 feet of a point at 55 degrees 36 minutes 28 seconds north latitude, 133 degrees 21 minutes 30 seconds west longitude.

* * * * *

(l) Prince of Wales Island: Within 2,500 feet of a point at 55 degrees 22 minutes 59 seconds north latitude, 133 degrees 13 minutes 28 seconds west longitude.

(m) Dall Island: Within 1,000 feet of a point at 54 degrees 41 minutes 3 seconds north latitude, 132 degrees 41 minutes 12 seconds west longitude.

* * * * *

(o) Sukwan Island: Southwestern coast (1) within 2,500 feet of a point at 55 degrees 2 minutes 12 seconds north latitude, 132 degrees 53 minutes 28 seconds west longitude;

* * * * *

(q) Prince of Wales Island: South of Point Webster within (1) 2,500 feet of a point at 54 degrees 56 minutes 33 seconds north latitude, 132 degrees 34 minutes 37 seconds west longitude; and (2) within 2,500 feet of a point at 54 degrees 56 minutes north latitude, 132 degrees 33 minutes 11 seconds west longitude.

* * * * *

(t) Heceta Island: Western and southern coast (1) within 2,500 feet of a point at 55 degrees 41 minutes 38 seconds north latitude, 133 degrees 32 minutes 5 seconds west longitude; and (2) within 2,500 feet of a point at 55 degrees 42 minutes 32 seconds north latitude, 133 degrees 35 minutes 28 seconds west longitude.

3. Section 123.7 is amended

(1) In paragraph (a) to read as follows:

(a) Klawak Inlet: All waters east of Klawak and Peratrovich Islands and north of a line connecting the northern extremities of Peratrovich and Wadleigh Islands, including Big Salt Lake.

(2) By deleting paragraph (b).

(3) By creating a new paragraph designated (w) to read as follows:

(w) Shinaku Inlet: All waters north of the latitude of Point Ildefonso.

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

1. A new section designated 124.2a is added to read as follows:

§ 124.2a *Definitions, fishing sections.* (a) Portland Canal section: Portland and Pearse Canals and contiguous waters lying between the Canadian boundary and a line from Akeku Point successively through Male Point, Dark Point, High Point, Tongass Reef light, Katakwa Point and Garnet Point and the longitude of Garnet Point.

(b) General section: All waters of the district not included in the Portland Canal section.

2. Section 124.3 is amended to read as follows:

§ 124.3 *Open seasons and weekly closed periods; exceptions.* Fishing, other than trolling, is prohibited except from 6 o'clock antemeridian July 12 to 6 o'clock postmeridian August 17: *Provided*, That drift gill nets may be used (a) in all open waters of the Portland Canal section from 12 o'clock noon June 17 to 6 o'clock antemeridian July 11 and from 6 o'clock antemeridian September 2 to 6 o'clock postmeridian September 27 and (b) north of the latitude of Hidden Point in Portland Canal from 6 o'clock antemeridian July 11 to 6 o'clock postmeridian August 30. During these seasons the weekly closed period, except for trolling and except subsequent to August 14 in the General section, is extended to include the period from 6 o'clock postmeridian Friday to 6 o'clock antemeridian Monday.

3. Section 124.4 is amended to read as follows:

§ 124.4 *Closed season for trolling, South Arm of Behm Canal.* Trolling is prohibited in Behm Canal between a line from Point Sykes to Point Alava, and a line from Point Eva to Cactus Point from 6 o'clock postmeridian April 30 to 6 o'clock antemeridian July 15.

4. Section 124.7a is amended to read as follows:

§ 124.7a *Size of gill nets, Portland Canal Section.* No gill net shall exceed 200 fathoms in length or 60 meshes in depth.

5. Effective only through December 31, 1957, § 124.8 is amended by deleting paragraphs (b) (1), (d), (2), (e), (f), (o), and (q), and by revising paragraphs (c), (d), (1), (g) (2) and (3), and (p).

(c) Revillagigedo Island: Within (1) 2,500 feet of a point at 55 degrees 11 minutes 28 seconds north latitude, 131 degrees 11 minutes 01 second west longitude; (2) 2,500 feet of a point at 55 degrees 12 minutes north latitude, 131 degrees 14 minutes 22 seconds west longitude; (3) 2,500 feet of a point at 55 degrees 13 minutes 34 seconds north latitude, 131 degrees 17 minutes 19 seconds west longitude; (4) 2,500 feet of a point at 55 degrees 14 minutes 45 seconds north latitude, 131 degrees 19 minutes 32 seconds west longitude; and (5) 2,500 feet of a point at 55 degrees 11 minutes

31 seconds north latitude, 131 degrees 12 minutes 44 seconds west longitude.

(d) Mainland Peninsula between Smeaton Bay and Boca de Quadra: Along the coast (1) within 2,500 feet of a point at 55 degrees 11 minutes 15 seconds north latitude, 131 degrees 5 minutes 26 seconds west longitude.

* * * * *

(g) Mainland south of Foggy Bay: * * * (2) within 2,500 feet of a point at 54 degrees 52 minutes 43 seconds north latitude, 130 degrees 57 minutes 19 seconds west longitude; and (3) within 1,000 feet of a point at 54 degrees 47 minutes 32 seconds north latitude, 130 degrees 54 minutes 53 seconds west longitude.

* * * * *

(p) Kanaganut Island: West coast within 2,500 feet of a point at 54 degrees 44 minutes 16 seconds north latitude, 130 degrees 42 minutes 57 seconds west longitude.

6. Section 124.9 is amended by adding the following paragraphs designated (p), (q), and (r) to read as follows:

(p) Ward Cove: All waters within the cove.

(q) South Behm Canal: All waters north of a line from Point Eva to Cactus Point.

(r) Tombstone Bay: All waters within 1,000 yards of the mouth of the stream entering the bay from the northwest.

7. A new center heading designated "Personal Use Fishery" is created and two new sections designated 124.50 and 124.51 are added thereunder to read as follows:

§ 124.50 *Restricted waters.* The taking of salmon for sport, or personal use, shall not exceed a bag limit of two fish and shall be only by means of hook and line, spear or gaff in the waters of:

(a) Ward Cove, Lake and Creek.

(b) Ketchikan Creek and Thomas Basin.

§ 124.51 *Closed waters.* All fishing for sport or personal use is prohibited in salt water in Behm Canal and contiguous bays north of a line from Point Eva to Cactus Point.

Notice. The notice terminating certain closed areas in parts 115 through 124 on December 31, 1956, as published in the FEDERAL REGISTER on March 19, 1956 (21 F. R. 1780), is amended by deleting "1956" and substituting in lieu thereof "1957."

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

HATFIELD CHILSON,
Acting Secretary of the Interior.

FEBRUARY 28, 1957.

[F. R. Doc. 57-1659; Filed, Mar. 5, 1957; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 3, 4]

DOCUMENTATION AND USE OF VESSELS REBUILT ABROAD, REPORTS OF SUCH REBUILDING UPON ENTRY

PROPOSED AMENDMENT OF CUSTOMS REGULATIONS RELATING TO DOCUMENTATION AND USE OF VESSELS REBUILT ABROAD AND REPORTS OF SUCH REBUILDING UPON ENTRY

Notice is hereby given pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003), that, under the authority cited below, it is proposed to amend §§ 3.2, 3.28, 3.29, 3.30, 3.43, and 4.7 of the Customs regulations, relating to the documentation and use of new and rebuilt vessels and reports upon entry. The proposed amendments are designed to give effect to and to carry out the purposes of the provisions of the act of July 14, 1956 (70 Stat. 544; 46 U. S. C. 883, 883a, 883b; T. D. 54178).

The proposed amendments, in tentative form, are as follows:

1. Section 3.2 is amended by deleting everything in paragraph (c), Class 1, following the footnote reference at the end of the first sentence, so that paragraph (c), Class 1, as amended will read:

Class 1. Any vessel built in the United States and wholly owned by a citizen.[2]

2. Section 3.2 is further amended by deleting the parenthetical matter at the end of paragraph (d), and by inserting a new paragraph (e) reading as follows:

(e) No vessel of classes 1 through 8 above which has acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in or documented under the laws of the United States, and which has thereafter been sold or transferred foreign in whole or in part or placed under foreign registry (§ 3.43) or which, if of more than 500 gross tons, has been rebuilt outside the United States, its territories (not including trust territories), or its possessions after July 13, 1956, or which being of more than 500 gross tons, has been so rebuilt under a contract entered into on or before that date if the work of rebuilding was not commenced within 6 months after July 14, 1956 (§ 3.28),[3] shall have the right thereafter to engage in the coastwise trade. Any document issued to such a vessel shall bear the following notation: As amended by section 27 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the coastwise trade.

(R. S. 4132, as amended, sec. 22, 41 Stat. 977, R. S. 4136, as amended, 4214, as amended, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544; 46 U. S. C. 11, 13, 14, 103, 802, 808, 883, 883a, 883b)

3. A footnote is appended to § 3.2 (e) reading as follows:

* * * * [Sec. 1.] section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., 1952 edition, title 46, sec. 883), is further amended by inserting the following new proviso at the end of the first proviso thereof: *"Provided further,* That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt outside the United States, its Territories (not including trust territories), or its possessions shall have the right thereafter to engage in the coastwise trade." * * *

Sec. 4. This act shall be effective from the date of enactment hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges hereunder if it is rebuilt under a contract entered into before such date of enactment and if the work of rebuilding is commenced not later than six months after such date of enactment. (Secs. 1 and 4 of the act of July 14, 1956 (secs. 1, 4, 70 Stat. 544; T. D. 54178; 46 U. S. C. 883).)

4. Section 3.28 is amended as follows:

a. Paragraphs (a) and (b) are amended to read as follows:

(a) A vessel may be deemed to be a new vessel in a case in which it has been built entirely of new materials or in a case in which it has been built in whole or in part of old materials taken from another vessel provided no considerable part of the old material used has been left undisturbed or intact without being taken up, refitted, and reset. A vessel may be deemed to have been rebuilt if any considerable part of the hull in its intact condition without having been broken up is built upon or substantially altered.

(b) When a new vessel is constructed in whole or in part of material taken from an old vessel; when an existing vessel is rebuilt; when, in the case of a vessel of more than 500 gross tons, the vessel has been so altered in a foreign shipyard as to lose its privileges as a vessel of the United States (§ 3.29 (a)) or has otherwise been so altered in such a yard as to give rise to a reasonable belief that the vessel may have been rebuilt; or when it is desired, in the case of an unrigged wooden vessel, other than a foreign-built vessel (class 9), that a notation be made in the publication, Merchant Vessels of the United States, as to rebuilding, the owner of the vessel shall submit through the collector at the port where the vessel then is or next arrives thereafter to the Commissioner of Customs a certificate of specifications outlining the work performed on the vessel and describing the extent to which old materials used were taken up, refitted, and reset, or, the extent to which parts of the old hull in its intact condition were used or built upon. The certificate shall be accompanied by accurate sketches or blueprints illustrating the extent of the work performed when such sketches or blueprints are available. Such certificates shall also be accompanied by a certificate of the builder, which shall be on customs Form 1261 if the vessel is claimed to be new. In the case of an unrigged wooden vessel, the shipbuilder, in addition to certifying that the vessel is rebuilt and the date of completion and place of such rebuilding, shall certify that the vessel is sound

and free from rotten or doted wood in its structural parts; that it is properly fastened and calked; and that it is as good as new in strength and seaworthiness. The Commissioner of Customs shall decide whether or not the vessel is to be considered to be new or rebuilt and, if either, that decision shall be reflected on the vessel's marine document.

b. Footnote 17, appended to § 3.28 (b), is deleted.

c. Paragraph (c) is amended by deleting the parenthetical matter at the end thereof. A new paragraph (d) is added reading as following:

(d) No vessel of more than 500 gross tons which has been rebuilt within the meaning of this section outside the United States, its territories (not including trust territories), or its possessions, after July 13, 1956, or which has been so rebuilt under a contract entered into on or before that date if the work of rebuilding was commenced later than 6 months after July 14, 1956, shall be documented for nor engage in the coastwise trade.

(R. S. 4155, as amended, 4179, 37 Stat. 189, R. S. 4319, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544; 46 U. S. C. 25, 50, 63, 259, 883, 883a, 883b)

6. Section 3.29 (a) is amended by adding the following at the end thereof: "Every such alteration of a vessel of more than 500 gross tons which is effected in a foreign shipyard shall be reported to the collector of customs at the port where the vessel first arrives in the United States in accordance with the provisions of § 3.28 (b) and the master shall submit the statement required by § 4.7 of this chapter."

7. Section 3.30 (b) is amended by deleting the parenthetical matter at the end of the first sentence and by inserting in lieu thereof the following: "(See §§ 3.2, 3.28, 3.42, and 3.43.)"

8. Section 3.43 (f) is amended by substituting "under § 3.2 (e)" for "under Class 1 of § 3.2 (c)."

(R. S. 161, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544; 5 U. S. C. 22, 46 U. S. C. 2, 3, 883, 883a, 883b)

9. Section 4.7 (b) is amended as follows:

a. Subparagraph (2) is amended by inserting the following new sentence before the last sentence thereof: "If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of an alteration or rebuilding within the meaning of the Act of July 14, 1956 (70 Stat. 544), has been effected in any foreign port or place which has not been reported."

b. A new subparagraph (3) is added reading as follows:

(3) The master of every American vessel of more than 500 gross tons which is rebuilt outside the United States, its territories (not including trust territories), or its possessions shall upon the first entry of the vessel at a port of the United States thereafter report the facts and circumstances of the rebuilding of the vessel to the collector of customs at the port of entry. The report shall be accompanied by the papers required under section 3.28 of these regulations. If any such papers are not available at the time such report is made, they shall be produced to the collector concerned as soon thereafter as may be practicable but if they are not presented within 30 days, and if the delay is not explained to the satisfaction of the collector, appropriate penalty action shall be taken charging violations of the provisions of the act of July 14, 1956 (70 Stat. 544).[16c]

10. A footnote is appended to § 4.7 (b) (3) reading as follows:

[16c] * * * [Sec. 1] section 27 of the Merchant Marine Act, 1920, as amended (U. S. C., 1952 edition, title 46, sec. 883), is further amended by inserting the following new proviso at the end of the first proviso thereof: "*Provided further*, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt outside the United States, its Territories (not including trust territories), or its possessions shall have the right thereafter to engage in the coastwise trade."

Sec. 2. If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt outside the United States, its Territories (not including trust territories), or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury upon the first arrival of the vessel thereafter at a port within the customs territory of the United States in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of $200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (U. S. C., 1952 edition, title 46, sec. 7).

Sec. 3. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this act.

Sec. 4. This act shall be effective from the date of enactment hereof: *Provided, however*, That no vessel shall be deemed to have lost its coastwise privileges hereunder if it is rebuilt under a contract entered into before such date of enactment and if the work of rebuilding is commenced not later than six months after such date of enactment. (Secs. 1–4, Act of July 14, 1956 (Secs. 1–4, 70 Stat. 544; T. D. 54178; 46 U. S. C. 883, 883a, 883b).)

(R. S. 161, 251, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759, secs. 2, 3, 70 Stat. 544; 5 U. S. C. 22, 19 U. S. C. 66, 1624, 46 U. S. C. 2, 3, 883, 883a, 883b)

Prior to the issuance of the proposed amendments, consideration will be given to any relevant data, views, or arguments pertaining thereto which are submitted to the Commissioner of Customs, Bureau of Customs, Washington 25, D. C., and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: February 26, 1957.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 57-1662; Filed, Mar. 5, 1957; 8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 102]

ALASKA COMMERCIAL FISHERIES

NOTICE OF PROPOSED RULE MAKING

On the basis of experience gained since adoption of the regulations in 1956 governing the movements of salmon net fishing effort, it has been determined that the movement of salmon net fishermen must be controlled separately from that of boats and nets. Accordingly, notice is hereby given that the Assistant Secretary of the Interior proposes to recommend to the Secretary that he adopt, in conformity with section 4 of the Administrative Procedures Act of June 11, 1946 (5 U. S. C. 1003), the regulations as set forth in tentative form below:

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

§ 102.8a *License required of salmon net fishermen.* (a) No person shall fish for, assist in fishing for, or be a member of a crew fishing for salmon, for commercial purposes, with any form of net in any of the waters of Alaska without first having obtained a license from a local representative of the United States Fish and Wildlife Service, or any person designated by the Administrator of Alaska Commercial Fisheries to perform specific functions of that Service. Such license shall be valid:

(1) Upon completion of an application on a form furnished for that purpose, and payment of a $5.00 fee.

(2) For the calendar year of issuance.

(3) Within any single registration area (as set forth in § 102.8) of his choice, the code letter of which shall appear on the face of the license, and for no other: *Provided*, That upon request, the Administrator of Alaska Commercial Fisheries may permit the license to be transferred without fee to another registration area for good cause shown, but only after a determination by him, in each case, that such transfer will not jeopardize proper conservation of the salmon runs in the second area. Such transfer, when granted, shall automatically invalidate the license in the previously designated area.

(b) Not more than one license shall be issued to any person during any given calendar year.

(c) Licenses shall be kept immediately available at all times during fishing operations and shall be shown upon request to any authorized representative of the United States Fish and Wildlife Service or of the United States Coast Guard.

NOTE: The above prescribed license is not in lieu of, but is required in addition to, any license required by the Territory of Alaska.

2. Interested persons are invited to participate in this proposed rule making by presenting their views and arguments in writing to the Acting Director of the Bureau of Commercial Fisheries, United States Fish and Wildlife Service, Washington 25, D. C., within 20 days after publication of this notice in the FEDERAL REGISTER.

(Act of June 18, 1926, (44 Stat.) 752; 48 U. S. C. 221 et seq.)

HATFIELD CHILSON,
Acting Secretary of the Interior.

FEBRUARY 28, 1957.

[F. R. Doc. 57-1658; Filed, Mar. 5, 1957; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 909]

[Docket No. AO 214-A1]

ALMONDS GROWN IN CALIFORNIA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Sacramento, California, June 5 and 6, 1956, on proposed amendments to the marketing agreement and order (7 CFR Part 909) regulating the handling of almonds grown in California. Said marketing agreement and order are effective pursuant to the provisions of the act.

Upon the basis of the evidence adduced at the aforementioned hearing and the record thereof, the Deputy Administrator, Marketing Services, Agricultural Marketing Service, United States Department of Agriculture, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. Notice of such recommended decision, and opportunity to file written exceptions with respect thereto, was published in the FEDERAL REGISTER of December 4, 1956 (21 F. R. 9569). Certain exceptions to the proposed amended marketing agreement and order were filed by the California Almond Growers Exchange. The last day for filing such exceptions has expired and no other exceptions have been received.

Ruling on exceptions. All exceptions have been considered carefully and fully in conjunction with the hearing record evidence pertaining thereto in arriving at the findings and conclusions hereinafter set forth. To the extent that the findings and conclusions are at variance with any such exception not otherwise specifically ruled upon, such exception is denied.

Findings and conclusions. The material issues and the findings and conclusions of the aforesaid recommended decision (F. R. Doc. 56-9920; 21 F. R. 9569-9581) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein, except for the corrections set forth below, and except as they are modified by the findings and conclusions in connection with the exceptions which are hereinafter set forth.

The corrections, which relate to the proposed amended marketing agreement and order, are as follows: 21 F. R. 9575, sixth line of the definition of "Secretary" (§ 909.1), change, "perfom" to "perform"; 21 F. R. 9575, sixth line of the definition of "trade demand," change "salting trade" to "salting trades"; 21 F. R. 9576, seventh line of paragraph (d) "right of the Secretary" of § 909.40, insert a comma between "order" and "regulation" so that the phrase will read "Each and every order, regulation," etc.; 21 F. R. 9580, twentieth and twenty-fourth lines of § 909.68 (a) change "August 1" to "September 1"; and 21 F. R. 9581, seventeenth line of § 909.81 (b) "refunds" change "begining" to "beginning."

The exceptions, and the rulings thereon, are as follows:

(1) In § 909.32 of the proposed amended marketing agreement and order, reference is made to mailing ballots and all necessary voting information to handlers and growers, other than cooperative. It is further provided that the growers should also be mailed the names of persons proposed for nomination on petitions filed with the Board. Since it is intended that names submitted by petition, as well as the ballots and other information, should go only to growers other than those belonging to a cooperative and not to all growers, the word "such," rather than the word "the," should be used in the second word of the phrase "to the growers the name of any person proposed for nomination in a petition signed by 15 such growers," so that it will read "to such growers the name of any person proposed for nomination in a petition signed by 15 such growers." The exception in this connection is hereby granted.

(2) In § 909.40 (c) of the proposed marketing agreement and order it is provided that, when any proposition is submitted for voting by mail or telegram, one dissenting vote or failure to vote shall prevent its adoption by that method. The corresponding provision in this connection which was set forth in the Notice of Hearing, merely provided that such a result would accrue only in the case of an actual dissenting vote. It was testified at the hearing by both of the witnesses who testified in this regard that failure to vote in such a situation should be considered as a dissenting vote. In response to questions as to what would be the situation in case the particular member should be unavailable for voting by mail, such as by reason of absence from home at the time, it was testified that it would be the responsibility of the program manager to get in touch with the respective member's alternate in such a situation with a view to having the alternate member vote. The exception on behalf of the proponent, the California Almond Growers Exchange, is to the effect that, after having given further consideration to this aspect, the failure to vote should not be considered as a negative vote. In view of the fact that the testimony of all witnesses unanimously supported such inclusion in the proposal, it is considered necessary to include such provision in § 909.40. The exception is, therefore, denied.

(3) It is provided in § 909.65 of the proposed amended marketing agreement and order that the containers of almonds withheld as surplus by handlers shall be identified by appropriate seals, stamps, or tags affixed thereto, and that such identification shall not be removed except under the supervision of the Board. The exception filed in this connection was to the effect that there should also be included a prohibition against unauthorized alteration of such an identification. It was testified at the hearing that the prohibition against such alteration should be included in the provisions and the failure to do so was inadvertent. The exception is, therefore, granted and the third sentence of proposed new § 909.50 is reworded to read as follows: "such identification shall not be altered or removed except under the supervision of the Board."

(4) Provision is made in § 909.66 (e) of the proposed amended marketing agreement and order for extending the time for surplus disposition to a date later than September 1. It is necessary and intended that conforming changes be provided for in proposed new §§ 909.67 (disposition by handlers) and 909.68 (disposition by Board) to cover any such extension of time. As suggested in an exception, the following should be added to an appropriate place in proposed § 909.67: "If the date of September 1 specified in § 909.66 (e) is extended, the date of September 1 shall be extended correspondingly." Likewise the following should be added at an appropriate place in proposed § 909.68: "If the date of September 1 specified in § 909.66 (e) is extended, the dates of August 31 and September 1 shall be extended correspondingly."

(5) In § 909.81 (a) of the proposed amended order, provision is made to establish such assessment rate per pound of almonds received by each handler for his own account as the Secretary finds is necessary to provide funds to meet the authorized board expenses and establishes for the crop year. The Secretary would establish the rate by dividing the amount of the approved budget by the estimated size of the crop and rounding the resulting figure for convenient use of handlers and the Board. An exception has been made to this proposal advocating a limit of $\frac{2}{10}$ of a cent per pound on any initial assessment rate but permitting a higher rate if subsequent determination indicates it to be necessary. It was testified by the exceptors that their interest was primarily to limit the budget and implying that the assessment rate limit would accomplish that objective. Exceptor implied that the limitation on the initial assessment rate is important to the Board avoiding pressures for expanded programs involving substantial additional expense when recommending its budget. However, on the basis of past experience in operating the order, budgets could be expanded by 50 to 100 percent within the proposed limitation. It would appear that the suggested rate limit would be unnecessary for future normal crop years. However, it could force reduction of expenditures below prudent

limits in years when the crop is small or could prevent budgeting necessary expenditures in future years under conditions not now fully predictable.

It was agreed in testimony at the hearing that, in practice the assessment rate is fixed after the budget is approved by the Secretary, and in an amount that will produce the income necessary to meet such budgeted expenses. An assessment rate limit should not be established which would preclude adoption of a realistic budget based on variable production levels and the necessary costs of program administration in future years. The Secretary should be free to establish annual budgets necessary and appropriate to carry out the program and to fix such assessment rates, under section 10 of the act. Therefore, the exception is denied.

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

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

Dated: March 1, 1957.

[SEAL] EARL L. BUTZ,
Assistant Secretary.

Order, as Amended,[1] Regulating the Handling of Almonds Grown in California

Sec.
909.0 General Findings.

DEFINITIONS

909.1 Secretary.
909.2 Act.
909.3 Person.
909.4 Almonds.
909.5 Unshelled almonds.
909.6 Shelled almonds.
909.7 Edible kernel.
909.8 Inedible kernel.
909.9 Kernel weight.
909.10 Almonds received for his own account.
909.11 Area of production.
909.12 Grower.
909.13 Handler.
909.14 Cooperative handler.
909.15 Almond product.
909.16 To handle.
909.17 Inspection agency.
909.18 Settlement weight.
909.19 Crop year.
909.20 Handler carryover.
909.21 Trade demand.
909.22 Control Board.
909.23 Part and subpart.

ALMOND CONTROL BOARD

909.30 Establishment.
909.31 Membership representation.
909.32 Nominations.
909.33 Selection and term of office.
909.34 Qualification.
909.35 Alternates.
909.36 Vacancy.
909.37 Expenses.
909.38 Powers.
909.39 Duties.
909.40 Procedure.

SURPLUS CONTROL

909.45 General.
909.46 Withholding surplus.
909.47 Method of establishing salable and surplus percentages.
909.48 Increase of salable percentage.
909.49 Board estimates and recommendations.
909.50 Requirement for withholding surplus..
909.51 Requirements for surplus.
909.52 Inspection and certification of surplus.
909.53 Deferment of time for withholding surplus and procedure.
909.54 Payment to handlers for services rendered.
909.55 Interhandler transfers.
909.56 Assistance of Control Board in accounting for surplus.
909.57 Application of salable and surplus percentages after end of crop year.
909.58 Exchange of surplus almonds.
909.59 Adjustment upon increase of salable percentage.
909.60 Determination of kernel weight.
909.61 Redetermination of kernel weight.
909.62 Varietal shelling ratios for unshelled almonds.

DISPOSITION OF SURPLUS

909.65 Prohibition on the handling of surplus.
909.66 Conditions governing disposition of surplus.
909.67 Disposition by handler.
909.68 Disposition by the Board.

RECORDS AND REPORTS

909.70 Records and verification.
909.71 Record of receipts.
909.72 Report of receipts.
909.73 Periodic reports.
909.74 Other reports.
909.75 Confidential nature of records and reports.

EXPENSES AND ASSESSMENTS

909.80 Expenses.
909.81 Assessment.

MISCELLANEOUS PROVISIONS

909.85 Personal liability.
909.86 Separability.
909.87 Derogation.
909.88 Duration of immunities.
909.89 Agents.
909.90 Effective time, suspension, or termination.
909.91 Effect of termination or amendment.
909.92 Amendments.

AUTHORITY: §§ 989.0 to 989.92 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

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

§ 909.0 *General findings.* (a) The findings hereinafter set forth are supplementary, and in addition, to the findings and determinations which were previously made in connection with the original issuance (15 F. R. 4993) of this marketing agreement and order, and all of said previous findings and determinations are hereby ratified and confirmed, except insofar as such findings and determinations may be in conflict with the findings set forth herein;

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

(c) The marketing order, as hereby proposed to be amended, will be applicable only to persons in the respective classes of industrial and commercial activities specified or necessarily included in the proposals upon which the amendment hearing has been held; and

(d) There are no differences in the production and marketing of almonds in the production area covered by this marketing order, as hereby proposed to be amended, which make necessary different terms applicable to different parts of such area.

It is therefore, ordered, That, on and after the effective date hereof, the handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of this amended order which are as follows.

DEFINITIONS

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

§ 909.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 62 Stat. 1247; 63 Stat. 282, 1051; 7 U. S. C. 601 et seq.).

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

§ 909.4 *Almonds.* "Almonds" means (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California.

§ 909.5 *Unshelled almonds.* "Unshelled almonds" means almonds the kernels of which are contained in the shell.

§ 909.6 *Shelled almonds.* "Shelled almonds" means raw or roasted almonds after the shells are removed and includes blanched, diced, sliced, slivered, cut, halved, or broken almonds, or any combination thereof. Additional almond products may be included by the Secretary from time to time upon consideration of a recommendation from the Control Board or other pertinent information.

§ 909.7 *Edible kernel.* "Edible kernel" means a kernel, piece, or particle of almond kernel which is free from serious damage as defined in the effective United States Standards for Shelled Almonds.

The specifications for "serious damage" as set forth in said standards may be modified by the Secretary after consideration of a recommendation from the Control Board or other pertinent information.

§ 909.8 *Inedible kernel.* "Inedible kernel" means a kernel, piece, or particle of almond kernel which is not an edible kernel.

§ 909.9 *Kernel weight.* "Kernel weight" means the weight of kernels, including pieces and particles, regardless of whether edible or inedible, contained in any lot of almonds, unshelled or shelled.

§ 909.10 *Almonds received for his own account.* "Almonds received for his own account" means all almonds which are received by a handler (including all almonds of his own production), except those which are received by him for storage or processing for the account of any other person and with respect to which such handler performs no handling function.

§ 909.11 *Area of production.* "Area of production" means the State of California.

§ 909.12 *Grower.* "Grower" is synonymous with "producer" and means any person engaging, in a proprietary capacity, in the commercial production of almonds.

§ 909.13 *Handler.* "Handler" means any person handling almonds during any crop year, except that such term shall not include a grower who sells only almonds of his own production at retail at a roadside stand operated by him.

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

§ 909.15 *Almond product.* "Almond product" means any edible preparation other than those included under the definition of "shelled almonds," manufactured entirely or partially from raw shelled almonds, and nut mixtures containing shelled or unshelled almonds.

§ 909.16 *To handle.* "To handle" means to sell, consign, transport, ship (except as a common carrier of almonds owned by another person), or in any other way to put into the channels of trade either within the area of production or from such area to points outside thereof, except that such sales or deliveries by growers to a handler within the area of production shall not be considered as handling.

§ 909.17 *Inspection agency.* "Inspection agency" means the Federal-State Inspection Service or, when specifically designated, the Federal Inspection Service.

§ 909.18 *Settlement weight.* "Settlement weight" means the actual gross weight of any lot of almonds received for his own account by any handler, less adjustments as follows:

(a) For weight of containers,
(b) For excess moisture, and
(c) For trash or other foreign material of any kind.

§ 909.19 *Crop year.* "Crop year" means the 12 months from July 1 to the following June 30 inclusive.

§ 909.20 *Handler carryover.* "Handler carryover" as of any given date means all almonds (except those held as certified surplus) wherever located, then held by handlers for their own accounts (whether or not sold) but not including any almond products.

§ 909.21 *Trade demand.* "Trade demand" means the quantity of almonds (kernel weight basis) which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution in continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone.

§ 909.22 *Control Board.* "Control Board" is synonymous with "Board" and means the Almond Control Board established by this subpart.

§ 909.23 *Part and subpart.* "Part" means the order regulating the handling of almonds grown in the State of California, and all rules, regulations, and supplementary orders issued thereunder, and the aforesaid order shall be a "subpart" of such part.

ALMOND CONTROL BOARD

§ 909.30 *Establishment.* A Control Board of ten members, with an alternate member for each such member, is hereby established.

§ 909.31 *Membership representation.* Two members and an alternate for each member shall be selected from nominees submitted by each of the following groups designated in paragraphs (a) through (d) of this section, or from among other qualified persons belonging to such groups; and one member and an alternate member shall be selected from nominees submitted by each of the following groups designated in paragraphs (e) and (f) of this section, or from among other qualified persons belonging to such groups:

(a) The cooperative handlers;
(b) All handlers, other than cooperative handlers;
(c) Those growers who market their almonds through cooperative handlers;
(d) Those growers who market their almonds through other than cooperative handlers;
(e) The group of cooperative handlers or the group of handlers other than cooperative handlers whichever during that part of the then current crop year through March 31 received for their own account more than 50 percent of the almonds delivered by growers, and
(f) Those growers whose almonds were marketed during that period of the then current crop year through March 31, through the handler group specified in paragraph (e) of this section.

§ 909.32 *Nominations*—(a) *Method.* Nominees for the respective member and alternate member positions shall be chosen by ballot delivered to the Control Board. Nominees chosen as provided herein shall be submitted by the Control Board to the Secretary on or before May 20 of each year together with such related information as he may require. If a nomination for any board member or alternate is not received by the Secretary on or before May 20, he may select such member or alternate from persons belonging to the group to be represented, without nomination. The Control Board shall mail to all handlers and growers, other than cooperative, of record, the required ballots with all necessary voting information, including the names of incumbents willing to accept renomination, and, to such growers the name of any person proposed for nomination in a petition signed by at least 15 such growers and filed with the Board on or before April 20. Distribution of ballots shall be announced by press releases, furnishing pertinent information on balloting, issued by the Control Board through newspapers and other publications having general circulation in the almond producing areas.

(b) *Voting.* (1) Nominees for each member and alternate member position shall be voted upon separately by the group proposing them. The handler or grower group which is determined to be eligible for additional representation pursuant to § 909.31 (e) and (f), respectively, shall nominate such representatives in the same manner prescribed for choosing other nominees.

(2) Each handler may vote for a nominee for each position representing the group to which he belongs. Each handler vote shall be weighted by the quantity of almonds (kernel weight basis computed to the nearest whole ton) handled for his own account through March 31 of the crop year in which nominations are made. The nominee for each position shall be the person receiving the highest weighted vote for the position.

(3) Growers who market their almonds through cooperative handlers shall vote through their respective organizations. Each cooperative shall cast a vote for nominees for each position representing the cooperative grower group and such ballots shall be weighted by the number of growers who are members of, or under contract with, such cooperative. The nominee for each position shall be the person receiving the highest weighted vote for that position.

(4) Growers who market their almonds through other than cooperative handlers shall each have one equal vote. The nominees for each position representing such grower group shall be the person receiving the highest number of votes for that position.

§ 909.33 *Selection and term of office.* Members and their respective alternates shall be selected annually for each group from nominees submitted for that group or from among other qualified persons by the Secretary for a term of one year beginning June 10 and shall serve until their respective successors are selected and qualified.

§ 909.34 *Qualification.* Any person selected as a member or alternate of the

Control Board, shall qualify by filing a written acceptance of his appointment with the Secretary or his designated representative. Any member or alternate who, at the time of his selection, was a member of or employed by a member of the group which nominated him shall, upon ceasing to be such member or employee, become disqualified to serve further and his position on the Control Board shall be deemed vacant.

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

§ 909.36 *Vacancy.* To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate of the Control Board, a successor for his unexpired term shall be selected by the Secretary after consideration of recommendations which may be submitted by members of the group for which such vacancy exists, unless such selection is deemed unnecessary by the Secretary.

§ 909.37 *Expenses.* The members of the Control Board shall serve without compensation, but shall be allowed their necessary expenses.

§ 909.38 *Powers.* The Control Board shall have the following powers:

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

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

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

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

§ 909.39 *Duties.* The Control Board shall have, among other things, the following duties:

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

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

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

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

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

(f) To cause the books of the Control Board to be audited by one or more competent certified public accountants at least once for each crop year, and at such other times as the Control Board may deem necessary or as the Secretary may request; and the report of each such audit shall show, among other things, the receipt and expenditure of funds pursuant hereto; and to file with the Secretary three copies of all audit reports made.

§ 909.40 *Procedure—*(a) *Organization and rules.* The members of the Control Board shall select a chairman from their membership. The Board shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The Board shall give to the Secretary or his designated agent and representatives the same notice of meetings of the Control Board as is given to members of the Board.

(b) *Quorum.* All decisions of the Control Board, except where otherwise specifically provided, shall be by a majority vote of the members present. The presence of six members shall be required to constitute a quorum.

(c) *Voting by mail or telegram.* The Control Board may vote by mail or telegram upon written notice to all members, or alternates acting in their place, including in the notice a statement of a reasonable time not to exceed 10 days in which a vote by mail or telegram must be received by the board manager for counting: *Provided,* That voting by mail or telegram shall not be permitted at any assembled meeting of the Board. When any proposition is submitted for voting by mail or telegram, one dissenting vote or failure to vote shall prevent its adoption by that method.

(d) *Right of the Secretary.* The members of the Control Board (including successors or alternates), and any agent or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the Control Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

SURPLUS CONTROL

§ 909.45 *General.* In order to effectuate the declared policy of the act, no handler shall handle almonds except in accordance with the terms and conditions of this part.

§ 909.46 *Withholding surplus.* When a surplus percentage has been fixed for any crop year, as hereinafter provided, no handler shall handle almonds except on condition that he comply with the requirements in respect to withholding surplus almonds and the prescribed disposition thereof.

§ 909.47 *Method of establishing salable and surplus percentages.* Whenever the Secretary finds, from the recommendations and supporting information supplied by the Control Board or from any other available information, that to designate the percentages of almonds during any crop year which shall be salable almonds and surplus almonds would tend to effectuate the declared policy of the act, he shall designate such percentages. Except as provided in § 909.50 the salable and surplus percentages shall each be applied to the kernel weight of almonds received by a handler for his own account during the crop year. In establishing such salable and surplus percentages, the Secretary shall give consideration to the ratio of estimated trade demand (minus the handler carryover at the beginning of the crop year plus the desirable handler carryover at the end of the crop year) to the estimated production of almonds (all expressed in terms of kernel weight); the recommendation submitted to him by the Control Board; and such other information as he deems appropriate. The total of the salable and surplus percentages established each crop year shall equal 100 percent.

§ 909.48 *Increase of salable percentage.* Upon request filed prior to May 15 by the Control Board or, if the Board should fail to request, by two or more handlers who have handled at least 15 percent of all almonds handled in the preceding crop year, and after findings of fact (based upon a revision of the estimates required under § 909.49 and other pertinent information) that the quantity of salable almonds is not sufficient to satisfy trade demand and desirable carryover requirements for the crop year, the Secretary may increase the salable percentage. Such findings shall be made in the manner specified in § 909.47.

§ 909.49 *Board estimates and recommendations.* To aid the Secretary in fixing the salable and surplus percentages, the Board shall furnish to the Secretary, not later than August 1, the following estimates (kernel weight basis) and recommendations for the crop year, each of which shall be adopted by the affirmative vote of at least six members:

(a) The quantity of almonds to be produced;

(b) The handler carryover as of July 1;

(c) The desirable handler carryover at the end of the crop year;

(d) The trade demand, taking into consideration anticipated imports, economic conditions and the anticipated market price (within the limitations of the act); and

(e) The recommended salable and surplus percentages to be established.

The Board shall also furnish to the Secretary a complete report of the proceedings of the Board meeting at which the recommended salable and surplus percentages were considered. If, for any reason, the Board fails to make these estimates or to recommend to the Secretary salable and surplus percentages as required hereby, reports representing the views of members with respect to such matters may be submitted to the Secretary who may act on the basis of such reports or other information available to him.

§ 909.50 *Requirement for withholding surplus.* Except as otherwise provided in §§ 909.51 and 909.55, every handler shall withhold from handling a quantity of almonds having a certified surplus kernel weight equal to the surplus percentage of the kernal weight of all almonds such handler receives for his own account during the crop year:

Provided, That any quantity of almonds disposed of in outlets such as animal feed or crushing into oil, in a manner permitting accountability to the Board, and which is not certified surplus, shall not be included in such receipts. Almonds which are withheld in satisfaction of a surplus withholding obligation shall be in suitable containers which may be prescribed by the Control Board, be inspected and certified as required § 909.52, and be identified by appropriate seals or stamps or tags to be furnished by the Board and to be affixed to the containers by the handlers under the direction and supervision of the inspectors or the Control Board. Such identification shall not be altered or removed except under the supervision of the Board. Almonds so withheld shall be set aside and kept for the account of the Control Board and, from the date of withholding and at all times thereafter, shall be kept by the handler available for inspection by the Board or its agents. Such almonds shall be stored in such manner as to maintain them in the same condition as when certified as surplus except for loss through fire, acts of God, acts of war, riot or other conditions beyond the handler's control. Upon demand of the Control Board they shall be delivered to the Board f. o. b. handler's warehouse or point of storage, except that the Control Board shall not make such demand upon a handler with respect to surplus almonds for which the time for withholding has been deferred pursuant to § 909.53. The quantity of almonds hereby required to be withheld shall constitute, and may be referred to as, the "surplus" or "surplus obligation" of a handler. The almonds handled by any handler in accordance with the provisions of this part shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8 (a) (5) of the act.

§ 909.51 *Requirements for surplus.* A lot of almonds to be eligible for use in satisfying the surplus obligation of a handler must meet the following requirements, and the weight to be certified and credited as surplus shall be the kernel weight less any inedible kernel weight in excess of three percent of its edible kernel content: (a) The almonds in such lots shall be dry and properly cured and shall not vary widely in grade factors; (b) lots of unshelled almonds shall not have more than 10 percent of the almonds by count affected by adhering hulls (where more than 10 percent of the surface is affected), shall not contain more than 5 percent by weight of loose shells, hulls and other foreign material and shall not contain inedible kernels in excess of 40 percent of the kernel weight; and (c) lots of shelled almonds shall not contain, in the aggregate, more than 15 percent by weight of unshelled almonds and shells, loose hulls, and other foreign material and not more than 40 percent inedible kernels. The kernel content of unshelled almonds shall be included in determining edible and inedible kernel weight. The Secretary upon the recommendation of the Board may modify these requirements or establish additional requirements, including grade requirements for lots of surplus for export or disposition into outlets for human consumption as kernels.

§ 909.52 *Inspection and certification of surplus.* Each handler shall cause an inspection to be made of all almonds withheld by him in satisfaction of his surplus obligation, as soon as practicable after withholding or at such time as the Board may require, to determine that such almonds meet the requirements specified in § 909.51 and to ascertain the kernel weight to be certified. Each handler shall obtain an inspection certificate from the inspection agency and cause a copy of such certificate to be furnished to the Board. The handler shall bear the costs of the inspection and the certificate. The inspection certificate shall show, in addition to such other requirements as the Board may specify, the identity of the handler, the kind and number of containers in the lot and any brands or labels, whether the lot is shelled or unshelled, the variety of almonds in unshelled lots, the certified kernel weight contained in the lot and that it meets the requirements for surplus. Certified lots shall be identified as prescribed in § 909.50. Provisions of this section may be modified by the Secretary upon recommendation of the Board.

§ 909.53 *Deferment of time for withholding surplus and procedure*—(a) *Deferment of time.* Compliance by any handler with the requirements of § 909.50 for withholding surplus shall be deferred to any date desired by the handler, but not later than May 15 of the crop year, upon the voluntary execution and delivery by such handler to the Control Board of a written undertaking that on or prior to the desired date he will have fully satisfied his surplus withholding obligation. Such undertaking shall be secured either by almonds owned by the applying handler and pledged to the Control Board or by a bond or bonds to be filed with and acceptable to the Control Board in the amount or amounts hereinafter specified, conditioned upon full compliance with such undertaking.

(b) *Procedure when almonds are offered as security.* If the applying handler desires to pledge almonds as security, such almonds shall be owned by him free and clear of any and all liens or encumbrances and shall be of a quantity equal to or in excess of the quantity for which deferment is desired, such quantity to be determined pursuant to rules and regulations prescribed by the Control Board with the approval of the Secretary. The applying handler shall execute and deliver to the Control Board appropriate instruments which shall authorize the Board, in case of default, to sell the pledged almonds up to the quantity on which default occurs, as soon as practicable, in the most favorable surplus outlets available, and to remit the proceeds, less board expenses in connection therewith, to the defaulting handler. Pledged almonds in excess of the quantity represented by the default shall be returned to the defaulting handler, who shall be charged with any Board expenses in connection with such excess quantity. The applying handler, in pledging almonds to the Board, shall agree in writing that he will: Store the pledged almonds in bulk storage bins or other containers regularly used by almond handlers, separate and apart from all other almonds; permit inspection of such almonds by the Board or the inspection agency at any time; maintain such almonds insofar as is reasonably practicable in the same condition as when offered as security; store such almonds in a manner that they can be readily identified, weighed, measured, and sampled; and place or cause to be placed on the bins or other containers seals, tags, stamps or other means of identification prescribed by the Control Board, and not remove or permit to be removed such identification except under supervision or direction of the Board.

(c) *Procedure when a bond is offered as security.* (1) If the applying handler desires to furnish a bond as security, such bond shall be provided at the handler's expense, shall be acceptable to the Control Board, with a surety or sureties acceptable to the Board, and shall be in an amount computed by multiplying the pounds of almonds, kernel weight basis, for which deferment is desired by the bonding rate. Such bonding rate shall be computed by the manager of the Control Board and shall be the average (to the nearest half cent) of the current season's opening prices per pound for shelled almonds known as Nonpareil shelled count-to-the-ounce almonds 20/22, 23/25, and 27/30, f. o. b. shipping point, in sacks, of any handler or handlers who during the preceding crop year handled 51 percent of the almonds handled by all handlers. Such handler or handlers shall be selected in order of volume handled in the preceding crop year, using the minimum number of handlers to represent a volume of 51 percent of the total volume handled. If the prices of one handler only are involved such average shall be a simple average of such prices. If the prices of two or more handlers are involved for the designated almonds, the simple average price of each such handler shall be weighted by the total quantity of almonds handled by him during the preceding crop year. Handlers whose prices are to be used as aforesaid shall furnish the Board with information necessary to compute the bonding rate. Until the bonding rate can be computed in any new crop year, the bonding rate to be used shall be computed as herein provided on the basis of the most recent price lists of such handlers. In the event the average price so computed from current prices varies by 5 percent or more, from the then current bonding rate, the bonding rate shall be such current average price and the amount of the handler's bond shall be adjusted on the basis of such revised bonding rate. This method of establishing and adjusting the bonding rate may be modified by the Secretary after consideration of a board recommendation.

(2) In case a handler defaults in meeting his deferred surplus obligation, any funds collected by the Board from the bonding company through such default shall be used by the Control Board to purchase from handlers a quantity of almonds, kernel weight basis, up to but not exceeding the quantity on which the

default occurred. Purchases shall be made from almonds with respect to which the surplus obligation has been met, and shall be of grades, varieties or sizes, and in such containers as the Board specifies in consideration of available surplus outlets. Purchases shall be at the lowest prices at which such almonds are offered and if more almonds are offered than required by the Board, it shall make the purchases from various handlers as nearly as practicable in proportion to the quantity of their respective offerings at the same price. The Control Board shall dispose of the almonds acquired as soon as practicable in the most favorable surplus outlets and shall remit the proceeds from such sales, less board expenses in connection with such transaction, to the defaulting handler.

(3) If any balance of funds collected should remain, after purchases and dispositions are made pursuant to the provision of this subsection in a quantity equal to the defaulted obligation, such balance shall be remitted to the defaulting handler. If for any reason the Board is unable to purchase a quantity of almonds as large as the quantity of surplus in default by the handler, any remaining balance of funds received because of the default less expenses of the Board, shall be remitted to all handlers, other than the defaulting handler, in proportion to the ratio of each such handler's surplus obligation to the total surplus obligation of all such other handlers for the crop years with reference to which the default occurred.

(d) *Effect of satisfaction.* A handler who has defaulted on his bond shall be credited on his surplus obligation with that quantity of almonds represented by the sums collected divided by the bonding rate.

§ 909.54 *Payment to handlers for services rendered.* The Control Board may pay handlers for necessary services rendered by them in connection with almonds eventually disposed of directly by the Board as surplus including but not limited to storing, shelling, sorting, bleaching, grading, packaging, fumigating, and other services in accordance with such schedule of payments and under such conditions as may be established by the Secretary after recommendation of the Control Board.

§ 909.55 *Interhandler transfers.* Any handler may, upon notice to and under the supervision and direction of the Board, transfer almonds or surplus credits to another handler. Any such transfers shall be accounted for in such manner that the surplus obligation and assessments on the combined transactions of the participating handlers shall be fully met and such surplus withholding obligation and assessments may be divided between such handlers in accordance with their arrangements subject to approval of the Control Board.

§ 909.56 *Assistance of Control Board in accounting for surplus.* The Control Board, on written request, may assist handlers in accounting for their surplus obligations and may aid any handler in acquiring almonds to meet any deficiency in his surplus.

§ 909.57 *Application of salable and surplus percentages after end of crop year.* The salable and surplus percentages established for any crop year shall continue in effect with respect to all almonds for which the surplus obligation has not been previously met, which are received for his own account or handled by any handler after the end of such crop year and before salable and surplus percentages are established for the succeeding crop year. After such percentages are established for the new crop year, the withholding requirements for all such almonds theretofore received for his own account or handled during that crop year shall be adjusted to the newly established percentages.

§ 909.58 *Exchange of surplus almonds.* Any handler who has withheld surplus almonds pursuant to the requirements of § 909.50 and has had the same certified as surplus almonds may exchange therefor, to the extent that such almonds have not been disposed of, a certified kernel weight of other almonds, which he has on hand or which he has acquired, equal to or more than the weight of the almonds withdrawn. Any excess weight may be certified to the handler as additional surplus withheld. Any such exchange shall be made under the supervision and direction of the Control Board with appropriate inspection and certification of the almonds involved.

§ 909.59 *Adjustment upon increase of salable percentage.* (a) Upon any increase in the salable percentage and corresponding decrease in the surplus percentage, the surplus obligation of each handler for the entire crop year to the effective date of such action shall be computed in accordance with such revised salable and surplus percentages. From the surplus almonds that may have been withheld by him and not yet disposed of, any handler authorized to act and acting as agent of the Board in disposing of surplus pursuant to § 909.66 shall be permitted to select, under the supervision and direction of the Control Board, the particular surplus almonds to be restored to his salable percentage, and such restoration shall be deemed to fulfill the obligation of the Board with respect to such increase.

(b) In the case of handlers who have not been authorized to dispose of their own surpluses, and handlers who have terminated their agencies to dispose of their own surpluses, prior to an increase in the salable percentage, insofar as practicable each such handler shall be permitted to select almonds from his own surplus to be restored to his salable quantity. In the event there are not sufficient surplus almonds held by the Board at the time the salable percentage is increased, to make full restoration, as represented by the increase in the salable percentage, to all such handlers, the restoration to the salable quantities of the respective handlers shall be pro rata on the basis of certified kernel weight poundage of surplus contributed by said handlers during the crop year to the date of increase of the salable percentage: *Provided,* That restoration shall be made in a manner that will result, to the extent practicable, in a comparable percentage of surplus disposition for each such handler and that no handler shall receive almonds in excess of his contribution. Such restoration to the salable quantity shall be deemed to fulfill the obligation of the Board with respect to the increase in the salable percentage.

§ 909.60 *Determination of kernel weight*—(a) *Almonds for which settlement is made on kernel weight.* All lots of almonds, whether shelled or unshelled, for which settlement is made on the basis of kernel weight shall be included in the total kernel weight for any handler at the settlement weight.

(b) *Almonds for which settlement is made on unshelled weight.* Any unshelled almonds for which settlement is made on the basis of unshelled weight shall be included in the total kernel weight for any handler at the settlement weight of such unshelled almonds multiplied by the applicable shelling ratio in accordance with § 909.62.

§ 909.61 *Redetermination of kernel weight.* The Control Board, on the basis of reports by handlers, shall redetermine the kernel weight of almonds received by each handler for his own account during each crop year through each of the following dates: December 31, March 31, and June 30. Such redetermined kernel weight for each handler shall be the basis for computing his surplus obligation for the crop year through such dates, except that adjustment shall be made for almonds on which the obligation has been assumed by another handler. The redetermined kernel weight for each handler as of any date during the crop year shall be his carryover as of that date, plus deliveries of salable almonds (except deliveries, other than certified surplus, to oil mills or animal feed under the supervision of the Board), plus certified surplus for such crop year to that date (whether or not disposed of), minus his carryover at the beginning of the crop year, minus any almonds on which the surplus obligation has been assumed by a previous handler. Weights used in such computation for various classifications of almonds shall be: (a) For unshelled almonds, other than certified surplus, the kernel weight computed by application of shelling ratios authorized pursuant to § 909.62; (b) for unshelled certified as surplus, the certified kernel weight; (c) for shelled almonds other than certified surplus, the net weight; (d) for shelled almonds certified as surplus, the certified kernel weight; and (e) for shelled almonds used in production of almond products, the weight of such almonds.

§ 909.62 *Varietal shelling ratios for unshelled almonds.* (a) The varietal shelling ratios applicable to unshelled almonds for determination of kernel weight are as follows:

Major varieties:	*Percent*
Nonpareil	60
Jordanolo	60
Ne Plus Ultra	50
IXL	50
Mission	40

Major varieties—Continued	Percent
Drake	40
Peerless	35
Minor varieties:	
King	60
California (California Papershell)	60
Princess	60
Bigelow	55
Harparell	55
Rivers	55
Eureka	54
Klondike	54
Baker	53
Trembath	53
Oakley	52
Silvershell	51
Long IXL	50
Harriott	50
Commercial	49
Frost Proof	49
Smith (Smith's XL)	48
Routier	48
La Marie	48
La Prima	48
Lewelling (Lewelling's Prolific)	47
Proctor	47
Barclay	47
Fairoaks	47
Batham	46
Reams	44
Sellers	43
Marcona	42
Queen	42
Jubilee	42
Walton	41
Gilt Edge	40
Standard	38
Golden State	38
French Langusdoc (Cartagana)	37
Languedoc	37
Hampton	36
Sultana	36
La France	33
Tarragona	33
Philopena	32
Grosse Tender	32
Hardshell	30
Almendro	30
Bidwell	30
Jordan	30
King George	30

(b) Lots of unshelled almonds designated by a handler as unknown or unnamed varieties, or varieties of a name not listed in this section, also lots of mixed varieties (lots containing more than 10 percent by weight of unshelled almonds which differ materially in shape or appearance from the predominant variety in the lot) shall be converted to kernel weight at 60 percent, unless the handler, at his expense, furnishes an inspection certificate applicable to the lot, issued by the inspection agency, showing the kernel weight of the lot. The shelling ratios in this section may be changed by the Secretary, and shelling ratios for other varieties may be specified by him, upon consideration of a Control Board recommendation and other available data.

DISPOSITION OF SURPLUS

§ 909.65 *Prohibition on the handling of surplus.* Except as provided in §§ 909.66 and 909.67 surplus almonds withheld pursuant to the requirements of § 909.50 shall not be handled by any person.

§ 909.66 *Conditions governing disposition of surplus*—(a) *General.* The Control Board shall have power and authority to sell or dispose of any and all surplus almonds withheld upon the best terms and at the highest return obtainable consistent with the ultimate complete disposition of surplus, subject to all conditions of this section.

(b) *Disposition of surplus for export.* Sales of surplus almonds for export to destinations outside the continental United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone shall be made only on execution of an agreement to prevent sale within or reimportation into the United States; and in case of export to Canada or Mexico, such almonds shall be sold only on the basis of a delivered price, duty paid.

(c) *Exclusion from domestic normal trade channels.* No surplus almonds shall be sold in the United States, Alaska, Hawaii, Puerto Rico, and the Canal Zone other than to governmental agencies or to charitable institutions for charitable purposes, except for diversion into almond oil, almond butter, poultry or animal feed, or into other channels which the Control Board finds are noncompetitive with existing normal markets for almonds, and with proper safeguards in each case to prevent such almonds thereafter entering the channels of trade in such normal markets.

(d) *Time restriction on disposition.* The Control Board shall not dispose of, or authorize the disposition of, more than 50 percent of the surplus almonds prior to May 15 of any crop year unless disposition in excess of 50 percent is made pursuant to paragraph (b) of this section or unless the salable percentage is increased pursuant to § 909.48.

(e) *Disposition after September 1.* Any surplus almonds remaining unsold as of September 1 shall be disposed of by the Board as soon as practicable through the most readily available surplus outlets. The date of September 1 herein specified may be extended to a later date by the Secretary, upon recommendation of the Board or other information.

§ 909.67 *Disposition by handler.* Upon request of a handler, made prior to the delivery by him of any surplus to the Board in any crop year, the Board shall authorize such handler to act as agent of the Board, upon such reasonable terms and conditions as the Board may specify and subject to the conditions of § 909.66 in disposing of the surplus contributed by such handler for that crop year. Any handler who is authorized to dispose of his surplus may, through arrangement with another handler, dispose of such surplus through such other handler or, in lieu of disposition, may acquire credits for surplus disposition from another handler. In the first instance, the second handler shall also be subject to the conditions of § 909.66. It shall be the obligation of any handler authorized to dispose of such surplus to effect disposition thereof in accordance with all applicable requirements and conditions. The proceeds of such disposition shall be retained by the handler making the disposition, except that, in case he disposes of the surplus of another handler, the proceeds from that disposition shall be divided between the two handlers on the basis of a mutual agreement. Such authorization shall expire as of September 1 of the next crop year, and any surplus then remaining undisposed of by the handler shall be returned to the Board. If the date of September 1 specified in § 909.66 (e) is extended, the date of September 1 shall be extended correspondingly. Any handler who has been authorized to act as agent of the Board in disposing of his surplus may terminate such agency as of April 1 of the particular crop year by giving written notice to the Board to that effect not later than the previous March 20, in which event such handler shall return to the Board, for disposition by it, all surplus almonds remaining in his possession. In case a handler does not terminate his agency as of April 1, he shall be required to continue to serve as such agent until September 1 of the next crop year. The Board shall not terminate such an agency prior to September 1 unless the agent violates the terms and conditions specified by the Board or other provisions of the order. During the period of such agency the Board, as principal, shall not dispose of the surplus contributed by said agent. The Board, with the approval of the Secretary, may prescribe such rules and regulations as are necessary to regulate disposition of surplus almonds including methods for crediting as surplus any salable almonds sold and delivered to surplus outlets.

§ 909.68 *Disposition by the Board*—(a) *Pools.* Surplus from almonds received by handlers for their own accounts during any crop year, other than surplus disposed of by handlers as agents of the Board as authorized in § 909.67, shall be disposed of by the Control Board in three pools as follows: Pool No. 1—surplus delivered to the Board during a crop year up to April 1 and disposed of during that period; Pool No. 2—surplus delivered to the Board from April 1 to August 31, inclusive, and disposed of during that period, including, in addition to deliveries by handlers not acting as agents, deliveries by handlers who terminate their agencies as of April 1, and also any surplus from Pool No. 1 which was not disposed of prior to April 1, but which is disposed of prior to September 1; and Pool No. 3—all surplus held unsold by the Board on September 1, including, in addition to any surplus turned over to it by handlers whose agencies expired on September 1, any surplus from Pool No. 1 and Pool No. 2 which was not disposed of by the Board prior to September 1. If the date of September 1 specified in § 909.66 (e) is extended, the dates of August 31 and September 1 shall be extended correspondingly.

(b) *Expenses.* Direct expenses incurred by the Control Board in the maintenance and disposition of surplus almonds in each respective pool shall be charged against the proceeds of sales of the almonds in that pool.

(c) *Distribution to handlers.* Net proceeds from the disposition of surplus almonds in each of the three pools shall be distributed by the Board to each handler having an interest in that pool in proportion to his relative contribution thereto in terms of certified kernel

weight. In the case of a carryover from one pool to another pool, the Board shall allocate the interests of the appropriate handlers therein on the basis of their respective total deliveries of almonds, in terms of certified kernel weight, to the Board during the pool period in connection with which such carryover first originated.

RECORDS AND REPORTS

§ 909.70 *Records and verification.* Each handler shall keep records which will clearly show the details of his receipts of almonds, withholdings, sales, shipments, inventories, surplus disposition and other pertinent information in respect to his operations pursuant to the provisions of this part. Such records shall be retained by the handler for two years after the end of the crop year to which they apply. Each handler's premises shall be accessible to authorized representatives of the Board and the Secretary for examination and audit of the aforesaid records and for inspection and observation of almonds. The Board shall make such checks of almonds or audits of each handler's records as it deems appropriate or are requested by the Secretary to insure that accurate information as required in this part is being furnished by handlers.

§ 909.71 *Record of receipts.* For the purpose of establishing the surplus obligation and furnishing statistical information to the Control Board necessary for the conduct of its operations, each handler, on receiving almonds for his own account, shall issue to the person from whom so received a receipt therefor. At least two duplicates thereof shall be made at the time of issuance, one of which shall be retained by the handler as a part of his records and the other submitted to the Control Board as hereinafter provided. Such receipts shall be serially numbered and shall accurately show for each lot received, the identity of the handler, the name and address of the person from whom received, the number of containers in the lot, the variety, whether shelled or unshelled, and the settlement weight for each such variety. The character and amount of all adjustments deducted from the gross weight shall be shown with the gross weight on the receipt issued by the handler.

§ 909.72 *Report of receipts.* Each handler receiving almonds for his own account shall tabulate such receipts by varieties and shall submit reports thereof to the Control Board in such form and at such intervals as the Board may prescribe for all receipts issued by him. Such reports shall be accompanied by duplicate copies of the receipts issued pursuant to the provisions of § 909.71 for all almonds included in such report. The Control Board, after checking such reports in such manner as it deems desirable, shall determine in the manner specified in § 909.60 the kernel weight of the almonds so received.

§ 909.73 *Periodic reports.* On or before January 15, and April 15, and July 15 of each crop year, each handler shall file with the Control Board a written report, certified to the Board and to the Secretary by such handler as to its completeness and correctness, showing as of the close of business on December 31, March 31, and June 30, respectively, such information as may be prescribed by the Board for use in redetermination of kernel weight and marketing policy considerations.

§ 909.74 *Other reports.* Upon the request of the Control Board, made with the approval of the Secretary, every handler shall furnish to the Control Board in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in this part) such other information as will enable the Control Board to perform its duties and exercise its powers hereunder.

§ 909.75 *Confidential nature of records and reports.* All information contained in handler records made available to the Board or the Secretary, or in reports to the Board, constituting a trade secret or disclosing the trade position, financial condition, or business operations of any handler shall be considered as confidential information. Such information received by the Board, shall be kept in the custody and under the control of one or more employees of the Board, who shall disclose such information to no person except the Secretary.

EXPENSES AND ASSESSMENTS

§ 909.80 *Expenses.* The Control Board is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the Control Board and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate. The recommendation of the Control Board as to the expenses for each such year, together with all data supporting such recommendation, shall be submitted to the Secretary on or before August 1 of the crop year in connection with which such recommendation is made.

§ 909.81 *Assessment*—(a) *Requirement for payment.* Each handler shall pay to the Control Board on demand by the Board, from time to time, such sum, based on such rate per pound of almonds, kernel weight basis, received by him for his own account (except as to receipts from other handlers on which assessments have been paid) as the Secretary finds is necessary to provide funds to meet the authorized board expenses and establishes for the crop year. Upon redetermination of the kernel weight of almonds received by handlers for their own account as provided in § 909.61, such redetermined kernel weight for each handler, adjusted for receipts on which assessments have been paid, shall be the basis upon which he shall pay assessments. At any time during or after a crop year, the Secretary may increase the rate of assessments to apply to all such almonds during such crop year to secure sufficient funds to cover the expenses authorized by § 909.80 or by any later finding by the Secretary relative to the expenses of the Control Board, and such additional assessments shall be paid to the Control Board by each handler on demand.

(b) *Refunds.* Any money collected as assessments during any crop year and not expended in connection with the respective crop year's operations under this part may be used and shall be refunded by the Control Board in accordance with the provisions of this part. Such excess funds may be used by the Control Board during the period of four months subsequent to such crop year in paying the expenses of the Control Board incurred in connection with the new crop year. The Control Board shall, however, from funds on hand, including assessments collected during the new crop year, distribute or make available, within five months after the beginning of the new crop year, the aforesaid excess to each handler from whom an assessment was collected, as aforesaid, in the proportion that the amount of the assessment paid by the respective handler bears to the total amount of assessments paid by all handlers during said crop year.

(c) *Disposition of funds upon termination.* Any money collected from assessments hereunder and remaining unexpended in possession of the Control Board upon the termination of this part shall be distributed in such manner as the Secretary may direct.

MISCELLANEOUS PROVISIONS

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

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

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

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

§ 909.89 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative

in connection with any of the provisions of this part.

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

(b) *Suspension or termination*—(1) *Failure to effectuate policy of act.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this part, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(2) *When favored by growers.* The Secretary shall terminate the provisions of this part at the end of any crop year whenever he finds that such termination is favored by a majority of the growers of almonds who during the crop year have been engaged in the production for market of almonds in the State of California: *Provided,* That such majority have during such period produced for market more than 50 percent of the volume of such almonds produced for market within said State; but such termination shall be effected only if announced on or before June 1 of the then current crop year.

(3) *If enabling legislation is terminated.* The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination*—(1) *Designation of trustees.* Upon the termination of the provisions of this part, the members of the Control Board then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Control Board, of all funds and property then in the possession or under the control of the Board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

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

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

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

§ 909.92 *Amendments.* Amendments to this part may be proposed, from time to time, by any person or by the Control Board.

Order Directing That Referendum Be Conducted Among Producers of Almonds in California; Designating Agents To Conduct Referendum; and Determining the Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), it is hereby directed that a referendum be conducted among producers who, during the period July 1, 1956 through March 31, 1957 (which is hereby determined to be the representative period for the purpose of this referendum), were engaged, in the State of California in growing almonds for market, to determine whether such producers approve or favor the issuance of an amended order regulating the handling of almonds grown in California. Said order, as proposed to be amended, is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. Said referendum shall be conducted as soon as is reasonably practicable after March 31, 1957.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F. R. 5176; 19 F. R. 35), except that subparagraph (5) of paragraph (c) is hereby amended to read: "(5) Make available to cooperative marketing associations and to all producers, except those belonging to cooperative marketing associations which elect to vote for their members, copies of the text of the proposed order on amendments, instructions on voting, and appropriate ballots and other necessary forms," and subparagraph (6) of paragraph (c) is hereby amended by changing the period at the end to a comma and adding immediately thereafter the following: "except those producers belonging to a cooperative association which elects to vote in their stead."

Oscar H. Chapin, Harry J. Krade, and Dehard B. Johnson of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary to conduct said referendum jointly or severally.

Copies of the text of the aforesaid amended order may be obtained or examined in: the Office of the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C.; and the Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 701 K Street, Sacramento, California. Additional ballots and other necessary forms and instructions may also be obtained at the aforementioned field office.

[F. R. Doc. 57-1686; Filed, Mar. 5, 1957; 8:54 a. m.]

[7 CFR Part 921]

[Docket No. AO-222-A8]

MILK IN OZARKS MARKETING AREA

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

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the act, and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and proposed amendments to the order, as amended, regulating the handling of milk in the Ozarks marketing area. Interested parties may file written exceptions to the decision with the Hearing Clerk, 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. The hearing on the record of which the proposed marketing agreement and order were formulated was conducted at Springfield, Missouri, on September 24 and 25, 1956, pursuant to notice thereof which was issued September 5, 1956 (21 F. R. 6830).

The material issues of record related to:

1. Reduction in extent of the marketing area;
2. Modification of the distribution of pooled returns to producers supplying pool plants located in Arkansas by raising the location adjustment and providing a separate utilization adjustment;
3. Limitation on the privilege of diverting milk to nonpool plants;
4. Providing for diversion of bulk milk to other handlers;
5. Modification of the pool plant standards;
6. Redefinition of producer-handler;
7. Prorating shrinkage on transfers of milk in bulk;
8. Revision of the classification of inventory changes;

9. Modification of the class II price; and

10. Administrative changes, involving:

(a) Interest charges on payments due the producer-settlement fund and set-off between accounts.

(b) Clarification of the definition of "other source milk";

(c) Clarification of the classification of reconstituted products,

(d) Class II transfers, and

(e) Reinstatement of the permanent Class I price provisions for the months of April, May, and June.

Findings and conclusions. The following findings and conclusions are based on the evidence received at the hearing and the record thereof:

1. *Marketing area.* A handler whose plant is located at Harrison, Arkansas, in Boone County, proposed that that county be deleted from the marketing area.

It is apparent, however, that the procurement and distribution of milk in Boone County has become increasingly competitive since this county was included in the marketing area in August 1954. The increased competition includes additional sales by handlers regulated under the Ozarks and Central Arkansas marketing areas, the purchase of supplemental bulk milk by this handler from other handlers regulated under the Ozarks order, and competition in the procurement of milk both from other Ozarks handlers and from handlers regulated under the Central Arkansas order. It is concluded that Boone County should not be deleted from the marketing area.

2. *Distribution of pooled proceeds to Arkansas producers.* The Ozarks Milk Producers Association, a newly formed cooperative representing the majority of Grade A producers delivering to handlers located in the northwest Arkansas counties of the marketing area made several proposals relating to the handling of milk in these four Arkansas counties. At the hearing the Association abandoned its support of the application of these proposals to Boone and Marion Counties and limited its testimony to the two remaining Arkansas counties of Benton and Washington. Since there was no additional testimony by any other interested parties concerning the original proposals as made by the Association, this decision relative to the proposals of the Association shall apply only to Benton and Washington Counties.

One proposal made by the Association would increase the Class I differential for handlers located in Benton and Washington Counties from 15 to 25 cents per hundredweight.

The present 15-cent Class I differential was originally provided to reflect the transportation costs of moving milk from Springfield to Arkansas markets. Approximately one-third of the total Class I sales in the Arkansas section of the marketing area is supplied by regulated handlers located in Springfield. It was contended that the differential is no longer sufficient to offset the transportation cost of so moving milk thus placing Springfield handlers at a competitive disadvantage in the Arkansas section of the marketing area. In adjusting this differential, however, care must be exercised to prevent its being set at too high a level, thus placing Arkansas handlers at a disadvantage.

According to the Dairyland Transport Company's schedule of rates which was submitted in evidence, the cost of transporting bulk milk from Springfield to Fayetteville (the major city in Northwest Arkansas) is 22 cents per hundredweight plus 3 percent Federal tax. However, this hauling rate reflects only the transportation cost of spot shipments of bulk milk. It does not adequately reflect the actual cost of hauling packaged milk on a regularly scheduled basis when the hauling equipment is owned and the activities of the driver controlled by the shipping handler. The cost of hauling milk in this instance would probably be less than the 22 cents as contained in the rate schedule particularly if the handler controlling the hauling facilities considered only the variable cost factors such as fuel and labor and did not associate any of the fixed cost factors such as management to the operation.

By far the greater share of milk moved by Springfield handlers to Arkansas is in packaged form. There was no evidence submitted by proponents of the increased Class I differential to indicate that the 25-cent differential would better serve to reflect the transportation cost of packaged milk. To increase the location differential without substantial evidence that such an increase is warranted would place Arkansas handlers at a competitive disadvantage relative to order handlers located in Springfield, Missouri. It is, therefore, concluded that the present differential should be maintained.

The Arkansas producers also proposed that payments to those producers supplying the plants located in Benton and Washington Counties, Arkansas, be computed on the utilization of milk by these handlers instead of being computed at the marketwide utilization of milk.

The Ozarks order provides for the marketwide pooling of payments by handlers and the payment of a uniform blend price to producers. The usual alternative is to provide for individual-handler pooling, under which the producers supplying milk to each individual handler receive a blend price based on that particular handler's utilization of milk. An important element in deciding whether to adopt marketwide or individual-handler pooling in any market is the degree to which handlers have become specialized in caring for the daily and seasonal reserve of milk. Such specialization has occurred to a major extent in the Ozarks area where a cooperative association of producers manufactures a large volume of the reserve milk and where some handlers receive only such quantities as are needed for bottling purposes. In such circumstances a marketwide pool serves to equalize returns between those producers delivering to high-utilization plants and those delivering to plants which care for the reserve milk. There was no proposal or testimony at the hearing relative to changing from marketwide to individual-handler pooling in the Ozarks market.

In two major respects the marketing of milk in Benton and Washington Counties remains closely interrelated with the marketing of milk in the Missouri portions of the area. Slightly over one-third of the total Class I sales in these counties are made by handlers whose plants are located outside of these counties, the bulk of them by handlers located at Springfield, Missouri. Also, the handlers located in the two Arkansas Counties specialized in bottling to the extent of depending upon other Ozarks handlers for supplementary supplies in the months of lowest production. These facts support the inclusion of Benton and Washington Counties in the Ozarks marketing area. A proposal by one of the Arkansas handlers to delete these counties from the marketing area was not supported at the hearing. The specialization of the Benton and Washington County plants also supports the continuance of marketwide pooling.

The Arkansas producers' request for a utilization differential was based principally on the competition of other markets for locally produced milk. The competitive markets include Tulsa, Oklahoma, and Dallas, Texas. However, this same competition and that from additional markets is active in the Ozarks market as a whole. The Producers Creamery Company operates a supply plant for the Dallas market at Monette and supply plants for the St. Louis market at Lebanon and Cabool and has a substantial number of members who ship directly to Kansas City plants. The Monette plant is also currently receiving milk from approximately 148 shippers located in Northwest Arkansas who are not members of Producers Creamery Company. These competitive markets have not so far jeopardized the adequacy of the supply of milk for the Ozarks market as a whole, nor is there any noticeable downward trend in the supply-sales relationship at the plants located in Penton and Washington Counties.

It is concluded that sales proceeds throughout the entire Ozarks marketing area should continue to be pooled on a marketwide basis.

3. *Diversion of milk to nonpool plants.* The order presently imposes no limits on the time or extent to which producer milk may be diverted to a nonpool plant for the account of any handler (including a cooperative association).

It was proposed by a cooperative association which operates a supply plant that the diversion privilege be limited during the low production months of September through January to not more than 10 days in any of these calendar months. They pointed out that the diversion privilege is primarily intended to promote efficiency in the marketing of milk not needed at the pool plants for bottling purposes. It is frequently possible for excess milk to be hauled directly from the farms to a nonpool plant for manufacturing instead of being physically received at the pool plant and then transferred to a manufacturing plant. Most commonly, these movements occur during the months of flush production. However, diversions may occasionally be necessary during the

months of low production to accommodate excess milk during holiday periods or on weekends.

Representatives of bargaining associations which do not operate plant facilities pointed out that they have a special problem in this regard. They wish to be in a position to market their members' milk even during times of temporarily reduced demand. Such associations may need to market their members' milk by diversion to nonpool plants even during the five months of lowest production in the event of nonacceptance by the handler, labor disputes involving the hauling, processing or delivery of milk, or unseasonably high rates of milk production due to abnormal weather or other causes.

It is concluded that the diversion privilege should be limited to 10 days in any of the months of September through January. The 10-day period is sufficiently long to accommodate the types of movement to nonpool plants cited by certain cooperative associations. On the other hand, it will accomplish a desirable limitation of the privilege. The 10 days refers to 10 days' production of milk; bulk tank milk is commonly picked up from farms only on an every-other-day schedule and 10 days' production is included in five deliveries. If more than 10 days' milk is diverted, the dairy farmer would lose his status as a producer during the entire delivery month.

4. *Diversion to other handlers.* One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

One cooperative association owns and operates insulated tank trucks in which the milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Recently there has been a very rapid expansion in the number of bulk cooling tanks being installed on the farms and in the number of tank trucks acquired by the cooperative to transport such milk. It is extremely likely that the trend in this direction will continue at a very rapid rate. Other cooperative associations may also become involved in this type of operation.

The transportation of milk from farm to market in insulated tank trucks owned or operated by or under contract to the cooperative association has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is fixed with the responsibility for paying the individual producer for the pounds of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned or operated by or under contract to the cooperative association, the weight of each producer's milk is checked by, and a sample of the milk for butterfat testing is taken by, a person who is an employee of or directly responsible to the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Under these circumstances, it is not proper to make the plant operator responsible for the payment to a producer for a given quantity of milk at a particular test when he has no means of verifying such weights and tests. Rather any cooperative association which qualifies as such under § 921.5 of the order should be made the handler for such milk and should be required to account to the pool for it. The cooperative association would be required to charge the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it.

With respect to milk received from producers' farms in cans or in tank trucks owned or operated by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

5. *Modification of the pool plant standards.* It was proposed that the pool plant definitions be amended. The present order provides that an approved plant may be a pool plant if it disposes of at least five percent of producer receipts during the month as Class I in the marketing area; and that a supply plant may be a pool plant if it ships any milk to an approved plant which is a pool plant, and, during specified months has made its milk available to other handlers for Class I disposition.

It was testified that tighter requirements would remove the possibility of plants not normally associated with the Ozarks market from becoming pool plants via token shipments in the case of supply plants or a relatively small sales volume within the area in the case of approved plants.

It is concluded that the present definitions do not adequately define the plants which constitute the regular and dependable supply of fluid milk for the Ozarks market. Only those plants which are operated in such a fashion as to be regular suppliers and distributors should be subject to regulation and entitled to participate in the marketwide pool.

The pool plant definitions should be redrawn to specify in more detail the standards which determine a regular, dependable supply. The standards should recognize the functional differences between the two major types of plants which serve the market. The approved plants from which milk is distributed directly on routes in the marketing area differ substantially in their operations from supply plants which assemble milk and ship it in bulk to approved plants.

An association of producers proposed that higher shipping requirements be required of supply plants new to the market than those required of plants presently associated with the market. However, the standards should, so far as possible, measure a plant's current service to the market rather than past association with it. The standards for new and old plants should be as nearly comparable as possible. The only appropriate variation in the shipping requirements is that they be moderately higher in the flush production months of April, May, and June than in other months of the year.

It is concluded, therefore, that a supply plant may be pooled if it ships 25 percent of its producer receipts during any of the months of April, May, or June, and 20 percent during any other month to an approved plant: *Provided,* That if such plant ships as much as 20 percent of its producer receipts to approved plants during each of the months of September, October, November, and December it shall be a pool plant through the following August.

The 20 percent represents a comparatively small degree of association with the market. The slightly higher, 25 percent, requirement for plants qualifying in April, May, or June reflects the fact that milk supplies at plants primarily associated with other markets in the region are also at a peak in these months. These plants should not be encouraged to join the Ozarks market on a purely temporary basis for the purpose of participating in the equalization account.

A new supply plant desiring to become a permanent part of the Ozarks market would, of course, be most likely to start shipments during the normally short period, and would maintain its status as a pool plant through the following August if it shipped as much as 20 percent of producer receipts to the market during each of the months of September, October, November and December. However, a new supply plant may come on the market in any of the relatively long supply months by shipping the stated percentages to distributing plants.

Producers proposed that the order language which requires a supply plant to inform the market administrator that producer milk is available for Class I distribution in order to assure pool status in all months of the year should be incorporated in the new supply plant provisions. It appears that these offers may have helped to identify a supply plant with the Ozarks market under the present order which enables a supply plant to become a pool plant as a result of shipping "any" milk to the market. However, the new minimum shipping requirements as contained in this decision will serve more specifically to identify a supply plant and hence the offers need not be continued.

The recommended changes in the standards under which supply plants can qualify as pool plants require consideration of corresponding changes in those applying to distributing plants, defined in the order as "approved" plants. Such plants should also demonstrate a significant association with the market and plants which operate primarily as supply plants should not be permitted to qualify by the distribution of a minor sales volume. These objectives can be accomplished by requiring that approved plants must have not less than fifteen percent of producer receipts disposed of as Class I milk within the marketing area in order to qualify as pool plants. There is no evidence that any approved plant under the present order will experience difficulty meeting the new fifteen percent requirement.

6. *Producer-handler.* Under the terms of the present order, a producer-handler is exempt from the pricing and payment provisions. He does not pay the administrative assessment, nor is his own production included in the marketwide utilization pool.

The simplest form of producer-handler, as described at the hearing, is a person who sells only the milk produced on his own farm. Other operations may be carried on by producer-handlers, and the orders should be made more specific with regard to the types of activities which can be followed without terminating a person's status as a producer-handler.

The proponents were particularly concerned that a producer-handler not be allowed to utilize other source milk for Class I purposes. Conceivably, a producer-handler could rely primarily on other source milk, including reconstituted solids, and thereby avoid the pricing and payment provisions of the marketing order. This should not be permitted. It was pointed out at the hearing, however, that a producer-handler should be permitted to purchase Class II products from unregulated sources for distribution on his routes. This permission should be extended to the purchase of other source milk, as well as products, for manufacturing uses.

The producer-handler definition should, therefore, be amended to provide that milk be received from no other dairy farm than the farm(s) of the producer-handler, that he distribute milk in the marketing area, and that he may purchase supplemental milk from Class I use only from regulated handlers.

7. *Shrinkage.* The order presently in effect allows the originally receiving handler a maximum of 2 percent shrinkage prorated between producer receipts and other source receipts. It does not allow any shrinkage to the handler who may receive milk by transfer from the handler who originally received the milk.

A cooperative association proposed that the order be amended to recognize that milk incurs relatively little shrinkage in its receipt and relatively much more in its processing, bottling, and distribution. Testimony indicated that receiving plants experience approximately one-half percent shrinkage on that milk received and transferred to another plant for processing and bottling.

It is concluded that the order should be amended to recognize that the greatest amount of shrinkage occurs in the processing and bottling phase of milk distribution. One-half of one percent shrinkage should be allowed on that milk which is received at one plant and transferred to another plant for bottling and distribution. The bottling plant will be allowed up to one and one-half percent shrinkage on that milk received in bulk from another plant.

The same association also proposed that 2 percent of milk received in form other than milk, skim milk, or cream and disposed of in some form other than milk, skim milk, or cream be included as allowable shrinkage. This would allow shrinkage on the reprocessing or conversion of manufactured products. However there was no evidence in the record as to actual loss experience on such operations. It is concluded, therefore, that this aspect of the proposal should be denied.

8. *Classification of inventory.* The present order provides that inventory variation of milk, skim milk, cream, or any Class I product be considered a Class II utilization. It was proposed that such inventories on hand at the end of the month be classified as Class II, subject to reclassification if utilized in Class I the following month. This proposal should be adopted.

It is essential that some system of classification and allocation be applied to milk in inventory so as to determine the obligation of handlers for producer milk received during the month, but not yet utilized. The order should provide that producer milk from the previous month's closing inventory, which was classified as Class II, have prior claim over other source milk on the Class I utilization for the current month. This can be accomplished in the accounting procedure by considering the opening inventory as a receipt. Under the allocation provisions, the opening inventory would be subtracted from Class II skim milk and butterfat after the subtraction of receipts from other sources. A reclassification charge should be made at the difference between the Class II price in the previous month and the Class I price in the current month if opening inventory is allocated to Class I and there was an equivalent amount of skim milk and butterfat in producer milk classified in Class II milk the previous month after allocating other source milk and shrinkage. Handled in this manner, milk from inventory will be priced to handlers identically with milk derived from current receipts of producer milk during the month.

9. *Class II price.* An operating cooperative association proposed to reduce the butter-powder formula component of the Class II price 6 cents for the flush production months of March through July. At the hearing the proponent expanded his original proposal and requested that the formula be reduced 6 cents during all months. A bargaining cooperative supported the proposal as contained in the notice of hearing but opposed the lowering of the Class II price during the low production period of August through February.

In determining the level of a Class II price, two rough measures set the upper and lower limits of such price. The price should not be so low as to encourage handlers to add Grade A production for manufacturing use. On the other extreme, the price should not be so high as to discourage handlers from processing the normal reserve supply of the market.

Exhibits introduced at the hearing indicate that there has been a steady increase in the volume of Class II milk since the promulgation of the order. Thus it is obvious that the Class II price is not so high as to discourage handlers from accepting the normal surplus of the market. However, the bargaining association testified that in the past it sometimes had difficulty obtaining the order Class II price in flush production months but had not experienced such difficulty in the shorter production months.

In the Ozarks marketing area average daily production in the flush month of this year was approximately 166 percent of the average daily production in the previous short month. Production in the flush month of 1955 was about 161 percent of production in the previous short month. Producers supplying the St. Louis market, however, in the flush months of the same years produced approximately 145 and 150 percent of production in the previous short production month.

The greater flush of milk which must be manufactured in the Ozarks area supports the request that the Ozarks Class II price be reduced to the St. Louis level, at least during the heavier production months. The close alignment between the Ozarks and the St. Louis Class II prices in these months is necessitated by the close proximity of St. Louis supply plants which compete directly with Ozarks handlers for the supplies of milk and in the marketing of manufactured dairy products.

During the shorter production months, however, when the St. Louis market has very little surplus the competitive value of the Ozarks surplus is increased. The testimony of the bargaining cooperative supports this conclusion.

It is therefore concluded that the butter-powder component of the Class II price should be reduced by 6 cents to the same level as is provided in the St. Louis order for the flush months of March through July but should remain at the same level as now contained in the order for the period of August through February.

10. *Administrative provisions*—(a) *Interest and set-off.* The proposal to add one-half of one percent of any amount due the producer settlement fund for each month or any portion thereof that such payment is overdue should be allowed. This interest rate is not a penalty but represents a fair price for the use of producers' money. Charging interest will avoid giving a handler any incentive to retain money temporarily for use in his business after the date on which it is due the fund.

A cooperative association proposed that the market administrator be allowed to deduct from payments due handlers out of the producer-settlement fund, any amounts such handler may owe the market administrator as on adjustment of accounts for marketing services or for expense of administration.

There had been instances during the past year when handlers had received payment from the producer-settlement fund while having balances due the market administrator for marketing services or administration expense. To the extent that a handler is successful in such practices, the market administrator is denied payment for services performed. It is not the intent of the order to guarantee payment to a handler from an account trusted by the administrator when such handler is overdue in his payments to the administrator. It is therefore concluded that the order should be amended to prevent the occurrence of this inequity in the future.

(b) *Other source milk.* The definition of other source milk should be clarified to require accounting for receipts of Class II products only if they are used in a handler's plant to produce another product rather than on the basis of whether or not such receipts are in fluid form. The entire definition should also be rephrased to conform to that in the St. Louis order, since the two orders involve some of the same handlers. No changes in the cost of milk to handlers are involved in these modifications.

(c) *Reconstituted fluid milk products.* The order should provide more specifically for computing all the nonfat solids in Class I items on the basis of skim milk equivalent. This can be accomplished by specifying that the skim milk equivalent of reconstituted fluid milk products be defined as Class I utilization. One type of "reconstituted product" is made by adding condensed skim milk or nonfat dry milk to such Class I items as fluid skim milk, buttermilk, and chocolate drinks. Since such products compete directly with producer milk, the skim milk equivalent should be classified as Class I and has been so considered by the market administrator. Reconstitution of solids in the manufacture of Class II products, such as ice cream, can also affect the quantity of milk in Class I through the allocation process, and solids so used should also be converted to the skim milk equivalent.

(d) *Class II transfers.* Producers proposed that the transfer provisions should be amended to allow under certain conditions Class II transfer or diversion of bulk milk to a nonpool plant located not more than 100 miles from the marketing area. The present order classifies bulk milk so moved to a nonpool plant located more than 50 miles from the area as Class I.

Producers testified that with the advent of bulk milk, it is sometimes more economical to divert producer milk during flush production periods to manufacturing plants which are outside the 50 mile zone but which are nearer to producers' farms than are plants within the fifty-mile zone. Also, finding number 9 of this decision indicates the severe competition between Ozarks and St. Louis order producers for the disposal of surplus milk. Therefore, it is concluded that this proposal should be allowed.

(e) *Class I price.* Effective April 1, 1956, the Class I price was related to the St. Louis Class I price for the months of April, May, and June, instead of being based on a differential over the basic formula price. The phrasing of the amendment inadvertently deleted all reference to Class I prices for these months in the years following 1956. The Class I price provisions for the months of April, May, and June which were in effect prior to April 1, 1956, should be reinstated.

General findings. (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 parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area 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 prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of interested parties in the market. The briefs contained suggested findings of fact, conclusions, and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions herein set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied.

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

1. Amend § 921.7 by deleting the words following the semicolon in (b) "which milk is delivered from the farm to a pool plant or diverted from a pool plant to a nonpool plant for the account of a handler" and substituting therefor the following: "which milk is (1) delivered from the farm to a pool plant, or (2) diverted during any of the months of February through August, or to the extent of not more than 10 days' production during any of the months of September through January, by a handler from a pool plant to a nonpool plant for the account of a handler."

2. Revise § 921.8 to read as follows:

§ 921.8 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of an approved plant or a pool plant;

(b) A cooperative association, with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered); or

(c) Any cooperative association with respect to the milk from any producer member of such association which is diverted from a pool plant to a nonpool plant by such cooperative association for its account.

3. Amend § 921.11 to read as follows:

§ 921.11 *Pool plant.* "Pool plant" means:

(a) An approved plant from which not less than 15 percent of its receipts of producer milk during the month is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores);

(b) A supply plant from which a quantity of milk equal to at least 25 percent of its supply of milk from producers and from other pool plants is shipped to an approved plant during any of the months of April, May, or June, or 20 percent in any other month: *Provided,* That if such plant shall ship 20 percent or more of such supply to an approved plant during each of the months of September, October, November and December, such plant shall be designated as a pool plant during each of the subsequent months through the following August, unless such plant requests nonpool designation by means of written application to the market administrator; or

(c) Any supply plant which ships any milk to an approved plant which is a pool plant in any month during the period from the effective date hereof through August 31, 1957: *Provided,* That such supply plant shall not be a pool plant for the months of April, May, June, or July, unless such plant makes its milk available to other handlers for distribution as Class I milk in the marketing area. Such milk shall be considered to have been made available if the operator of such plant files with the market administrator on or before the first day of each of the preceding months of August through March a statement offering milk for sale and specifying terms and conditions of sale, including the price or han-

dling charge above the Class I price; such offer to be posted in the market administrator's office.

4. Amend § 921.14 to read as follows:

§ 921.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in: (a) receipts during the month in the form of products designated as Class I milk pursuant to § 921.41 (a), except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area which are received from pool plants, or (2) producer milk; and (b) products designated as Class II milk pursuant to § 921.41 (b) (1) from any source (including those from a plant's own production) which are reprocessed or converted to another product in the plant during the month.

5. Amend § 921.15 to read as follows:

§ 921.15 *Producer-handler.* "Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes or through a plant store to retail or wholesale outlets in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of a product designated as Class I milk pursuant to § 921.41 (a) does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of a product designated as Class I milk pursuant to § 921.41 (a) from pool plants of other handlers.

6. Amend § 921.41 (b) to read as follows:

(b) Class II milk shall be all skim milk and butterfat:

(1) used to produce any product other than those specified as Class I in paragraph (a) of this section;

(2) in inventory of products designated as Class I milk in § 921.41 (a) on hand at the end of the month;

(3) in shrinkage allocated to receipts of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat, respectively, directly from producers (except producer milk diverted in producer cans to a nonpool plant pursuant to § 921.7) and pursuant to § 921.8 (b) from cooperative associations, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk tanks from pool plants of other handlers, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to the pool plants of other handlers; and

(4) in shrinkage allocated to receipts of other source milk.

7. Amend § 921.42 (b) to read as follows:

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in the net quantity of producer milk specified in § 921.41 (b) (3) and in other source milk.

8. Amend § 921.45 to read as follows:

§ 921.45 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids.

9. Amend § 921.44 (d) by deleting "50" and substituting therefor "100".

10. Amend § 921.46 (a) by renumbering subparagraphs "(5)", "(6)" and "(7)" as "(6)", "(7)" and "(8)", respectively, and adding a new subparagraph (5) as follows:

(5) Subtract from pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk in § 921.41 (a) on hand at the beginning of the month: *Provided,* That if the pounds of milk in such inventory shall exceed the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk remaining in Class I.

11. Amend § 921.51 (a) to read as follows:

(a) *Class I milk.* For each of the months of July through March the Class I price shall be the Class I price announced for such month under Order No. 3, as amended, regulating the handling of milk in the St. Louis marketing area, minus 27 cents, and for the months of April, May and June the price for Class I milk shall be the basic formula price for the preceding month plus 63 cents: *Provided,* That 15 cents shall be added to the price for Class I milk at pool plants located in Benton and Washington Counties, Arkansas.

12. Amend § 921.51 (b) (3) to read as follows:

(b) *Class II milk.* * * *

(3) From the sum of the result arrived at under subparagraphs (1) and (2) of this paragraph subtract 81 cents.

13. Amend § 921.70 by deleting paragraph (c) and adding new paragraphs (c) and (d) as follows:

(c) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk (other than as shrinkage) during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 921.46 (a) (5) and the corresponding step of § 921.46 (b), whichever is less; and

(d) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 921.46 (a) (8) and (b) by the applicable class prices.

14. Amend § 921.80 (a) (2) by deleting the words "pursuant to § 921.89" and substituting therefor the words "pursuant to § 921.87".

15. Amend § 921.84 to read as follows:

§ 921.84 *Payments to the producer-settlement fund.* On or before the twelfth day after the end of each month, each handler shall pay to the market administrator the amount by which the value of the milk received by such handler, as determined pursuant to § 921.70, is greater than the amount computed by multiplying the hundredweight of such handler's milk by the uniform price adjusted by the producer butterfat and location differentials: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue. Such payment shall be considered to be overdue on the 15th day after the end of the month in which the obligation occurs.

16. Amend § 921.85 by changing the last period to a colon and adding the following proviso: "*And provided further,* That the market administrator may deduct from payments due handlers pursuant to this section any unpaid balance due the market administrator from such handler pursuant to §§ 921.84, 921.86, 921.87 (a) and 921.88."

Issued at Washington, D. C., this 1st day of March 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 57-1685; Filed, Mar. 5, 1957; 8:53 a. m.]

[7 CFR Part 943]

[Docket No. AO-231-A9]

MILK IN NORTH TEXAS MARKETING AREA

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

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Junior Ballroom, Dallas Hotel, 312 South Houston Street, Dallas, Texas, beginning at 10:00 a. m., c. s. t., on March 19, 1957.

Subjects and issues involved in the Hearing. This public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk in the North Texas marketing area and to the provisions specified in the proposals set forth below or to appropriate modifications thereof. Consideration will also be given to whether there exists a threat to orderly marketing conditions

that requires emergency action with respect to the proposals concerning Class I pricing and the issuance of an emergency decision on this matter prior to the issuance of a decision on the other proposals contained herein. These proposals have not received the approval of the Secretary of Agriculture.

The amendments of the order (No. 43), as amended, were proposed as follows:

A. Proposed by the North Texas Producers Association:

1. Amend § 943.10 (c) (1) by changing the provision "75 percent" outlined therein to "50 percent".

2. Amend the proviso of § 943.13 to read as follows: "*Provided*, That if such milk is diverted by a handler for his account from a pool to a nonpool plant any day during the months of January through July and on not more than half of the days of delivery during any other month, the milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which it was diverted. "Producer" shall not include any such person during periods of temporary degrading by such health authority if such health authority notifies the operator of the pool plant or the market administrator in writing of the effective date or dates of such action and subsequent reapproval."

3. Amend § 943.17 to read as follows:

§ 943.17 *Producer-handler*. "Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from producers; and

(c) Receives no other source milk, or disposes of less than 100,000 pounds of Class I milk per month to persons other than handlers.

4. Amend § 943.18 to read as follows:

§ 943.18 *Base milk*. "Base milk" means producer milk received by a handler during any of the months of March through June of each year which is not in excess of each producer's daily average base computed pursuant to § 943.80 multiplied by the number of days in such month.

5. Delete § 943.41 (b) (2).

6. Amend § 943.41 (b) (5) and (6) to read as follows:

(5) In shrinkage of producer milk assigned to Class II milk pursuant to § 943.42;

(6) In shrinkage of other source milk assigned to Class II milk pursuant to § 943.42;

7. Delete § 943.42 (b) and substitute therefor the following:

(b) Multiply the pounds of skim milk and butterfat in producer milk and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 943.41 (a) and (b) (1), (2), (3), (4) and (7) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

8. Delete § 943.46 (a) (3) and substitute therefor the following:

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning in Class II milk, the pounds of skim milk in other source milk received during the month in a form other than fluid milk products.

9. Renumber subparagraphs (4), (5), (6), (7), (8), (9) and (10) of § 943.46 (a) as subparagraphs (5), (6), (7), (8), (9), (10) and (11), respectively.

10. Add a new subparagraph in § 943.46 (a) to read as follows:

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk received during the month in the form of fluid milk products which were not subject to the Class I pricing and payment provisions of another order issued pursuant to the act;

11. Amend § 943.51 (a) (1) and (2) to read as follows:

(1) For each month calculate a utilization percentage (to the nearest whole percentage) by dividing the total pounds of milk received from all producers as defined in the orders, as amended, regulating the handling of milk in the Austin-Waco, Central West Texas, Corpus Christi, North Texas, San Antonio, Shreveport, and Texas Panhandle marketing areas during the 12 months ending with the second preceding month by the total pounds of Class I milk (adjusted to eliminate duplications due to interhandler or intermarket transfers) disposed of from plants subject to the pricing and payment provisions of such aforesaid orders during any month of such 12-month period; and

(2) For each percentage that the utilization percentage is less than 120 the Class I price shall be increased 3 cents, and for each percentage that the utilization percentage is more than 120 the Class I price shall be decreased 3 cents.

12. Amend § 943.51 (b) to read as follows:

(b) *Class II milk*. For each of the months of April, May and June the price computed pursuant to § 943.50 (b) less 18 cents or the price computed pursuant to § 943.50 (c), whichever is higher; and for each of the other months of the year, the higher of the prices computed pursuant to § 943.50 (b) or (c); rounded in each case to the nearest one-tenth cent.

13. Delete § 943.70 (c) and substitute therefor the following:

(c) Add the amount computed by multiplying the difference between the applicable Class II price for the preceding month and the applicable Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 943.46 (a) (9) and the corresponding step of paragraph (b); and

14. Add a new paragraph in § 943.70 to read as follows:

(d) Add the amount computed by multiplying the difference between the applicable Class II price and the applicable Class I price by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 943.46 (a) (3) and the corresponding step of paragraph (b); and

15. Add a new paragraph in § 943.70 to read as follows:

(e) Add the amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 943.46 (a) (4) and the corresponding step of paragraph (b) by the difference between the applicable Class II price and the Class I price adjusted by the differentials set forth in § 943.52 (a) and § 943.53: *Provided*, That for the purposes of calculating such location differential, if such handler has received other source milk in the form of fluid milk products from two or more nonpool plants, the amount of such skim milk and butterfat so allocated to Class I milk shall be considered to have been received in the plants in sequence according to the smallest location differential applicable.

16. Amend § 943.97 (b) to read as follows:

(b) Milk from producers (including such handler's own production) which is allocated to Class I milk pursuant to § 943.46 (a) and (b).

17. Amend § 943.53 by changing the provision "(7)" contained therein to read "(8)".

18. Amend § 943.70 (b) by changing the reference "§ 943.46 (a) (10)" therein to "§ 943.46 (a) (11)".

B. Proposed by the Producers Creamery Company:

19. Delete all of § 943.51 (a) and substitute in lieu thereof the following:

(a) *Class I milk*. The basic formula price for the preceding month (rounded to the nearest one-tenth cent) plus $2.00 for the months of March through June and plus $2.20 for all other months subject to a supply-demand adjustment of not more than 46 cents computed as follows:

(1) For each month compute a forecast utilization percentage as follows:

(i) Combine into one total the receipts of producer milk in the North Texas, Central West Texas, Austin-Waco, Corpus Christi, and San Antonio marketing orders for the second and third preceding months,

(ii) Combine into one total the gross volume of Class I milk (excluding interhandler transfers, sales by producer-handlers and any intermarket transfers or transactions that would result in the same milk being accounted for as Class I a second time) in the North Texas, Central West Texas, Austin-Waco, Corpus Christi and San Antonio marketing orders for the second and third preceding months, and

(iii) Divide the total arrived at in subdivision (i) of the subparagraph by the total arrived at in subdivision (ii) of

this subparagraph and multiply the result by 100 and round to the nearest whole number. The result shall be known as the forecast utilization percentage.

(2) Compute a trend utilization percentage as follows:

(i) Combine into one total the receipts of producer milk in the North Texas, Central West Texas, Austin-Waco, Corpus Christi and San Antonio marketing orders for the 12-month period ending with the beginning of the preceding month,

(ii) Combine into one total the gross volume of Class I milk (excluding inter-handler transfers, sales by producer-handlers and any intermarket transfer or transaction that would result in the same milk being accounted for as Class I a second time) in the North Texas, Central West Texas, Austin-Waco, Corpus Christi and San Antonio marketing orders for the 12-month period ending with the beginning of the preceeding month, and

(iii) Divide the total arrived at in subdivision (i) of this subparagraph by the total arrived at in subdivision (ii) of this subparagraph and multiply by 100 and round to the nearest whole number. The result shall be known as the trend utilization percentage.

(3) Any amount by which the forecast utilization percentage exceeds or is less than the standard forecast utilization percentage specified below, shall be known as plus forecast deviation or minus forecast deviation, respectively.

Delivery period for which calculation applies	Delivery periods used in computation	Percentages	
		Minimum	Maximum
January	October-November	108	110
February	November-December	109	111
March	December-January	113	115
April	January-February	115	118
May	February-March	120	122
June	March-April	124	126
July	April-May	128	130
August	May-June	126	128
September	June-July	118	120
October	July-August	112	114
November	August-September	106	109
December	September-October	105	107

(4) Any amount by which the trend utilization percentage exceeds or is less than 114 percent shall be known as plus trend deviation or minus trend deviation, respectively.

(5) The following amounts shall be added to or subtracted from the Class I price:

(i) For each percentage point of plus forecast deviation subtract 1 cent per hundredweight;

(ii) For each percentage point of minus forecast deviation add 1 cent per hundredweight;

(iii) For each percentage point of plus trend deviation subtract 3 cents per hundredweight; and

(iv) For each percentage point of minus trend deviation add 3 cents per hundredweight.

20. Delete all of § 943.91 (b) and substitute in lieu thereof the following:

(b) In making payments to producers pursuant to § 943.90 (a) or (c) the applicable uniform price pursuant to § 943.72 and the applicable base price pursuant to § 943.73 to be paid for producer milk received at a pool plant located 110 miles or more from the City Hall of Dallas, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced 1.5 cents for each 10 miles or fraction thereof that such plant is located from the Dallas City Hall.

(c) The location adjustment applicable with respect to excess milk shall be computed as follows:

(1) Subtract from the total volume of Class I milk allocated to producer milk pursuant to § 943.46 the total volume of base milk received by all handlers;

(2) Divide the result by the total volume of excess milk received by all handlers; and

(3) Multiply by the rate of location adjustment applicable for base milk received at the same location and round to the nearest cent.

c. Proposed by the Dairy Division:

21. Consider amendment to § 943.32 to provide a separate report by each handler with respect to inventory on hand at the end of the month.

22. Amend § 943.71 (b) by deleting the phrase "not less than one-half of the cash balance on hand in the producer-settlement fund," and substitute therefor "not less than one-fourth of the cash balance on hand in the producer-settlement fund,".

Copies of this notice of hearing may be procured from the Market Administrator at P. O. Box 35225, Airlawn Station, Dallas, Texas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: March 1, 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 57-1684; Filed, Mar. 5, 1957; 8:53 a. m.]

[7 CFR Part 1020]

[Docket No. AO-290]

APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of apricots grown in designated counties in Washington, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter referred to as the "act." Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D. C., not later than the close of business of the fifteenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the "order") were formulated, was held at Wenatchee, Washington, on January 9–10, 1957, pursuant to a notice thereof which was published December 11, 1956, in the FEDERAL REGISTER (21 F. R. 9774). Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by the Apricot Advisory Committee, Washington State Fruit Commission, with a petition for a hearing thereon.

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

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

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

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

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

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee which shall be the administrative agency for assisting the Secretary in administration of the program;

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

(d) Authority to establish apricot marketing research and development projects;

(e) The method for regulating shipments of apricots grown in the production area;

(f) The granting of exemptions and the establishment of special regulations for apricots handled in certain types of shipments or for certain specified purposes;

(g) The requirement for inspection and certification of apricots handled;

(h) The establishment of reporting requirements for handlers;

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

(j) Additional terms and conditions as set forth in §§ 1020.62 through 1020.71 and published in FEDERAL REGISTER (21 F. R. 9774) on December 11, 1956, which

are common to marketing agreements and orders, and certain other terms and conditions as set forth in §§ 1020.72 through 1020.74, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

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

(1) The major part of the crop of apricots produced in the designated counties of Washington comprising the "production area" is shipped in fresh market channels. The bulk of such production moves into the markets of the Midwestern and Northeastern States. Among the more important volume markets are Minneapolis, St. Paul, St. Louis, Chicago, Kansas City, New York, and Detroit. Smaller volumes, but nonetheless important, are marketed on the West Coast. Canada is the most important export market for Washington apricots.

Four States, other than Washington, produce apricots in commercially significant volume. These States are California, Utah, Colorado, and Idaho. During the 10-year period 1945–54, California alone produced approximately 90 percent of total volume, while Washington produced approximately 7.5 percent. During this same period, however, Washington accounted for 31.5 percent of total fresh apricot shipments, and in 1955 for 37.7 percent of such shipments. Ninety percent or more of the California production is commercially processed. The principal Washington variety, the Moorpark, has not proved satisfactory for commercial processing.

Shipment of fresh Washington apricots takes place in July and August. There is an overlapping of shipments from California and Washington during early July, and during most of July and early August apricots from Utah, Colorado, and Idaho compete in the markets with apricots from Washington. Throughout this period, however, Washington apricots constitute about 75 percent to 80 percent of the total supply. About one-fourth of the Washington movement occurs during the latter part of August after shipment from the other apricot producing States has been completed.

Any handling of Washington apricots in fresh market channels exerts an influence on all other handling of such apricots in fresh form. Sellers of such apricots, as of other commodities, endeavor to transact their business so as to secure the highest possible return for the quantities of apricots they have for sale. In effecting these transactions, the seller continually surveys all accessible markets in order to take advantage of the best opportunity to market the fruit. Markets within the State of Washington provide opportunities to dispose of apricots in the same manner as markets within other States, or for export; and the sale of a quantity of Washington apricots in a market within the State of Washington exerts the same influence on all other sales of such apricots as a like quantity sold in a market within another State.

The principal intrastate markets for Washington apricots are located in the cities of Seattle, Tacoma, and Spokane outside the production area. These markets take approximately 20 percent of the apricots marketed fresh each season. If shipments of apricots to markets outside the State of Washington were regulated, while those within the State of Washington were unregulated, growers and handlers would attempt to market within the State all the lower quality apricots which could not be shipped under regulation. Because of such large quantity of low quality apricots sold in markets within the State, prices for apricots in such markets would be depressed below those prevailing in markets outside the State.

The existence of a lower price level for apricots marketed within the State of Washington would tend to depress the prices for apricots sold in interstate markets. Buyers generally have ready access to market information; and knowledge of lower prices in one market is used in bargaining for apricots to be shipped into other markets, including those outside the State of Washington. As a case in point, there are business concerns who control retail outlets in Seattle, and also in Minneapolis, Minnesota, and these concerns are well aware of the price situation in both markets. Furthermore, with large quantities of poor quality apricots available for sale in markets within the State of Washington, there would be little opportunity to sell in such markets apricots meeting the requirements of the regulations established. The larger quantity of apricots, which would be required to be sold in interstate markets under such circumstances, would also tend to lower the level of prices in the interstate markets.

Itinerant truckers move substantial quantities of apricots mainly to intrastate markets. However, it is normal practice for such persons to sell apricots in the markets where prices are most favorable. It is more than probable that below-grade shipments destined for the Seattle-Tacoma area or to Spokane would be diverted to Portland, Oregon, or to other markets outside the State if prices were more favorable there than in markets within the State of Washington. In fact, it is a customary practice to ship fruit from the production area to Spokane and reship it from there to Idaho, Montana, or to Canada. Under these circumstances, it would be virtually impossible to effect compliance with regulations governing interstate shipments if shipments to markets within the State were unregulated.

Hence, it is concluded that the movement and sale of Washington apricots, whether to a market within the State of Washington or outside thereof, affect prices of all apricots grown in the production area. Therefore, it is hereby found that all handling of such apricots grown in the production area are either in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce. However, the quantity of apricots handled for consumption within the production area is relatively inconsequential when compared with the total quantity handled; and because of the nearness to the source of supply, it would be administratively impracticable to regulate the handling of apricots for consumption within such area. With this one exception, and except as hereinafter otherwise provided, all handling of apricots grown in the production area should be subject to the authority of the act and of the order.

(2) The production of Washington apricots, though varying considerably from year to year, ranged steadily upward during the 20-year period ending with the 1949 season. During the 5-year periods ending 1934, 1939, 1944, and 1949, average annual production was 5,600, 11,520, 18,080, and 24,900 tons, respectively. In 1950 the trees were severely damaged by cold weather and the crop was only 1,600 tons, and for the 5-year period ending 1954, average annual production was 8,740 tons. By 1955 the orchards had recovered, and 21,000 tons were produced.

Reflecting the wartime demand for food, average on-tree prices per ton for Washington apricots for fresh market in 1943, 1944, and 1945 were $157.00, $95.40, and $96.90, respectively. In 1946, 1947, and 1948, such prices were $64.30, $49.30, and $25.40. In 1949 such price was a minus $8.90 per ton. With the reduction of the crop during the 5-year period ending in 1954, prices increased and prices during such period averaged $88.20 per ton. In 1955 with a crop of 21,000 tons, on-tree returns to growers dropped to $7.00 per ton. This was less than 10 percent of the season average on-tree parity price for Washington apricots.

Some of the recent decline in demand, and consequent difficulty experienced in the marketing of Washington apricots is believed to be due to the post World War II decline in home canning, principally in the Midwest. The principal variety, the Moorpark, has proved to be acceptable for home canning, and for this purpose such apricots were shipped somewhat less mature than would be desirable for eating fresh. With the decline in the demand for apricots for home canning, it is necessary to create increased demand for apricots for fresh consumption. In order to do so it is necessary to place on the market apricots suitable for this purpose.

The importance of the apricot in the economy of the production area was stressed. The economy depends almost entirely on the production and handling of fruits. Pruning, thinning, harvesting, and packing of apricots occur at times when labor and facilities are not being utilized for other fruit crops, and thus the apricot is important to the efficient use of such factors in the total fruit industry.

Prices for apricots generally are high at the beginning of the season, and producers and handlers are anxious to start shipping in order to take advantage of such prices. Under such circumstances, apricots in early shipments often have not been sufficiently mature to give con-

sumers' satisfaction, and it is believed that consumers' dissatisfaction stemming from purchase and consumption of such apricots curtails demand for apricots throughout the remainder of the season. In 1953 the industry was instrumental in having a State maturity law enacted, under which all apricots must move under a permit, issued by the State Inspection Service, certifying that such apricots meet minimum maturity standards. However, it was alleged that this law had not stopped the shipment of immature apricots. No State requirements have been established with respect to uniformity of grade, size, quality, or containers. Handlers who have made a conscientious effort to ship only good quality apricots in an effort to get a fair return for apricots often find that other handlers have shipped apricots of poor grades and smaller sizes and have so depressed the market that fair returns were impossible to obtain. At times, handlers have shipped good quality apricots early in the season while the bulk of the crop was being harvested in the portion of the production area which they serve and have held in storage apricots of less desirable quality and shipped them later to the detriment of the later portions of the production area.

Handlers also have varied the dimensions of containers presumably in order to gain a competitive advantage over others. One of the results of this is that a container with a capacity of 12 pounds net, has displaced, for shipment to distant domestic markets, a 14-pound net container, which is more suitable for packing larger fruit of certain varieties. Under Canadian law the 14-pound container is the only container which may be used in shipping apricots to Canada. Numerous sizes of containers known as "Gypo" containers are used mainly for shipping apricots to nearby markets, including some in Oregon. The difference in dimensions of such containers may be so slight that a smaller container may be substituted for a larger one without customers being aware that it contains 2 or 3 pounds less fruit. The lack of standardized grade, size, quality, and containers has resulted in lack of stability in the marketing of Washington apricots and has tended to alienate buyers and hence to reduce demand and market prices received for Washington apricots.

Prices of Washington apricots and total returns to the growers of such fruit could be augmented by restricting shipments in fresh market channels to apricots of desirable maturity, grade, size, and quality and limiting the containers used in making such shipments. When supplies of apricots are heavy, fruit of inferior grades and qualities, or of undesirable maturity or size, may be sold only at discounts, and, since competition in the marketing of apricots is based to a considerable extent on price, such discount sales tend to depress prices for all apricots being marketed. Restrictions on the shipment of such discounted fruit would, therefore, tend to increase prices for good quality apricots. Moreover, shipments of apricots which are of inferior grade or quality, or of undesirable size or maturity, often do not sell at prices covering even the cash costs of harvesting and marketing. Restrictions on the shipment of such fruit would not only improve the grade, size, and quality of apricots marketed and promote buyer confidence in Washington apricots, but would also improve the average returns to growers by preventing losses incurred through shipment of undesirable fruit. Moreover, the shipment of very poor quality apricots, including culls, immature fruit, extremely small sizes, and deteriorated fruit is rarely ever in the interest of consumers or producers. Apricots of such poor quality are not a value to the consumer because of poor flavor and excessive waste. Shipment of such apricots results in consumer dissatisfaction and destruction of the reputation of quality for Washington apricots. Even when the season average price is above the parity level it is not in the public interest to ship such poor quality apricots.

Restrictions on the size, capacity, dimensions, and pack of containers used in the marketing of Washington apricots would enable buyers and handlers alike to know the exact quantity of apricots covered by prices quoted and thereby tend to increase trade confidence and stability in the marketing of the fruit.

Therefore, it is concluded that the establishment of the order, providing for the regulation of maturity, grade, size, and quality of shipments of Washington apricots, and for the establishment of uniform containers to be used for such shipments, is necessary to effectuate the declared purposes of the act. Also, the establishment and maintenance in effect of minimum standards of quality and maturity, when prices are above the parity level, will effectuate such orderly marketing of Washington apricots as will be in the public interest. The objective under such order is the tailoring of the supply of apricots available for sale in fresh market channels to the demand in such outlet so that the fruit thus made available to buyers will be packaged uniformly and be of desirable maturity, grade, size, and quality. Such limitations on shipments of Washington apricots should contribute to the establishment of more orderly marketing conditions for such fruit and tend to increase the demand therefor.

(3) The term "apricots" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order, refers to all varieties of apricots, as hereinafter defined, classified botanically as Prunus armeniaca. Apricots are readily distinguished from other fruits, and the term has a specific meaning to all producers and handlers of the commodity in the production area and to those who purchase and distribute in the receiving markets apricots grown in the production area.

The term "varieties" should be defined in the order, as hereinafter set forth, since it is proposed to provide authority in the order for issuance of separate regulations for different varieties. The principal varieties of apricots grown in the production area are Moorpark, Tilton, Blenheim, Riland, Perfection, and Phelps. Each variety of apricots is a classification or subdivision of Prunus armeniaca and possesses definitive characteristics which serve to distinguish it. Recognition of different varieties of apricots is common throughout the production area and the distributing trade, and there is little likelihood that one variety would be confused with another.

A definition of the term "production area" should be incorporated into the order as a means of delineating the area within which apricots must be grown for the handling thereof to be subject to regulation. Such term should embrace all of the territory within the boundaries of the Counties of Okanogan, Chelan, Douglas, Grant, Yakima, Benton, and Klickitat within the State of Washington. Such area includes the Wenatchee and Yakima valleys within which practically all of the commercial crop of Washington apricots is produced. The apricots produced for market within this area are of the same varieties and are marketed at approximately the same time and compete with each other in the markets. All the apricots shipped to market from the production area are prepared for market in packing facilities located within such area. There are no apricots produced outside the production area and brought into such area for preparation for market. To exclude any portion of the production area as defined would tend to defeat the purposes of the order, in that apricots from any such excluded portion which do not meet regulations applicable to regulated fruit could then be marketed free from regulations and thereby depress the prices of the regulated apricots grown in the remainder of such area. Moreover, apricots produced in such excluded portion would probably have to be brought into the regulated area for preparation for market and this would lead to confusion and difficulty in enforcing regulations. Hence, it is concluded that the production area as hereinafter defined is the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" should be defined as being synonymous with "shipper" and to identify the persons who handle apricots in the manner described and set forth in the definition of "handle," because such persons are to be subject to the order and regulations authorized thereunder. A handler should include any individual, partnership, corporation, association, or any other business unit which handles apricots. Such persons are responsible, among other things, for the grade, size, quality, and maturity of the apricots they place, or cause to be placed, in the current of commerce between the production area and any point outside thereof whether by delivery to transportation agencies or to the consignees or purchasers of the fruit, or which are transported to market or sold; and such persons should therefore be considered as handlers. However, common or contract carriers of apricots they do not own should not be considered as handlers,

even though they transport apricots, for the reason that these agencies transport apricots for a monetary consideration and do not have a proprietary interest in the commodity or any control over the grade, size, quality, or maturity thereof.

The definition of the term "handler" should apply to any person, including a producer, when such person performs any handling activities within the scope of the term "handle." It should include not only the first handler, but each succeeding handler who performs any such handling activities, so as to assure that all such handling of apricots will be in accordance with the order and regulations thereunder. With respect to handlers who conduct their businesses other than as individuals (e. g., firms that have sales managers or packinghouse managers), any handing activities engaged in by employees or officers of such handlers should be construed as handling caused by the principal company, as "handler." Hence, the term "handler" would cover the owner of a firm even though such person does not personally negotiate the sale or transport the apricots.

Such term should also include, in addition to the owner and officers, any other individual of a firm handling apricots who, in a supervisory capacity, is directly responsible for, and consequently causes, the sale or transportation of the commodity. Therefore, a handler would mean any person (except a common or contract carrier of apricots owned by another person) who handles apricots or causes apricots to be handled. In other words, the term "handler" should include not only persons who themselves sell or transport apricots but also those persons who, although they do not themselves sell or transport apricots, nevertheless cause their sale or transportation. All persons coming within the meaning of such term should be responsible for complying with the obligations imposed by or pursuant to the order so as to assure that all apricots will be properly handled.

The term "handle" should be defined to identify those activities which it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place or continue apricots in commerce from any point in the production area to any point outside thereof. Handling of apricots under the order would begin after the apricots have been removed from the tree and include each of the successive selling or transporting activities. The performance of any one or more of these activities, such as selling, consigning, delivering, or transporting, by any person either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required to limit such handling of apricots to fruit which conforms to the applicable regulations established under the order.

It is common practice for growers to deliver their apricots to persons having facilities for packing and otherwise preparing the fruit for market. The grower, in such instances, properly relies on the person preparing the apricots for market to see that the fruit which is thereafter shipped meets all applicable requirements for marketing. Movement within the production area from the orchard to the place within the production area where the apricots will be prepared for market and activity in connection with such preparation should not be covered as handling subject to regulation. These actions, whenever they are performed, are, of necessity, preliminary to the handling, i. e., selling, consigning, delivering, and transporting of apricots. It would unnecessarily complicate the administration of the program to require persons engaged in the preparation of apricots for market to meet the requirements of regulations prior to such preparation. Therefore, such activties should not be included within the definition of handle.

The record shows that some apricots are sold at the orchard and at packinghouses to persons—itinerant truckers and others—who transport the apricots from such points to markets outside the production area. The selling or delivery of apricots to such persons, and the subsequent movement to points outside the production area, whether within or outside the State, are handling transactions. Any person who engages in any such transaction, whether a grower, packinghouse operator, trucker, or otherwise, should therefore be considered as a handler under the order by virtue of such transaction and subject to any rules and regulations pursuant thereto. Each such person should have the responsibility for assuring himself that the apricots he so handles meet all applicable regulations in effect at the time of handling and that the apricots have been inspected and certified as required under the order. Compliance with regulations which are authorized by the order can readily be determined by the person who is grading or preparing the apricots for market. The primary responsibility for determining that apricots in any shipment conform to applicable regulations should rest with the person who places, or causes to be placed, the apricots in the current of commerce between the production area and any point outside thereof. In most cases, such person will be the one who graded, or at least was responsible for grading or preparing such apricots for market. Of course, all subsequent handlers should also have the responsibility for seeing that any maturity, grade, size, quality, and any other regulations pertaining to such apricots are met at the time such persons handle the apricots. A very small quantity of apricots is handled for consumption within the production area. Such handling directly burdens, obstructs, or affects interstate commerce, as hereinbefore noted. However, the quantity is so small, and the difficulty of enforcing regulations for apricots so marketed would be so great, that such handling of apricots should not be regulated. As all handling of apricots, except as indicated herein and except for the handling of apricots specifically exempted from regulation under the act or the order, directly burdens, obstructs, or affects interstate commerce, it is concluded that the handling of all such apricots, with the exceptions hereinbefore noted, should be subject to the order and any regulations issued pursuant thereto.

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

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

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the Washington Apricot Marketing Committee—the agency which will administer the program locally—are to be maintained. At the present time it is desirable to establish a 12-month period ending March 31 as a fiscal period. Such a period would fix the end of one fiscal period and the beginning of the next at a time of inactivity in the marketing of apricots. This would facilitate fixing the term of office of members and alternates to coincide with such period as it would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year, and would still insure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, it was testified that for reasons not now apparent it may be desirable at some future time to establish a fiscal period other than one ending March 31, and that authority should be included in the order to provide for such establishment subject to approval of the Secretary pursuant to recommendations of the committee. Therefore, it is concluded that such term should be defined as hereinafter set forth to provide this flexibility.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of

repeating its full name each time it is referred to.

Definitions of "grade" and "size" should be incorporated in the order to provide a basis for expressing grade and size limitations thereunder, and thus to enable persons affected thereby to ascertain the extent and application of grade and size limitations. "Grade" should be defined as any one or more of the established grades of apricots as defined and set forth in (1) "United States Standards for Apricots," issued by the United States Department of Agriculture, effective May 25, 1928, which standards were published in the FEDERAL REGISTER (21 F. R. 9935), or (2) Standards for Apricots issued by the State of Washington, or (3) amendments to any grades set forth in either of such standards, or modifications thereof, or variations based thereon. Such definition would provide the flexibility necessary to cope with the possible variations in apricots due to detrimental effects of weather or other possible hazards affecting the crop. The United States Standards and the Washington State Standards have been used by the Washington apricot industry for a number of years and therefore provide appropriate bases for describing grade limitations.

Sizes of apricots are commonly referred to in the production area by row count, i. e., the number of apricots necessary to pack row-faced across a 10½ inch inside width wooden box or lug. Hence, a 7-row apricot is one having a diameter of 1½ inches measured at right angles to a line drawn from the stem to the blossom end of the fruit. However, it was testified that due to the fact that apricots are shipped other than row-faced in containers, and it is possible to vary the arrangement of the apricots within the row-face of the container, a regulation based on a row-count size would not be as meaningful as one based on minimum diameter. Therefore, it is concluded that the term "size" should be defined in terms of diameter or such other specifications as may be recommended by the committee and approved by the Secretary.

The term "pack" is commonly used throughout the apricot trade and refers to a combination of factors relating to the grade, size, quality, and quantity of apricots in a particular type and size of container and to the arrangement of the apricots within that container. For example, "U. S. No. 1, 6-row, 14-pound faced pack" is considered by the apricot trade as a specific pack. "U. S. No. 1" describes the grade, "6-row" the size, and "14-pound faced," the container, quantity of apricots, and the arrangement of the apricots within the container. Under certain circumstances, it may be desirable to regulate shipments of apricots on the basis of particular grades or sizes, or both, that may be shipped in a specific container or containers and to specify the arrangement of the fruit within the container. Hence, it is concluded that "pack" should be defined as follows: "Pack" means the specific arrangement, size, weight, count, or grade of a quantity of apricots in a particular type and size of container.

The term "grower" should be synonymous with "producer" and should be defined to include, with the exceptions hereinafter noted, any person who is engaged, within the production area, in the production of apricots for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as eligibility to vote for, and to serve as, a grower or alternate grower member on the Washington Apricot Marketing Committee and for other reasons. In this connection, it was testified that in order to preserve the predominant grower character of the committee it would be necessary to require that any grower who handles apricots shall have produced not less than 51 percent of the apricots handled by him during the previous season to be eligible to vote for grower nominees or to serve as a grower member or grower alternate member of the committee. Each business unit (such as a corporation, partnership, or community property arrangement) engaged in the production of apricots for market should, when voting for nominees for membership on the committee, be entitled to only one vote. The term "grower" should, therefore, be defined in accordance with the foregoing.

"District" should be defined as set forth in the order to provide a basis for the nomination and selection of committee members. The districts (i. e., the geographical divisions of the production area as established and as set forth in the order) represent the best basis which could be devised at this time for providing a fair, adequate, and equitable representation on the committee. The provision for redistricting is desirable because it allows the committee and the Secretary to consider, from time to time, whether the basis for representation on the committee should be improved.

"Export" should be defined in the order as any shipment of apricots beyond the boundaries of the continental United States. Shipments of apricots to points outside of the continental United States may be of different grades, sizes or qualities than those shipped to domestic markets. This results from different market demands as between domestic and other markets. Different or special regulations, or even no regulations, could, therefore, be made effective when warranted, with respect to such shipments out of the United States.

The term "container" should be defined in the order to mean a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging, or handling of apricots. The definition of the term is needed to serve as a basis for differentiation among the various shipping receptacles, in which apricots are sold or moved to market, for which different regulations could be applicable.

(b) It is necessary to establish an agency to administer the order locally under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Washington Apricot Marketing Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 12 members, of whom 8 should represent producers and 4 should represent handlers. Alternate members should be provided to act in the place and stead of the members. Such a committee would be large enough to provide representation to all segments of the industry. At the same time, it is of such size that it can operate effectively and efficiently. The foregoing division of the members between producers and handlers would provide suitable producer representation and handler experience and information. A majority of the committee should consist of producers because the program is designed to benefit producers. The provision for handler members tends to give balance to the committee by providing the handler experience and marketing information necessary to the development of economically sound regulation of apricot shipments. Each handler member should be either a handler, an officer, or an employee of a handler, as handlers often are corporations and would be precluded from having representation on the committee unless persons were authorized to serve as members of the committee. There are also growers in the production area which are corporations and their officers and employees should be similarly eligible for membership on the committee. Two handler members and 4 grower members should represent each of the two districts. Although volume of production of apricots in District 2 is somewhat greater than in District 1, equal representation on State industry committee is usually provided. Provision to reapportion membership on the committee among districts should be provided so that, if it becomes apparent that through shifts in production, reestablishment of districts, or other reasons such representation is inappropriate, the Secretary may, upon recommendation of the committee, make such reapportionment as he finds necessary.

Each producer or handler member of the committee, and his alternate, should be a producer or handler (or officer or employee of a corporate grower or handler), as the case may be, of apricots in the district for which selected. A person with such qualifications should be intimately acquainted with the problems of producing or marketing apricots grown in such district and may be expected to present accurately the problems incident to the production or handling of apricots grown in that district. The main interest of grower members and alternates should be growing. A grower who also is a handler of apricots should have grown not less than 51 percent of the apricots handled by him during the previous season to be eligible to serve as a grower member or a grower alternate member of the committee. Such provision is necessary to assure that the interests of the majority of the committee are primarily the growing of apricots.

The term of office of committee members and alternates under the proposed program should be for two years beginning on the first day of April and continuing until March 31. This will establish an orderly procedure for changing the membership of the committee.

The term of office should be for two years so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service assisting the Secretary to carry out the declared policy of the act. The beginning of each term of office will occur during a period prior to the commencement of a marketing season and hence allow adequate time for the committee to organize and start operating.

Provision is made in the order for staggered terms of office of committee members and alternates. Under this provision one-half of the committee in office on March 31 of each year will continue in office until the next year. The establishment of such staggered terms will provide for more efficient administration of the program, in that members and alternates constituting the new half of the committee membership will benefit from the guidance of experienced members who carry over. The experienced members will help insure continuity of the policies and procedures relating to the administration of the proposed order; and continuity should contribute materially to the successful administration of the marketing program. However, the terms of office of one-half of the initial committee members and alternates should be from the time of appointment until the following March 31 and of the other half from the time of appointment until the second following March 31. Committee members and alternates should serve during the term of office for which selected, and until their successors are selected and have qualified to insure continuity of committee operations.

A procedure for the election by growers and handlers of nominees for membership on the committee should be prescribed in the order to assist the Secretary in his selection of members and alternate members of the committee. It is recognized that the Secretary is vested with authority under the act to select the committee members; and the nomination of prospective members and alternate members at meetings of growers and handlers in the respective districts is a practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee.

Nomination meetings for the purpose of electing nominees for members of the committee and their alternates should be held or caused to be held by the committee on or before March 1 of each year. Such date is approximately 4 weeks prior to the end of the fiscal period. By having such nomination meetings not later than March 1 each year, the committee will be in a position to prepare and submit nomination lists to the Secretary in time for the Secretary to select the members and alternate members of the new committee prior to the expiration of the terms of office of the existing committee members. The notice of hearing proposed that nomination meetings be held not later than March 15 of each year. However, it was testified that such nomination meetings should be held in sufficient time to assure that the names of nominees would be before the Secretary in time for him to make his selection of members and alternates prior to the beginning of the new term of office, beginning on April 1. Inasmuch as March 15 would allow approximately only 2 weeks for the committee to prepare and submit nomination lists and for the Secretary to review such nominations and make his selection, it is concluded that such nomination meetings should be held not later than March 1.

As the administrative committee will not be in a position to act until after the selection by the Secretary of its initial members, the order should provide a procedure for the selection of the initial members. The Secretary may appropriately select the initial grower and handler committee members and alternates from nominations which may be made by growers and handlers, respectively, or appropriate groups thereof, or from other eligible persons; and the order should so provide. In order that the initial membership of the committee may be selected as soon as possible after the approval of the program, it should be required that such nominations be submitted not later than the effective date thereof.

The order should provide that only growers who are present at the nomination meetings, or corporate growers who are represented at such meetings by duly authorized agents, may participate in designating nominees for grower members and alternates, and only handlers present at nomination meetings or corporate handlers represented at such meetings by duly authorized agents may participate in the nomination of handler members and alternates. It should be further provided that any grower who handles apricots may not participate in the selection of grower members and alternates if he did not produce at least 51 percent of the apricots handled by him during the previous season. These restrictions are necessary in order to insure that the interests of each group are properly safeguarded and that the nominee truly reflects the views of the group which he is selected to represent. With respect to the restriction on "grower-handlers" it was testified that such restriction was necessary in order to preserve the predominant grower character of the committee.

It was testified that each grower and handler should have a similar and equitable voice in the election of nominees. Hence, if a person is qualified to vote either as a grower or a handler, he may select the group with which he wishes to participate. Such persons may not vote both as a grower and as a handler because this would enable him to participate in nominations to a greater degree than persons who are growers only or handlers only. Also, each grower and handler should be limited to one vote on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates regardless of the size of any such person's operation or the number of districts in which he produces or handles apricots. If a grower or handler could cast more than one vote by reason of operating in more than one district, such grower or handler would have an advantage in selecting nominees over growers or handlers operating in only one district. Also, if more than one vote was permitted, there is a possibility that large growers or handlers could dominate the elections by means of their partners, agents, subsidiaries, affiliates, and representatives, and nominate growers and handlers not favored by a majority of growers or of handlers. An eligible grower's or handler's privilege of casting only one vote should be construed to mean that one vote may be cast for each applicable position to be filled.

A grower who produces apricots in both districts should be permitted to select the district in which he will vote. He will thus be able to vote for nominees where he believes his best interest lies. Similarly, a handler, who handles apricots both in District 1 and District 2 of the production area, should be permitted to select either one of such districts in which to vote for nominees.

In order that there will be an administrative agency in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternates without regard to nomination if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed herein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed promptly after the notification of appointment so that the composition of the committee will not be delayed unduly.

Provisions should be made as set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

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

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, in that it may develop that

there are other duties which the committee may need to perform.

With respect to the provision set forth in § 1020.31 (m) providing for redistricting and reapportionment of membership on the committee, such provision is necessary to enable the committee and the Secretary to consider from time to time whether the basis for representation has changed or could be improved and how such improvement should be made. The division of the production area into the two districts set forth in the order is a logical one at the present time from the standpoint of production, and this is the division commonly made by growers, handlers, and State agencies. However, shifts or other changes which may take place in the future due to increased or decreased production cannot be foreseen. Additional land suitable for apricot production is being made available within the production area through irrigation. Decreased acreage may result from damage caused by weather hazards. Therefore it is desirable to provide flexibility of operation so that if it should be in the best interests of the administration of the order to change the boundaries of districts, change the number of districts, or reapportion the representation on the committee among districts, the committee may so recommend, and the Secretary may take such action.

At least 8 members of the committee, or alternates acting for members, should be present at any meeting in order for the committee to make any decisions; and all decisions of the committee should require a minimum of 7 concurring votes, except when two-thirds of the number of members present is greater than 7, such requirement should be two-thirds of the number of members present. These provisions will assure that all actions of the committee will be considered by at least two-thirds of its membership and approved by a majority of the committee. The order should provide that in the event neither member nor his alternate is unable to attend a meeting, such member or the committee may designate any other alternate member from the same district and group who is not acting as a member to serve in such member's place and stead.

In addition to meetings held where the committee is assembled together in one place, the committee should be authorized to hold simultaneous meetings of its members assembled at two or more designated places wherein provision has been made for communication between all such groups and loud speaker receivers made available so that each member may participate in the discussion and other actions the same as if the committee were assembled in one place. This should encourage attendance at meetings and may possibly facilitate some savings in expense through reduced travel time and distance. Such meeting should be considered as an assembled meeting. The committee should be authorized to vote by telephone, telegraph, or other means of communication when a matter to be considered is so routine that it would be unreasonable to call an assembled meeting or when rapid action is necessary because of an emergency. Any votes cast in this fashion should be confirmed promptly in writing to provide a written record of the votes so cast. In case of an assembled meeting, however, all votes should be cast in person.

It is appropriate that the members and alternates of the committee may receive compensation for the time spent in attending committee meetings. The order authorizes a maximum of $10.00 per day for this purpose, since the time so spent is usually at financial sacrifice to their personal businesses. While the payment of an amount not to exceed $10.00 per day will not in most cases fully compensate for the time such members and alternates spend away from their personal businesses, there are producers and handlers in the production area who are willing to represent the industry by serving on the committee regardless of the personal sacrifice involved. The order should also provide for reimbursement of actual out-of-pocket reasonable expenses incurred on committee business since it would be unfair to request the members and alternates to pay for such expenses incurred in the interest of all apricot growers and handlers in the production area.

In order for an alternate to adequately represent his district at any committee meeting in place of an absent member, it may be desirable that he should have attended previous meetings along with the member, so as to have a full understanding of all background discussions leading up to action that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members could be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often important for the committee to obtain as wide a representation as practical of producer and handler attitudes toward a proposed regulation or other matter. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members, when a situation so warrants. The same compensation and reimbursement that are available to members should also be made available to alternate members when they are so requested and attend such meetings as alternates.

Provision should be made in the order whereby each committee will prepare an annual report prior to the end of each fiscal period. Such reports would provide committee members, the industry, and the Secretary with a record of the annual operations of the program and would provide a means for evaluation of the program and the need for any changes therein.

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

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

In order to provide funds for the administration of this program prior to the time assessment income becomes available during the fiscal period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money for such purpose. The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing agreements and orders, and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are being made in an appreciable amount. There was no objection offered at the hearing to indicate that any person was opposed to the proposal for the committee to borrow a limited sum of money each fiscal period. During years of normal growing conditions, revenue available to the committee from assessments would provide the means for the repayment of any such loan. In addition, as hereinafter set forth, provision should be made for increasing the rate of assessment in the event it should develop that due to some unforeseen circumstances the assessment income under the then prevailing rate is not sufficient to cover the expenses incurred.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the proposed order for such period. Each such budget should be presented to the Secretary with

an analysis of its components and explanation thereof in the form of a report on such budget. It is desirable that the committee should recommend a rate of assessment to the Secretary which should be designed to bring in during each fiscal period sufficient income to cover authorized expenses incured by the committee.

The rate of assessment should be established by the Secretary on the basis of the committee's recommendation, or other available information, so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a fair and equitable unit basis, such as a container, ton, or other quantity measurement.

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

Handlers should be entitled to a proportionate refund of any excess assessments which remain at the end of a fiscal period. Such refund should be credited to each such handler against the operations of the following fiscal period so as to provide the committee with operating funds prior to the start of the ensuing shipping season; but, if a handler should demand payment of any such credit, the proportionate refund should be paid to him.

However, good business practice requires that any such refund may be applied by the committee first to any outstanding obligations due the committee from any person who has paid in excess of his pro rata share of expenses.

The notice of hearing set forth a proposal to authorize the Secretary, upon recommendation of the committee, to establish a reserve fund from excess assessments remaining at the end of a fiscal period. Such fund would be carried over into following periods and used upon termination of the order to liquidate the affairs of the committee. However, it was testified at the hearing that in view of the weather hazards to which production of apricots is subject, as well as the fact that a large proportion of the committee's expenses in any fiscal period will be incurred prior to the time assessment income is available to cover such expense, that the authority for establishment and use of such a reserve fund should be broadened to cover expenses during deficit collection periods such as the pre-season shipping period and during periods of crop failure or near crop failure.

In most years shipment of apricots begins about the middle of July and is completed by the end of August. The fiscal period starts on April 1, and, therefore, the committee must operate during April, May, June, and the first half of July with no current assessment income. The period just prior to the shipping season will be the period of greatest activity as the committee will be surveying the crop and marketing situation, holding meetings to develop a marketing policy and to develop recommendations for regulations. This means that in all probability at least one-half the committee's expenses will ordinarily be incurred before any current fiscal period income is collected.

An operating reserve is an important instrument for the continued effective operation of the order over a period of years. The production area is very susceptible to hail storms just prior to and during the harvesting period, and to frost damage at the time of bloom and fruit set. Severe freezes during the winter often damage trees and reduce the crop in succeeding years. The assessment rates under the program are set at the beginning of the season for a crop of an estimated volume of shipments. Should crop failure or partial crop failure reduce the crop so that assessment income falls below expenses, it would be necessary for handlers in light of the reduced crop to cover the deficit. When consignee handlers have already made returns to growers, it would be very difficult for them to obtain from such growers the additional funds required to meet the increase in assessment that would be necessary. It would also constitute an extra burden on the industry to increase the assessment rate after disasters such as these have occurred.

Because of the hazards incident to the production of apricots, and the difficulties thus expected to be encountered in financing operations of the program during some years, it would be desirable to establish an operating reserve for use during any such year. Evidence presented at the hearing was to the effect that nearly all of the production of apricots is marketed year after year by the same handlers and that it would be equitable to all handlers, and far less burdensome to them, to contribute to the establishment of such an operating reserve during years of normal production rather than to be required to pay a high rate of assessment occasioned by a deficit during a year when the crop is materially reduced. It was testified that the proposed reserve fund should be built up to the desirable amount as rapidly as possible, since a material reduction of the crop could occur at any time. Discretion should be used, however, so as not to impose excessively high assessments. It was indicated that it would be appropriate, and in keeping with the desires of the industry, to include in the annual budget a specific amount for the reserve fund as well as to use any other excess assessment funds available at the end of a fiscal period for this purpose. In order that such reserve funds not be accumulated beyond a reasonable amount, it was proposed that a limit of approximately one fiscal period's expense be provided. It was shown that such an amount should be sufficient to cover any foreseeable need since some income from assessment may be expected during any year. After the reserve has been built up to that amount, excess assessment income should thereafter be returned to the handlers entitled to refunds in accordance with the provisions of the order. However, in keeping with the need for the reserve fund, whenever any portion of it is used, the full amount withdrawn should be returned to the reserve as soon as assessment income is available for this purpose.

The reserve fund should be used, with the approval of the Secretary, to cover costs of liquidation of the program in the event the order is terminated, as well as to cover necessary operational costs, such as for salaries and other necessary expenses, during any period when the order, or any of its provisions, should be suspended. It is possible, of course, that the program may be terminated at the end of a fiscal period, or during a year when the production of apricots is relatively light. In such circumstances, it would be burdensome to handlers to require payment of an assessment to cover the liquidation costs. All handlers receive benefits from the program's operation; and, even if a handler ceases handling apricots before the full time of its operation has expired, it would be appropriate and equitable for such handler to share in the expense of liquidation. Should the order provisions be suspended, it is likely such suspension would occur during a period when apricot production has been seriously curtailed. It would seem reasonable and proper, therefore, to use the reserve funds to defray any expense of liquidation or any necessary cost of operation during a period of suspension. It is anticipated, of course, that the committee will endeavor to minimize costs in this regard as far as reasonably practicable consistent with the efficient performance of its responsibilities.

Upon termination of the order, any funds in the reserve which are not used to defray the necessary expenses of liquidation should, to the extent practicable, be returned to the handlers from whom such funds were collected. It is apparent, from the evidence of record, that it may not be possible to make an exact distribution of any such funds. Should the order be terminated after many years of operation, and there have been several withdrawals and redeposits in the reserve, the precise equities of handlers may be difficult to ascertain and any requirement that there be a precise accounting of the remaining funds could involve such costs as to nearly equal the monies to be distributed. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances. In view of the foregoing, it is, therefore, concluded that authority should be provided, as hereinafter set forth, to permit the establishment and use of a reserve fund in the manner heretofore described.

Funds received by the committee pursuant to the levying of assesments should be used solely for the purposes of the order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. The committee should provide the Secretary

with periodic reports at appropriate times, such as at the end of each marketing season or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the committee's activities and operations. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee, should be required to account for all receipts and disbursements, funds, property, and records for which they are responsible, should the Secretary at any time ask for such an accounting. Also, whenever any person ceases to be a member or alternate of the committee, he should similarly be required to account for all funds, property, and other committee assets for which he is responsible and to deliver such funds, property, and other assets to such successor as the Secretary may designate. Such person should also be required to execute assignments and such other instruments which may be appropriate to vest in the successor the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

(d) The order should provide, as hereinafter set forth, authority for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of apricots.

Through the medium of research investigation, the committee should be able to assemble and evaluate data on growing, harvesting, shipping, marketing, and other factors with respect to apricots which would be of value in determining what regulations should be established, in accordance with the act and the order, for the benefit of the apricot industry in the production area. As the committee becomes more aware of the value and need for marketing research and development, other projects will undoubtedly be initiated, the need for which may not have been foreseen during the course of the hearing.

The committee should be empowered to engage in such projects (except advertising and sales and trade promotion projects which are not permitted by the act), to spend assessments funds for them, and to consult and cooperate with appropriate agencies with regard to their establishment. The committee may be limited by the lack of facilities and trained technicians in carrying out any such projects; and it should be authorized to enter into contracts for their development with qualified agencies such as State universities, and public and private agencies. Prior to engaging in any such activities, the committee should, of course, submit to the Secretary for his approval the plans for each project. Such plans should set forth the details, including the cost and the objectives to be accomplished, so as to insure, among other things, that the projects are within the purview of the act. The cost of any such project should be included in the budget for approval, and such cost should be defrayed by the use of assessment funds as authorized by the act.

(e) The declared policy of the act is to establish and maintain such orderly marketing conditions for apricots, among other commodities, and will tend to establish parity prices therefor, and to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirement as will be in the public interest. The regulation of apricot shipments by maturity, grade, size, or quality, or any combination thereof, as authorized in the order, provides a means of carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, and prior to recommending regulation of apricot shipments, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers and handlers of apricots. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the committee's plans for regulation and the basis therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory actions are being considered, since it would provide basic information necessary to the evaluation of such regulation.

In preparing its marketing policy, the committee should give consideration to the supply and demand factors, hereinafter set forth in the order, affecting marketing conditions for apricots since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The committee should be permitted to revise its marketing policy so as to give appropriate recognition to the latest known conditions when changes in such conditions since the beginning of the season are sufficiently marked to warrant modification of such policy. Such action is necessary if the marketing policy is to appropriately reflect the probable regulatory proposals of the committee and be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

The committee should, as the local administrative agency under the order, be authorized to recommend such maturity, grade, size, and quality regulations, as well as any other regulations and amendments thereto authorized by the order, as will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and increased growers' returns for apricots. The committee should, therefore, have authority to recommend such regulations as are authorized by the order whenever such regulations will, in the judgment of the committee, tend to promote more orderly marketing conditions and effectuate the declared policy of the act.

When conditions change so that the then current regulations do not appear to the committee to be carrying out the declared policy of the act, the committee should have the authority to recommend the amendment, modification, suspension, or termination of such regulations, as the situation warrants.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to issue various grade, size, quality, and other appropriate regulations which tend to improve growers' returns and to establish more orderly marketing conditions for apricots. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, or amendments or modifications thereof, as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy, he should have authority to suspend or terminate the regulation, in accordance with the requirements of the act.

The maturity, grade, size, and quality of apricots which are shipped at any particular time have a direct effect on returns to growers. It is a fact that poorer grades, and less desirable sizes, of apricots marketed return lower prices than do better grades and sizes. A restriction, under the order, of the shipment of apricots of low grade should result in higher returns for the better grades marketed by eliminating the price depressing effect of poor quality apricots.

Evidence presented at the hearing shows that handlers often have shipped in fresh fruit channels immature apricots and apricots of poor grade and quality and of undesirable size. Such apricots may be sold only at discounts, and the returns from such sales often do not cover the cash costs of harvesting and marketing. In addition, such sales have tended to depress the prices for the entire crop, for the particular year, below the level which otherwise would have existed if only apricots of suitable maturity, grade, size, and quality, considering the supply and demand conditions for such fruit, had been available in the markets.

The demand for particular grades, sizes, and qualities of apricots varies depending upon the volume of supplies available, the grade, size, and quality composition of such supplies, the availability of competing commodities, and other factors such as the trend and level of consumer income. The supply conditions for apricots are subject to substantial changes during a particular season as the result of weather conditions affecting the volume and quality of the crop.

The grade, size, and quality composition of the apricot crop, and the volume of the available supply for the season as a whole and for any particular period during the season, are important factors which must be considered in establishing regulations. There is generally a

sufficient volume of apricots harvested in the production area so that the shipment of only the better grades, sizes, and qualities of apricots to fresh market could fill market demands. Proper maturity is an important factor determining consumer acceptance. Prices for apricots in the production area generally start each season at a high level. This is usually followed by a rapid decline. It was testified that haste to take advantage of high prices early in the season had frequently caused the shipment of immature, excessively small, and poor quality apricots which had resulted in dissatisfaction of consumers; and that such consumer dissatisfaction has been reflected in reduced demand and lowered returns to growers. Therefore, the order should provide for the establishment by the Secretary of regulations by maturity, grade, size, quality, or combinations thereof, based upon limitations recommended by the committee or other available information; and such regulations should cover such period or periods as it is determined is warranted by the anticipated supply and demand conditions. In making its recommendations for such regulations, the committee should consider the heretofore enumerated supply and demand factors. The committee, because of the knowledge and experience of its members, will be well qualified to evaluate such factors and to develop economically sound and practical recommendations for regulations and to advise the Secretary with respect to the supply and demand conditions under which the apricot crop will be marketed.

Several different varieties of apricots are grown in the production area. Principal varieties are the Moorpark, Tilton, Blenheim, Riland, Perfection, and Phelps. Each variety of apricots has certain characteristics which serve to distinguish it from other varieties. The differences in characteristics, such as shape, size, color, and maturing characteristics, may make it undesirable to apply the same regulations to all varieties in that under certain circumstances a given regulation may eliminate an excessive proportion of certain varieties from the market. Also, it was testified that differences in demand exist for certain varieties which may make it desirable to recognize such differences in the establishment of regulations. The order should, therefore, provide authority for the issuance of different regulations for different varieties.

The evidence in the record shows that the most practical basis for issuing regulations covering any portion of the production area, other than the entire production area, would be on a district basis. District 1, the Wenatchee area, and District 2, the Yakima area, are separated by a range of mountains, and the centers—i. e., the cities of Wenatchee and Yakima—of the two areas are about 125 miles apart. Apricots produced in each of the districts are prepared for market in the district where produced. Weather conditions vary between the two areas, and detrimental weather may adversely affect the apricot crop in one district while the crop in the other district may not be so affected. Because of these circumstances, and in order to provide equity among growers and handlers, authority should be provided in the order to permit establishment of different regulations in different districts of the production area. It was stated in the notice of hearing and proposed at the hearing that authority should be included to regulate differently for any or all portions of the production area. It was pointed out, however, that such regulations, if established, would be most difficult to enforce, and the primary example given of the need for such regulation was to provide relief for hail damage. Since only those persons who have fruit affected by such damage would have any of such fruit, a regulation could be issued providing increased hail damage tolerance for an entire district even though only portions of such district were affected. Hence, it is concluded that authority to regulate by districts would permit the establishment of such different regulations as are likely to be necessary with respect to apricots produced in different portions of the production area, and such regulations would be more practical from an enforcement standpoint.

It is important that the order provide authority for the committee to recommend and the Secretary to fix the size, weight, capacity, dimensions, or pack of the containers which may be used in the packaging or handling of apricots. Some of the containers used in the shipment of apricots are 12- and 14-pound wooden boxes or lugs, with inside dimensions $10\frac{1}{2}$ x $3\frac{3}{8}$ x 15 inches and $10\frac{1}{2}$ x $4\frac{1}{8}$ x 15 inches, respectively; a four-basket crate with inside dimensions of 16 x $4\frac{3}{4}$ x 16 inches holding 22 to 24 pounds of fruit net; and a 28-pound lug with inside dimensions $11\frac{1}{2}$ x 7 x $17\frac{7}{8}$ inches. The trend in container development has been to smaller and smaller containers. The 12-pound container developed as a variation of the 14-pound container, and a host of containers has developed as variations of the 28-pound lug. Such containers, commonly known in the apricot trade as "Gypo" containers, presumably developed in an attempt to gain a competitive advantage, cause considerable confusion in the buying and selling of apricots. The multiplicity of such containers, and the fact that in many instances they vary so slightly from each other in size and capacity that customers do not realize that the apparent price advantage for a seemingly identical container merely reflects the smaller quantity of fruit, result in disorderly marketing conditions. Standardization of containers to those most suitable for the packing and handling of apricots, and prescribing the use of containers of sizes and capacities which can readily be distinguished from each other, would tend to establish more orderly marketing conditions and increase growers' returns.

The exercise of the authority to regulate containers, however, should not be used to close the door on experimenting with new containers or to prevent the commercial use of any new or superior containers which may be developed.

The order also should contain authority to regulate the packs of containers. This would assist the apricot industry in the production area in its merchandising efforts to provide the most acceptable packs to enhance trade reputation. Neither the United States grades nor the Washington State grades make any requirement with respect to uniformity of size within containers unless the numerical count is used to describe the apricots in a container. Apricots are generally not sold by numerical count. Most of the apricots for distant shipment are packed row-faced in 12-pound lugs. The number of rows imply the size of apricots, but in the absence of any minimum size or pack requirement there is no guarantee of uniformity of size or pack. Loose packs are generally unlidded containers of apricots of random sizes, which in the absence of requirements as to uniformity of contents, are difficult to describe, cause confusion, and contribute to disorderly marketing conditions. It may be necessary to limit the shipment of apricots to export markets to grades, sizes, packs, or containers which are different from those permitted to be shipped to the domestic market. For example, Canada specifies the containers in which apricots must be packed to be admitted into that country. Moreover, it was testified that the export market has sometimes accepted apricots of sizes which, at the time, it was not profitable to ship to domestic markets.

Under certain circumstances it may be desirable to regulate shipments of apricots differently for containers of different capacities on the basis of the particular grades and sizes which may be packed in such containers. Authority for such flexibility in regulations, included in the order, would tend to effectuate the declared policy of the act.

It is not in the public interest to cease regulation when the season average price of apricots exceeds parity. The commitee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity, in terms of grades or sizes, or both, and such grading and inspection requirements, during any and all periods when the season average price for apricots may be above parity, as well effectuate such orderly marketing of apricots as will be in the public interest. Some apricots do not give consumer satisfaction regardless of the price level. Immature apricots, deteriorated apricots, and apricots of very small sizes are examples of the type of fruit that is wasteful and does not represent a value to the consumer and should not be shipped.

The shipment of insufficiently mature apricots or fruit lacking in the quality necessary to assure delivery in satisfactory condition would cause an adverse buyer reaction and would tend to demoralize the market for later shipments of such fruit. Such undesirable fruit has been marketed in the past and undoubtedly would again be marketed in the absence of regulation when the season average price is above parity. Hence, the discontinuance of regulations during season when the average price exceeds parity could adversely affect consumers and also result in dissipation of all benefits from the prior operation of the program.

Adverse growing conditions and weather factors may cause some fruit to develop abnormally, or so affect the quality that it would not be in the public interest to permit its shipment. The possible development depends on the conditions in the particular season. It is necessary, therefore, that the provisions of the order contain the flexibility needed to reflect such conditions. Hence, the specific minimum standards of quality and maturity that may be made applicable during a particular year should be established by the Secretary upon the basis of the recommendations of the committee, made after review of the existing conditions that year, or other available information.

(f) The order should provide for the exemption from its provisions of such handling of apricots which it is not necessary to regulate in order to effectuate the declared purposes of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to the provisions of the program.

Apricots which are handled for consumption by charitable institutions, for distribution by relief agencies, or for commercial processing into products have little influence on the level of prices for apricots sold in the domestic and export markets. Hence, apricots handled for such purposes should be exempted from compliance with the regulations issued under the order.

In addition, provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of apricots, in such specified small quantities, or types of shipments, or shipments made for such specified purposes as it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the exemption of such handling as may be determined necessary to facilitate the conduct of research, and handling which is found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It would be impractical to set forth these exemptions in detail in the order, because to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of apricots in the production area. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments, or shipments made for specified purposes, should be exempted from regulation, inspection, and assessments and the period during which such exemptions should be in effect.

The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. Hence, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as are necessary to prevent apricots handled for any of the exempted purposes from entering into regulated channels of trade and thereby tend to defeat the objective of the program. For example, should it be found that a portion of the apricots moving to commercial processors was being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such apricots do not have to comply with grade, size, quality, and other requirements. These procedures might include such requirements as filing applications for authorization to move apricots in exempted channels and certification by the receiver that such apricots would be used only for the purpose indicated, if it is found that such requirements are necessary to the effective enforcement of the program regulations.

(g) Provision should be made in the order requiring all apricots handled, during any period when handling limitations are effective, to be inspected by the Federal-State Inspection Service and certified as meeting the requirements of the applicable regulation. Inspection and certification of all apricots handled during periods of regulation are essential to the effective supervision of the regulations. Evidence of compliance with regulations issued under the program can be ascertained only through inspection and certification of all apricots handled during the effective period of such regulations. As the handler of apricots is the person responsible for compliance with such regulations, it is reasonable and necessary to require handlers to submit each lot of apricots handled for inspection and certification and to file a copy of the certificate of inspection with the committee. It was testified that handlers are familiar with the Federal-State Inspection Service and the certification of apricots in the production area, and the use of such inspection agency under this program is desired by the industry.

Responsibility for obtaining inspection and certification should fall on each person who handles apricots. In this way, not only will the handler who first ships or handles apricots be required to obtain inspection and certification thereof, but also no subsequent handler may handle apricots unless a properly issued inspection certificate, valid pursuant to the terms of the order and applicable regulations thereunder, applies to the shipment. Each handler must bear responsibility for determining that each of his shipments is so inspected and certified.

In instances where any lot of apricots previously inspected is regarded, resorted, repackaged, or in any other way subjected to further preparation for market, such apricots should be required to be inspected following such preparation, and certified as meeting the requirements of the applicable regulations before such apricots are handled, since the identity of the lot is lost in such preparation and the validity of the prior inspection certificate and the information shown thereon destroyed.

(h) The committee should have the authority, with the approval of the Secretary, to require that handlers submit to the committee such reports and information as may be needed to perform such agency's functions under the order. Handlers have such necessary information in their possession, and the requirement that they furnish such information to the committee in the form of reports would not constitute an undue burden. Moreover, since handlers are the only persons subject to regulation under the program, they are the only persons who could be required to furnish such information. It was testified at the hearing that is was anticipated that most of the information needed by the committee to carry out its functions could be obtained from the required inspection certificates.

However, it was pointed out that it is difficult to anticipate every type or report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the committee should have the authority to request with approval of the Secretary, reports and information as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

The Secretary should retain the right to approve, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports. Any reports and records submitted for committee use by handlers should remain under protective classification and be disclosed to none other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the release of information with respect to apricot shipments may be helpful to the committee and the industry generally in planning for operations under the order during the marketing season. However, none of such reported information may be released other than on a composite basis, and no such release of information should disclose either the identity of handlers or their operations. This is necessary to prevent the disclosure of information which may affect detrimentally the trade or financial position, or the business operations of individual handlers.

Since it is possible that a question could arise with respect to compliance, handlers should be required to maintain for each fiscal period complete records on their receipts, handling, and dispositions of apricots. Such records should be retained for not less than two succeeding years.

(i) Except as provided in the order, no handler should be permitted to handle apricots, the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle apricots except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(j) The provisions of §§ 1020.62 through 1020.71, as hereinafter set forth, are similar to those which are included

in other marketing agreements and orders now operating. The provisions of §§ 1020.72 through 1020.74, as hereinafter set forth, are also included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section number and heading, are as follows: § 1020.62 *Right of the secretary;* § 1020.63 *Effective time;* § 1020.64 *Termination;* § 1020.65 *Proceedings after termination;* § 1020.66 *Effect of termination or amendment;* § 1020.67 *Duration of immunities;* § 1020.68 *Agents;* § 1020.69 *Derogation;* § 1020.70 *Personal liability;* and § 1020.71 *Separability.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § 1020.72 *Counterparts;* § 1020.73 *Additional parties;* and § 1020.74 *Order with marketing agreement.*

Rulings on proposed findings and conclusions. January 17, 1957, was set by the Presiding Officer at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No such brief was filed.

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

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

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

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

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

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

Recommended marketing agreement and order. The following marketing agreement and order [1] are recommended as the detailed means by which the foregoing conclusions may be carried out:

DEFINITIONS

§ 1020.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1020.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

§ 1020.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 1020.4 *Production area.* "Production area" means all of the territory included within the Counties of Okanogan, Chelan, Douglas, Grant, Yakima, Benton, and Klickitat within the State of Washington.

§ 1020.5 *Apricots.* "Apricots" means all varities of apricots, grown in the production area, classified botanically as Prunus armeniaca.

§ 1020.6 *Varieties.* "Varieties" means and includes all classifications or subdivisions of Prunus armeniaca.

§ 1020.7 *Fiscal period.* "Fiscal period" is synonymous with fiscal year and means the 12-month period ending on March 31 of each year or such other period that may be approved by the Secretary pursuant to recommendations by the committee.

§ 1020.8 *Committee.* "Committee" means the Washington Apricot Marketing Committee established pursuant to § 1020.20.

§ 1020.9 *Grade.* "Grade" means any one of the officially established grades of apricots as defined and set forth in:

(a) United States Standards for Apricots (21 F. R. 9935) or amendments thereto, or modifications thereof, or variations based thereon;

(b) Standards for apricots issued by the State of Washington or amendments thereto, or modifications thereof, or variations based thereon.

§ 1020.10 *Size.* "Size" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end, or such other specification as may be established by the committee with the approval of the Secretary.

§ 1020.11 *Grower.* "Grower" is synonymous with producer and means any person who produces apricots for market and who has a proprietary interest therein: *Provided,* That a grower who is also a handler must have produced not less than 51 percent of the apricots handled by him during the previous season in order to qualify as a grower under §§ 1020.20, 1020.22, and 1020.23.

§ 1020.12 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting apricots owned by another person) who handles apricots.

§ 1020.13 *Handle.* "Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport apricots or cause the sale, consignment, delivery, or transportation of apricots or in any other way to place apricots, or cause apricots to be placed, in the current of commerce from any point within the production area to any point outside thereof: *Provided,* That the term "handle" shall not include the transportation within the production area of apricots from the orchard where grown to a packing facility located within such area for preparation for market, or the delivery of such apricots to such packing facility for such preparation.

§ 1020.14 *District.* "District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 1020.31 (m):

(a) "District 1" shall include the Counties of Chelan, Okanogan, Douglas, and Grant.

(b) "District 2" shall include the Counties of Yakima, Benton, and Klickitat.

§ 1020.15 *Export.* "Export" means to ship apricots beyond the continental boundaries of the United States.

§ 1020.16 *Pack.* "Pack" means the specific arrangement, size, weight, count, or grade of a quantity of apricots in a particular type and size of container, or any combination thereof.

§ 1020.17 *Container.* "Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of apricots.

ADMINISTRATIVE BODY

§ 1020.20 *Establishment and membership.* There is hereby established a Washington Apricot Marketing Committee consisting of twelve members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate. Eight of the members and their respective alternates shall be growers or officers or employees of corporate growers. Four of the members and their respective alternates shall be handlers, or officers or employees of corporate handlers. The eight members of the committee who are growers or employees or officers of corporate growers are hereinafter referred to as "grower members" of the committee; and the four members of the committee who shall be handlers, or officers or employees of corporate handlers, are hereinafter referred to as "handler members" of the committee. Four of the grower members and their respective alternates shall be producers of apricots in District 1, and four of the grower members and their respective alternates

[1] The provisions identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order.

shall be producers of apricots in District 2. Two of the handler members and their respective alternates shall be handlers of apricots in District 1, and two of the handler members with their respective alternates shall be handlers of apricots in District 2.

§ 1020.21 *Term of office.* The term of office of each member and alternate member of the committee shall be for 2 years beginning April 1 and ending March 31: *Provided,* That the terms of office of one-half the initial members and alternates shall end March 31, 1958. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. The terms of office of successor members and alternates shall be so determined that one-half of the total committee membership ends each March 31.

§ 1020.22 *Nomination*—(a) *Initial members.* Nominations for each of the eight initial grower members and four initial handler members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of group meetings of the growers and handlers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified, in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided for in § 1020.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than March 1 of each year, a meeting or meetings of growers and handlers in each district for the purpose of designating nominees for successor members and alternate members of the committee. At each such meeting a chairman and a secretary shall be selected by the growers and handlers eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary.

(2) Only growers, including duly authorized officers or employees of corporate growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces apricots. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If qualified, a person may vote either as a grower or as a handler but not as both.

(3) Only handlers, including duly authorized officers or employees of corporate handlers, who are present at such nomination meetings, may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles apricots. No handler shall participate in the election of nominees in more than one district in any one fiscal year. If qualified, a person may vote either as a grower or as a handler but not as both.

§ 1020.23 *Selection.* From the nominations made pursuant to § 1020.22, or from other qualified persons, the Secretary shall select the eight grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ 1020.24 *Failure to nominate.* If nominations are not made within the time and in the manner prescribed in § 1020.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 1020.20.

§ 1020.25 *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 1020.26 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 1020.22 and 1020.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 1020.20.

§ 1020.27 *Alternate members.* An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member or the committee may designate any other alternate member from the same district and group (handler or grower) to serve in such member's place and stead.

§ 1020.30 *Powers.* The committee shall have the following powers:

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

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

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

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

§ 1020.31 *Duties.* The committee shall have, among others, the following duties:

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

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

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

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

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

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

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

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to apricots;

(i) To submit to the Secretary such available information as he may request;

(j) To notify producers and handlers of all meetings of the committee to consider recommendations for regulations;

(k) To give the Secretary the same notice of meetings of the committee as is given to its members;

(l) To investigate compliance with the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided, and to reapportion the representation of any district on the committee: *Provided,* That any such changes shall reflect, insofar as practicable, shifts in apricot production within the districts and the production area.

§ 1020.32 *Procedure.* (a) Eight members of the committee, including alternates acting for members, shall constitute a quorum; and any action of the committee shall require the concurring vote of at least 7 members: *Provided,* That when two-thirds of the membership present is greater than 7, such requirement shall be two-thirds of such membership.

(b) The committee may provide for simultaneous meetings of groups of its members assembled at two or more designated places: *Provided,* That such meetings shall be subject to the establishment of communication between all

such groups and the availability of loud speaker receivers for each group so that each member may participate in the discussions and other actions the same as if the committee were assembled in one place. Any such meeting shall be considered as an assembled meeting.

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

§ 1020.33 *Expenses and compensation.* The members of the committee, and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part and may also receive compensation, as determined by the committee, which shall not exceed $10 per day or portion thereof spent in performing such duties: *Provided*, That at its discretion the committee may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses and compensation, as aforesaid.

§ 1020.34 *Annual report.* The committee shall, prior to the last day of each fiscal period, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal period; (b) an appraisal of the effect of such regulatory operations upon the apricot industry; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ 1020.40 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 1020.41.

§ 1020.41 *Assessments.* (a) Each person who first handles apricots shall, with respect to the apricots so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds will be incurred by the committee during each fiscal period. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apricots handled by him as the first handler thereof during the applicable fiscal period and the total quantity of apricots so handled by all persons during the same fiscal period. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all apricots handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose.

§ 1020.42 *Accounting.* (a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraph (2) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal period unless such person demands repayment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for committee operations during such period may be carried over into following periods as a reserve. Such reserve may be established at an amount not to exceed approximately one fiscal period's operational expenses; and such reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal period when there is a crop failure, or during any period of suspension of any or all of the provisions of this part. Such reserve may also be used by the committee to finance its operations, during any fiscal period, prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

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

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

RESEARCH

§ 1020.45 *Marketing research and development.* The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of apricots. The expense of such projects shall be paid from funds collected pursuant to § 1020.41.

REGULATIONS

§ 1020.50 *Marketing policy.* (a) Each season prior to making any recommendations pursuant to § 1020.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apricots within the production area;

(2) The expected general quality and size of apricots in the production area and in other areas;

(3) The expected demand conditions for apricots in different market outlets;

(4) The expected shipments of apricots produced in the production area and in areas outside the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of apricots; and

(8) The type of regulations expected to be recommended during the season.

(b) In the event it becomes advisable, because of changes in the supply and demand situation for apricots, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report, including each revised marketing policy report, and copies thereof shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 1020.51 *Recommendations for regulation.* (a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apricots in the manner provided in § 1020.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for apricots during the period or periods

when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 1020.52 *Issuance of regulations.* (a) The Secretary shall regulate, in the manner specified in this section, the handling of apricots whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of apricots grown in any district or districts of the production area;

(2) Limit the shipment of apricots by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of apricots.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to growers and handlers.

§ 1020.53 *Modification, suspension, or termination of regulations.* (a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 1020.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of apricots in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 1020.54 *Special purpose shipments.* (a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 1020.41, 1020.52, and 1020.55, and the regulations issued thereunder, handle apricots (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements under or established pursuant to §§ 1020.41, 1020.52, or 1020.55 with respect to the handling of apricots in such minimum quantities, or types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 1020.45), as the committee, with approval of the Secretary, may prescribe.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent apricots handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle apricots pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apricots will not be used for any purpose not authorized by this section.

§ 1020.55 *Inspection and certification.* Whenever the handling of any variety of apricots is regulated pursuant to § 1020.52, each handler who handles apricots shall, prior thereto, cause such apricots to be inspected by the Federal-State Inspection Service and certified by it as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall be required for apricots which previously have been so inspected and certified only if such apricots have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such apricots.

REPORTS

§ 1020.60 *Reports.* (a) Upon request of the committee, made with approval of the Secretary, each handler shall furnish to the committee, in such manner and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part. Such reports may include, but are not necessarily limited to, the following: (1) The quantities of each variety of apricots received by a handler; (2) the quantities disposed of by him, segregated as to the respective quantities subject to regulation and not subject to regulation; (3) the date of each such disposition and the identification of the carrier transporting such apricots, and (4) the destination of each such shipment.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handler's identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the apricots received, and of apricots disposed of, by such handler as may be necessary to verify reports pursuant to this section.

MISCELLANEOUS PROVISIONS

§ 1020.61 *Compliance.* Except as provided herein, no person shall handle apricots, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle apricots except in conformity with the provisions of this part.

§ 1020.62 *Right of the secretary.* The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 1020.63 *Effective time.* The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 1020.64.

§ 1020.64 *Termination.* (a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

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

(c) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of apricots for market: *Provided,* That such majority has produced for market during such period more than 50 percent of the volume of apricots produced for market in the production area; but such termination shall be effective only if announced on or before March 31 of the then current fiscal period.

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

§ 1020.65 *Proceedings after termination.* (a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the

affairs of the committee, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

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

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

§ 1020.66 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) effect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 1020.67 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 1020.68 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 1020.69 *Derogation.* Nothing contained in the provisions of this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 1020.70 *Personal liability.* No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other act, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 1020.71 *Separability.* If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 1020.72 *Counterparts.* This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ 1020.73 *Additional parties.* After the effective date of this marketing agreement, any handler may become a party to such agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ 1020.74 *Order with marketing agreement.* Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for the regulating of the handling of apricots in the same manner as is provided for in this agreement. * * *

Dated: March 1, 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator, Marketing Services.

[F. R. Doc. 57-1688; Filed, Mar. 5, 1957; 8:55 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

STONE FORWARDING CO. AND LUIGI SERRA, INC.

NOTICE OF AGREEMENT FILED FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15, Shipping Act, 1916 (39 Stat. 753; 46 U. S. C. 814):

Agreement No. 8208 between Stone Forwarding Co., Inc., Houston, Texas, and Luigi Serra Inc., New York, New York, is a cooperative working arrangement between the parties under which they perform freight forwarding services for each other.

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

Dated: February 28, 1957.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F. R. Doc. 57-1654; Filed, Mar. 5, 1957; 8:45 a. m.]

Office of the Secretary

TEMPORARY DELEGATIONS OF AUTHORITY UNDER REORGANIZATION PLAN NO. 5 OF 1950

REVOCATION OF ORDER

The Secretary of Commerce has now prescribed, in the Manual of Orders, the organization and functions of all primary organization units of the Department affected by Reorganization Plan No. 5 of 1950 together with related delegations of authority. The provisions of Department Order No. 115 (published in 15 F. R. 3198) therefore serve no useful purpose and this order is hereby revoked.

Dated: February 27, 1957.

[SEAL] SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 57-1655; Filed, Mar. 5, 1957; 8:45 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. F-13]

BABCOCK & WILCOX CO.

NOTICE OF PROPOSED ISSUANCE OF FACILITY LICENSE

Please take notice that the Atomic Energy Commission proposes to issue a facility license to Babcock & Wilcox Company substantially in the form set forth below as Annex "A" unless within fifteen (15) days after filing of this notice in the FEDERAL REGISTER a request for a formal hearing is filed with the Commission in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). There is included and set forth below as Annex "B"

a memorandum submitted by the Division of Civilian Application which summarizes the principal features of the facility and the principal factors considered in reviewing the application for a license. A construction permit authorizing Babcock & Wilcox Company to construct the facility was issued by the Commission on December 9, 1955. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Washington this 1st day of March 1957.

For the Atomic Energy Commission.

H. L PRICE,
Director,
Division of Civilian Application.

ANNEX "A"

LICENSE

1. Subject to the conditions and requirements incorporated herein, the Atomic Energy Commission (hereinafter "the Commission") hereby licenses the Babcock & Wilcox Company (hereinafter "B&W").

a. Pursuant to Section 104c of the Atomic Energy Act of 1954 (hereinafter referred to as "the Act"), and Title 10, CFR, Chapter 1, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate as a utilization facility the critical experiments facility (hereinafter referred to as "the facility") designated below;

b. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material", to use in operation of the facility the special nuclear material covered by License No. SNM-32 issued to B&W on August 26, 1956.

c. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of By-Product Material", to possess, but not to separate from the fuel, such special nuclear and by-product material as may be produced from operation of the facility.

2. This license applies to the facility which is owned by B&W and located in Lynchburg, Virginia, and described in B&W's application filed October 27, 1955, and amendments thereto filed on February 23, 1956, and August 20, 1956. The original application together with said amendments is hereinafter referred to as "the application".

3. This license shall be deemed to contain and be subject to the conditions specified in § 50.54 of Part 50 and § 70.32 of Part 70; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below.

4. B&W shall not conduct any critical experiments in the facility until a description of the experiments and a Hazards Summary Report shall have been submitted to the Commission and the Commission shall have specifically authorized the experimental activity under this license.

5. The conditions and requirements contained in Appendix "A", attached hereto, are a part of this license.

6. This license is effective as of the date of issuance and shall expire at midnight, December 9, 1955, unless sooner terminated.

For the Atomic Energy Commission.

Director,
Division of Civilian Application.

Date of Issuance__________________________

APPENDIX "A"

I. *Experiments.*

B&W is authorized to perform the critical experiments described in the application, which are related to the Consolidated Edison Company power reactor. Any changes in the experiments as described in the application must be authorized by the Commission.

II. *Operating Restrictions.*

a. B&W shall operate the facility in accordance with the procedures described in the application.

b. B&W shall not by-pass any control mechanism during the operation of the facility.

c. Prior to the performance of the critical experiments described in the application, B&W shall provide an interlock in the facility control system to prevent withdrawal of control rods concurrently with the addition of water moderator to the core tank containing the fuel assemblies.

III. *Records.*

In addition to those otherwise required under this license, B&W shall keep the following records:

a. Facility operating records.

b. Records containing a description, procedures, and results for each critical experiment performed.

c. Records showing radioactivity released or discharged into the air or water beyond the effective control of B&W as measured at the point of such release or discharge.

d. Records of emergency scrams, including reasons for emergency shutdowns.

IV. *Reports.*

B&W shall make a prompt report to the Commission of any unusual operating incident of the facility.

ANNEX "B"

MEMORANDUM

Introduction. The Babcock & Wilcox Company filed on October 27, 1955, an application for a Class 104 license to construct, possess and operate a critical experiment facility to be located near Lynchburg, Virginia. On December 9, 1955, a construction permit was issued to the Babcock & Wilcox Company authorizing construction of the critical experiment facility. On January 15, 1957, representatives of the Commission inspected the facility and determined that it was constructed substantially in accord with the design set forth in the license application.

The Babcock & Wilcox Company filed, as part of its license application, a "Hazards Summary Report" (February 1956) and "Amendments to the Critical Experiments Facility Hazards Evaluation" (August 1956) containing information on the facility as it had been constructed and on the initial critical experiments. There is set forth below our considerations on this information and our analysis of the hazards associated with operation of the facility.

Description of the facility. The Critical Experiment Facility is located approximately 3½ miles east of the outskirts of Lynchburg, Virginia, on a 520-acre tract in Campbell County, Va. It is situated within a loop of the James River, which encloses the site to the southwest, northwest and northeast. The Chesapeake and Ohio Railroad lies between the site and the James River and is 440' distant from the critical facility building at its nearest point. The B&W Fuel Element Fabrication Plant is on the same site and is located 1,200 ft. east of the critical facility.

Prevailing winds generally are toward a quadrant facing directly eastward. Located in this quadrant there are two dwellings within 0.5 mile, seven from 0.5 to 1.0 mile and fifteen from 1.0 to 1.5 miles. Hydrology, geology and seismology introduce no unusual problems.

The critical facility structure comprises a high reinforced concrete bay and a lower wing of conventional construction. The high bay houses the critical assembly, while the low wing houses the vault, sub-assembly room shops, laboratory and offices. The bay area is 35 feet x 25 feet x 45 feet high (10 feet below grade). On three sides the walls are 3 feet thick from ground level to 10 feet above ground level, and on the control room side the wall is 3 feet thick to 20 feet above ground level. For the rest of the height, the walls are 2 feet thick. The roof is 1 foot thick reinforced concrete. Access to the assembly bay is through a 5 foot wide labyrinth corridor. The door in this corridor and the large shielded equipment access door leading to the outside are not designed to be pressure tight, but the entire bay construction is said to permit a leakage of only 2 percent of the bay contents per 24 hours under normal barometric pressure fluctuations.

Description of initial experiments. Experiments to be performed in this facility, for which a license is now sought, are related to and comprise an investigation of the proposed fuel assembly or core of the Consolidated Edison Power Reactor. A total of approximately 275 kilograms of U-235 (contained in uranium enriched to 90 percent U-235) will be used in the experiments The uranium in the form of U_3O_8, will be embedded in polyethylene. Structural members will be of aluminum. The assemblies will normally be operated at fractions of a watt, with occasional operation in the 1 watt and (rarely) in the 1,000 watt range (for short intervals).

Each fuel bundle or element will contain ten plates, each made up of a central plate of aluminum with a plate of thorium bonded to one side and a uranium oxide impregnated polyethylene film bonded to the other. There will be about 480 such bundles in the fully loaded core.

Two safety rods of boron stainless steel, each possessing a 2 percent reactivity value, will be cocked for scram insertion during all operations except when water moderator is being added (see below). There are also two shim rods, 2 percent reactivity each, used to determine rod worth and for other compensation. When water is being circulated or added to the core tank, all four rods will be in the ready position, i. e., with the bottom of each rod more than two feet above the bottom of the core. A fifth rod, possessing a 0.3 percent reactivity value, will serve as a control rod. In no experiments will there be an amount of net excess reactivity greater than 3 percent, hence there will always be enough reactivity available in the four safety and shim rods (total of 8 percent) to scram the reactor even if two of the rods fail to be inserted. In some experiments an additional 17 percent reactivity will be built into the core, and compensated by poison rods permanently bolted in place.

The five safety, shim and control rods are activated by individual hydraulic systems. The maximum withdrawal speed of one rod is 1 ft./min. If more than one rod is withdrawn, the speed of all rods is automatically decreased to the point where if all five rods were to be withdrawn simultaneously, the maximum speed of each rod would be 0.2 ft./min. This withdrawal rate corresponds to a reactivity addition of 0.0004 delta k/k per sec.

One phase of the experimental program is to include determination of critical mass, control rod worth, axial and radial flux traverses, nuclear properties of Th-232, temperature coefficients, Doppler coefficient and void coefficients. Other experiments will be based on the fully loaded and poisoned core, and will include the effect of control rod pattern on flux distribution, search for hot spots, and danger coefficient measurements with actual fuel elements.

Hazards evaluation. For the critical experiments applied for in this facility, no unusual precautions appear necessary with regard to earthquake, storm or flood. Failure of the electrical system will automatically close down operations. No hazards are expected to result from normal operations.

A number of possible minor mishaps and associated hazards were considered by the applicant but it was concluded in each case that the consequences would be less than those from a maximum credible accident which, in turn, was shown to have acceptable consequences of hazard insofar as safety of the public is concerned. Hence, primary attention was devoted to this case.

The maximum credible accident was assumed by the applicant to result from an instantaneous addition of 2 percent excess reactivity, leading to the liberation of 87 Mw-sec of energy. Upon insertion of this amount of excess reactivity, the power would rise until the reactivity is self-compensated by gas formation in the plastic, which would result in creation of voids in the plastic and expulsion of water from the core. This would terminate the incident. The applicant calculated that 4×10^{5} curies of fission product activity would be produced as a result of such a nuclear excursion.

We concur in the assumption that no credible accident would exceed the one in which instantaneous addition of 2 percent excess reactivity to the reactor is assumed, and agree that the energy release from such an accident could reasonably be expected to be no more than 87 Mw-sec. We further agree that gas formation and subsequent expulsion of water from the reactor would cause the excursion to terminate and that the order of 4×10^{5} curies of fission product activity could be generated by such an incident. We do not believe that the reinforced concrete building housing the critical assembly would be damaged, as a result of the postulated accident, to the extent of decreasing the ability of the building to contain fission products.

The applicant's calculation, in which we concur, has shown that, if none of the fission products were retained by the plastic fuel strips and water in the critical assembly (a more pessimistic assumption), all of the fission products were uniformly dispersed in the atmosphere of the assembly room as gases or non-settling suspensions (an even more unrealistic assumption), if the fission products were released from the building at the rate of 2 percent per 24 hours, and if the weather were such that a steady wind of one meter/sec. were to blow in the direction of the nearest boundary for a period of 50 days during which entire time inversion conditions were to maintain, a person located at the nearest site boundary for this full period of 50 days would receive an integrated dose from the passing cloud of only 86 milliroentgens. It is felt highly unlikely that the several conditions listed above would occur, but the calculations have shown that even if they should, personnel exposure would not exceed that allowed by the Commission's regulation (10 CFR Part 20) for continuous operation.

Pursuant to a review of the applicant's operating procedures we consider it necessary that one change be made in the instrumentation. Namely, that an interlock be provided which prevents withdrawal of control rods concurrently with addition of water moderator to the assembly.

Conclusion. From our review of the applicant's analysis of the hazard aspects of the actual experimental program to be conducted in the facility as constructed; based on our evaluation of the reasonableness of the assumptions made by the applicant in his calculations of maximum potential exposure to the public; and taking into account the various mechanical and operational controls which have been incorporated in the design and operating procedure to decrease the probability of any incident to an acceptably low level; we have concluded that, with the change in instrumentation noted above, there is reasonable assurance that the critical experiments described by the applicant can be conducted in this facility without undue hazard to the health and safety of the public.

Dated: March 1, 1957.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57-1690; Filed, Mar. 4, 1957; 5:14 p. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-9277, G-9280]

CHAMPLIN OIL & REFINING CO.

ORDER ENLARGING INVESTIGATION AND CONVENING HEARING

FEBRUARY 28, 1957.

By order issued January 27, 1956, under the style "In the Matter of The Chicago Corporation, Docket No. G-9277, The Chicago Corporation, Gulf Plains Corporation, Docket No. G-9280,"[1] the Commission, upon its own motions, instituted investigations under the provisions of the Natural Gas Act, to determine whether with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by those named respondents, any of the rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices, or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential. That order further provided that a hearing be held in these proceedings upon a date to be fixed by further order.

As of the close of business on December 31, 1956, The Chicago Corporation and its wholly-owned subsidiary Champlin Refining Company were merged and concurrently therewith The Chicago Corporation, the surviving corporation, changed its name to Champlin Oil & Refining Co. All of the rate schedules heretofore filed with the Commission by Champlin Refining Company have been adopted, ratified and made its own by Champlin Oil & Refining Co., effective at the close of business on December 31, 1956.

Under the circumstances it is appropriate that Champlin Oil & Refining Co. be substituted as respondent for The Chicago Corporation. It is also necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the investigations instituted in the above dockets be enlarged to include the rates, charges, and classifications of the former Champlin Refining Company for or in connection with the sale or transportation of natural gas subject to the jurisdiction of the Commission, to the same extent as if Champlin Refining Company had been separately named as a respondent in the order issued January 27, 1956, herein.

[1] By order issued May 28, 1956, amending the order issued January 27, 1956, Gulf Plains Corporation was deleted as respondent in Docket No. G-9280, and the investigation with respect to that company was terminated, for the reasons stated in that amending order.

The proceedings in these dockets as first instituted are two of sixteen complaint cases simultaneously filed under the provisions of section 5 (a) of the Natural Gas Act. In each such proceeding, by order issued January 27, 1956, the Commission initiated a general investigation of the jurisdictional rates of the respective respondent.

Actual field investigations in these cases have been commenced by the staff. To aid in expediting and supplementing these investigations, some of the respondents in these sixteen proceedings, including respondent here, entered into a cooperative effort at the suggestion of the staff to brief and analyze all independent producer rate schedules on file with the Commission through June 30, 1956, covering all areas in the United States, except the Appalachian area, where the coverage will be representative but not complete. The objective of this cooperative effort is to make field-price data available for verification and sponsorship by the staff and other parties in interest.

The task of compiling such data has been under way for some time, but its proportions are such as to make it now appear that it cannot be concluded until around April 1, 1957. It is manifestly desirable that these data be available to all parties, including the staff, before the staff completes its presentation in this case. It is likewise desirable that all of these cases go forward as expeditiously as circumstances permit. Since the status of the staff investigation here will permit it, we have, therefore, determined to order the commencement of hearings in these proceedings at this time to enable the staff to present its evidence with respect to cost of service and to form and level of rates, and to permit cross-examination with respect thereto. Further hearings to afford the staff an opportunity to present field-price evidence and to afford respondents and other parties hereto an opportunity to present evidence shall be deferred pending further order of the Commission.

The Commission orders:

(A) Champlin Oil & Refining Co., which is the new name of The Chicago Corporation as survivor corporation after the merger with Champlin Refining Company, hereby is substituted for The Chicago Corporation as respondent in these dockets.

(B) The investigation instituted by our order issued January 27, 1956, in these dockets, hereby is enlarged to include the rates, charges, and classifications of the former Champlin Refining Company for or in connection with the sale or transportation of natural gas subject to the jurisdiction of the Commission, to the same extent as if Champlin Refining Company had been separately named as a respondent in the order issued January 27, 1956, in these dockets.

(C) A public hearing be held commencing April 17, 1957, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented

in these proceedings as more particularly set forth in the order instituting investigations issued on January 27, 1956, in these dockets, and as further set forth hereinabove.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1664; Filed, Mar. 5, 1957; 8:48 a. m.]

[Project No. 2009]

VIRGINIA ELECTRIC AND POWER CO.

NOTICE OF APPLICATION FOR AMENDMENT OF LICENSE (MAJOR)

FEBRUARY 23, 1957.

Public notice is hereby given that Virginia Electric and Power Company, Licensee for major Project No. 2009 has filed Exhibit K for Commission approval and inclusion in the license. The exhibit shows as project works, transmission facilities located entirely within the project boundaries, which consist of the 110 KV transformers at the plant and the two 110 KV transmission lines extending 1.6 miles to the Roanoke Rapids Substation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is April 5, 1957. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1665; Filed, Mar. 5, 1957; 8:48 a. m.]

[Docket Nos. G-10054, G-10055]

PHILLIPS PETROLEUM CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

FEBRUARY 27, 1957.

Take notice that Phillips Petroleum Company (Applicant), a Delaware corporation with its principal place of business in Bartlesville, Oklahoma, filed on March 5, 1956, applications for permission and approval to abandon service, pursuant to section 7 (b) of the Natural Gas Act, as hereinafter described, subject to the jurisdiction of the Commission all as more fully represented in the applications on file with the Commission, and open to public inspection.

Applicant seeks to abandon the sale of natural gas in interstate commerce to Shamrock Oil and Gas Corporation (Shamrock) for resale from its Luca Lease, Hutchinson County, Texas in docket No. G-10054 and from its Walters Lease, Hutchinson County, and its Ray Ebling Lease, Moore and Hutchinson Counties, Texas in docket No. G-10055. Such sales were authorized covering the Luca and Walters Leases, and its Ray Ebling Lease, in docket Nos. G-3369 and G-3370, respectively, by the Commission's order of September 28, 1956, issued in docket No. G-2605, et al.

Applicant states that the above leases are dedicated to El Paso Natural Gas Company (El Paso) under a contract dated October 13, 1945, but deliveries to El Paso were not effectuated since Applicant's field lines had not been extended thereto at the time said contract was negotiated. Applicant therefore negotiated two short term (three year) contracts with Shamrock dated April 15, 1953, with respect to the sale of gas from the aforementioned leases pending such extension of Applicant's field lines. Applicant further states that the short term contracts with Shamrock have now expired and that deliveries can now be made to El Paso. Applicant seeks herein, permission to abandon the sale to Shamrock under the short term contracts and continue its sale to El Paso under the contract dated October 13, 1945, which has been authorized in Docket No. G-2619 by the Commission's Order issued September 28, 1956, in Docket Nos. G-2605, et al.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 8, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure, under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 21, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1666; Filed, Mar. 5, 1957; 8:48 a. m.]

[Project No. 733]

WESTERN COLORADO POWER CO.

NOTICE OF APPLICATION FOR NEW LICENSE

FEBRUARY 27, 1957.

Notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by The Western Colorado Power Company, licensee for Project No. 733, for annual license for constructed minor-part project, known as the Ouray power plant, consisting of a rubble masonry diversion dam 71.5 feet high and 70 feet long; a settling tank; steel and wood-stave pipelines with aggregate length of about 6,120 feet; a signal circuit line extending about 6,035 feet between dam and powerhouse; and a powerhouse with installed hydraulic capacity of 1,000 horsepower.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is March 29, 1957. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1667; Filed, Mar. 5, 1957; 8:49 a. m.]

[Docket No. G-3895 etc.]

GENERAL AMERICAN OIL COMPANY OF TEXAS AND CRESCENT CORP.

NOTICE OF AMENDMENTS TO APPLICATIONS, SEVERANCE AND DATE OF HEARING

FEBRUARY 28, 1957.

In the matters of General American Oil Company of Texas, Docket No. G-3895; Crescent Corporation,[1] Docket No. G-6126; Crescent Corporation, Docket No. G-9297.

Take notice that:

General American Oil Company of Texas (General American), a Delaware corporation with principal place of business in the Meadows Building, Dallas, Texas, filed on January 17, 1957, in Docket No. G-3895, a first amendment to amended application for certificate of public convenience and necessity and motion for severance, requesting that portions of its amended application, filed November 14, 1955, be withdrawn or severed, as hereinafter indicated. General American had previously substituted the afore-mentioned amended application for a certificate of public convenience and necessity for: (1) Its original application for a certificate of public convenience and necessity filed in Docket No. G-3895 on October 1, 1954, and (2) its first amendments of the original application filed in Docket No. G-3895 on May 27, 1955. The amended

[1] Formerly Deep Rock Oil Corporation, the corporate name having been changed on July 13, 1955.

application and first amendment thereto seek a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing General American to sell natural gas, as hereinafter tabulated, in interstate commerce from production of certain units, leases or acreage located as hereinafter designated to the purchasers indicated for resale, subject to the jurisdiction of the Commission, all as more fully represented in the amended application and first amendment thereto which are on file with the Commission and open for public inspection.

Crescent Corporation (Crescent), a Delaware corporation with principal place of business at P. O. Box 412, Tulsa 1, Oklahoma, filed on January 11, 1957, in Docket No. G-6126, an amendment of application requesting that portions of its originial application, filed November 26, 1954, be withdrawn as hereinafter indicated. Crescent's application, as amended, seeks a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Crescent to sell natural gas as hereinafter tabulated, in interstate commerce from production of certain leases, units or acreage located as hereinafter designated to the purchasers indicated for resale, subject to the jurisdiction of the Commission, all as more fully represented in the application and amendment thereto which are on file with the Commission and open for public inspection.

On July 1, 1954, Crescent sold its interest in the properties listed in the certificate application in Docket No. G-6126 to General American, and thereafter, on September 2, 1955, Crescent filed, in Docket No. G-9297, an application for permission to abandon, as hereinafter tabulated, the sales and service being rendered as described in Docket No. G-6126, pursuant to section 7 (b) of the Natural Gas Act.

General American's amended certificate application and first amendment thereto in Docket No. G-3895 cover, inter alia, all the sales from the properties acquired from Crescent by General American for which a certificate of public convenience and necessity is required.

Prior to General American's filing of its first amendment to its amended application on January 17, 1957, and Crescent's filing of its amendment to its application on January 11, 1957, due notice of the previous filings by General American and Crescent in Docket Nos. G-3895, G-6126 and G-9297 was given including publication thereof in the FEDERAL REGISTER on December 11, 1956 (21 F. R. 9781-82). Said notice scheduled a hearing in Docket Nos. G-3895, et al., for January 3, 1957. Afterwards, by due notice including publication thereof in the FEDERAL REGISTER on December 15, 1956 (21 F. R. 9999), the hearing to be held on January 3, 1957, was postponed to a date to be fixed thereafter by further notice.

Upon the motion to sever of General American made in its first amendment to its amended application, notice is hereby given that so much of General American's amended application in Docket No. G-3895, particularly subsection 8 of section V thereof, as pertains to a certificate of public convenience and necessity authorizing General American to sell natural gas from the Cotton Valley Field, Webster Parish, Louisiana, to Louisiana Nevada Transit Company and United Gas Pipe Line Company, is hereby severed from the remainder of the amended application in Docket No. G-3895 and postponed to a date to be hereafter fixed by further notice.

The footnotes to the following tabulation indicate those portions of General American's amended application and those portions of Crescent's original application which were withdrawn by the respective amendments filed herein.

Docket Number; Applicant; Authorization Sought; Source of Gas; and Purchaser

G-3895 as amended 11/14/55;[2] General American; Initial Certificate; Perkins Field, Calcasieu Parish, Louisiana; United Gas Pipe Line Company.[3]

G-3895; General American; Initial Certificate; R. L. Bond No. 2, R. P. Bond No. 2, Smith, L. L. Sherman No. 1, J. R. Sherman No. 1, L. T. Waller No. 1, Hutson-Sales No. 1, Camp No. 1, Cadenhead No. 1, Crump No. 1, Morgan No. 1, Mitchiner No. 1, Knox No. 1, T. G. Knox No. 1 and Williamson-Lewis No. 1 Units, Haynesville Field, Claiborne Parish, Louisiana; Arkansas Louisiana Gas Company.

G-3895; General American; Initial Certificate; Delaney No. 1, Burnham No. 1, Tinsley No. 2 and Meadors No. 1 Units, Haynesville Field, Claiborne Parish, Louisiana; Arkansas Louisiana Gas Company.

G-3895; General American; Initial Certificate; H. B. Lewis Unit No. 1, Haynesville Field, Claiborne Parish, Louisiana; Arkansas Louisiana Gas Company.

G-3895; General American; Initial Certificate; R. H. Curry No. 1 Well, Haynesville Field, Claiborne Parish, Louisiana; Arkansas Louisiana Gas Company.

G-3895, General American; Initial Certificate; Panhandle Field, Wheeler County, Texas; Lone Star Gas Company.[4]

G-3895; General American; Initial Certificate; Nona Mills Field (Kountze Area), Hardin County, Texas; Trunkline Gas Company.

G-3895; General American; Initial Certificate; Barnhill Lease, Panhandle Field, Hutchinson County, Texas; Shamrock Oil & Gas Corporation.

G-6126 as amended 1/11/57;[5] Crescent; Initial Certificate; Katie Field, Garvin County, Oklahoma; Lone Star Gas Company.

G-9297; Crescent; Abandonment; Katie Field, Garvin County, Oklahoma; Lone Star Gas Company.

G-3895; General American; Acquisition; Katie Field, Garvin County, Oklahoma; Lone Star Gas Company.

G-6126; Crescent; Initial Certificate; Arneckeville Field, DeWitt County, Texas; Texas Eastern Transmission Corporation.

G-9297; Crescent; Abandonment; Arneckeville Field, Dewitt County, Texas; Texas Eastern Transmission Corporation.

G-3895; General American; Acquisition; Arneckeville Field, DeWitt County, Texas; Texas Eastern Transmission Corporation.

G-6126;[6] Crescent; Initial Certificate; Light Field, Beaver County, Oklahoma; Panhandle Eastern Pipe Line Company.

G-9297; Crescent; Abandonment; Light Field, Beaver County, Oklahoma; Panhandle Eastern Pipe Line Company.

G-3895; General American; Acquisition; Light Field, Beaver County, Oklahoma; Panhandle Eastern Pipe Line Company.

G-6126; Crescent; Initial Certificate; Hugoton Field, Texas County, Oklahoma; Kansas-Nebraska Natural Gas Company, Inc.

G-9297; Crescent; Abandonment; Hugoton Field, Texas County, Oklahoma; Kansas-Nebraska Natural Gas Company, Inc.

G-3895; General American; Acquisition; Hugoton Field, Texas County, Oklahoma; Kansas-Nebraska Natural Gas Company, Inc.

G-6126; Crescent; Initial Certificate; Poca District, Putnam County, West Virginia; Godfrey L. Cabot, Inc.

G-9297; Crescent; Abandonment; Poca District, Putnam County, West Virginia; Godfrey L. Cabot, Inc.

G-3895; General American; Acquisition; Poca District, Putnam County, West Virginia; Godfrey L. Cabot, Inc.

G-6126;[7] Crescent; Initial Certificate; West Edmond Pool, Oklahoma County, Oklahoma; Oklahoma Natural Gas Company.

G-9297; Crescent; Abandonment; West Edmond Pool, Oklahoma County, Oklahoma; Oklahoma Natural Gas Company.

G-3895;[8] General American; Acquisition; West Edmond Pool, Oklahoma County, Oklahoma; Cities Service Gas Company.

G-6126;[9] Crescent; Initial Certificate; Wasson Pool, Gaines and Yoakum Counties,

[2] All references in this tabulation to General American's application in Docket No. G-3895 relate to the amended application, filed November 14, 1955, as amended by General American's first amendment to amended application, filed January 17, 1957.

[3] Section III, pages 3 and 4 of General American's first amendment to its amended application, filed January 17, 1957, indicates that General American purchased all the assets of North American Oil Consolidated, prior to 1954, and, therefore, sells natural gas to United Gas Pipe Line Company under a contract between North American Oil Consolidated and United Gas Pipe Line Company, executed March 27, 1944.

[4] Section IV, pages 5 and 6 of General American's first amendment to its amended application, filed January 17, 1957, indicates that General American purchased, prior to 1954, this property in Wheeler County, Texas, from San Juan Oil Company which had previously acquired such property from Mudge Oil Company, and, therefore, General American sells gas to Lone Star Gas Company under contracts between Mudge Oil Company and Lone Star Gas Company, executed February 13, 1935 and March 24, 1936.

[5] All references in this tabulation to Crescent's application in Docket No. G-6126 relate to the application as amended on January 11, 1957.

[6] Crescent, by amendment of application, filed Jauary 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Light Field, Beaver County, Oklahoma, to Panhandle Eastern Pipe Line Company.

[7] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from West Edmond Pool, Oklahoma County, Oklahoma, to Oklahoma Natural Gas Company.

[8] General American, by first amendment to its amended application, filed January 17, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from West Edmond Pool, Oklahoma County, Oklahoma, to Cities Service Gas Company.

[9] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Wasson Pool, Gaines and Yoakum Counties, Texas, to Shell Oil Company and Coltexo Corporation.

Texas; Shell Oil Company and Coltexo Corporation.

G-9297; Crescent; Abandonment; Wasson Pool, Gaines and Yoakum Counties, Texas; Shell Oil Company and Coltexo Corporation.

G-6126; [10] Crescent; Initial Certificate; Southwest Antioch Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-9297; Crescent; Abandonment; Southwest Antioch Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-6126; [11] Crescent; Initial Certificate; Northeast Elmore Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-9297; Crescent; Abandonment; Northeast Elmore Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-6126; [12] Crescent; Initial Certificate; Golden Trend Hart Zone, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-9297; Crescent; Abandonment; Golden Trend Hart Zone, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-6126; [13] Crescent; Initial Certificate; Northeast Purdy Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

G-9297; Crescent; Abandonment; Northeast Purdy Pool, Garvin County, Oklahoma; Warren Petroleum Corporation.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 28, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* that the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 12, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefore is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1679; Filed, Mar. 5, 1957; 8:52 a. m.]

[10] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Southwest Antioch Pool, Garvin County, Oklahoma, to Warren Petroleum Corporation.

[11] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Northeast Elmore Pool, Garvin County, Oklahoma, to Warren Petroleum Corporation.

[12] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Golden Trend Hart Zone, Garvin County, Oklahoma, to Warren Petroleum Corporation.

[13] Crescent, by amendment of application, filed January 11, 1957, withdrew its request for a certificate of public convenience and necessity authorizing the sale of natural gas produced from Northeast Purdy Pool, Garvin County, Oklahoma, to Warren Petroleum Corporation.

[Docket Nos. G-5929, G-10366]

SOHIO PETROLEUM CO.

NOTICE OF APPLICATION [1] CONSOLIDATING PROCEEDINGS AND DATE OF HEARING

FEBRUARY 28, 1957.

Take notice that Sohio Petroleum Company (Applicant) an Ohio Corporation with its principal place of business at Cleveland, Ohio, filed on May 7, 1956, an application in Docket No. G-10366 for permission and approval to abandon the service for which it seeks authorization to continue, in its application filed on June 2, 1955, in Docket No. G-5929, as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the Applications now on file with the Commission and open to public inspection.

Applicant seeks to abandon the sale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) for resale from the Washington Field, St. Landry Parish, Louisiana.

Applicant in its application in Docket No. G-10366 states that due to a conservation order of the Department of Conservation of the State of Louisiana, it has ceased deliveries of gas to Transco and that its wells are shut-in for recycling operations.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 8, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 21, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57-1680; Filed, Mar. 5, 1957; 8:52 a. m.]

[1] The application in Docket No. G-5929 was duly noticed by publication in the FEDERAL REGISTER November 6, 1956 (21 F. R. 8520).

FEDERAL CIVIL DEFENSE ADMINISTRATION

EXECUTIVE ASSISTANT ADMINISTRATOR ET AL.

DELEGATION OF AUTHORITY WITH RESPECT TO DETERMINATIONS CONCERNING FEDERAL SURPLUS PROPERTY

To determine property not appearing in the "Basic Requirements List" to be usable and necessary for civil defense purposes, and to modify or revise the FCDA "Basic Requirements List".

Pursuant to the authority vested in me by section 203 (j), Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 484 (j)); and the Federal Civil Defense Act of 1950, as amended, (50 U. S. C. App. 2251 et seq.), the following described individuals (or their designees) of the Federal Civil Defense Administration are hereby delegated the authority to determine property not appearing in the "Basic Requirements List" under FCDA Advisory Bulletin 202 to be usable and necessary for civil defense purposes, in accordance with the provisions of section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended:

1. Executive Assistant Administrator:

(a) Determinations involving unit acquisition costs of $250,000 or more.

2. Assistant Administrator, Operations Control Services:

(a) Determinations involving unit acquisition costs from $50,000 to $250,000, and to modify or revise the FCDA "Basic Requirements List" of FCDA Advisory Bulletin 202. This authority may not be redelegated.

(b) Determinations involving unit acquisition costs from $2,500 to $50,000. This authority may be redelegated.

3. Regional Administrators:

(a) Determinations involving unit acquisition costs under $2,500.

The foregoing delegations of authority shall be exercised in accordance with FCDA administrative issuances and regulations governing the Surplus Property Program.

This delegation of authority is effective upon publication in the FEDERAL REGISTER.

[SEAL] VAL PETERSON, *Administrator.*

[F. R. Doc. 57-1663; Filed, Mar. 5, 1957; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3547]

GEORGIA POWER CO.

ORDER APPROVING ACQUISITION OF UTILITY ASSETS, ASSUMPTION OF MORTGAGE INDEBTEDNESS THEREON, AND BANK BORROWINGS TO RAISE BALANCE OF PURCHASE PRICE

FEBRUARY 27, 1957.

Georgia Power Company ("Georgia"), a public utility subsidiary of The Southern Company ("Southern"), a registered holding company, having filed an application pursuant to sections 6 (b) and 10 of the Public Utility Holding Company Act of 1935 ("act") and an amendment thereto requesting approval of its acquisition of all the assets, properties and business of Georgia Power and Light Company ("Light") and also a 47.46-mile transmission line ("Tifton line") owned by Light's parent Florida Power Corporation, and in connection therewith, the assumption of the mortgage indebtedness on Light's properties, amounting to $7,705,000, and the issuance and sale of short-term notes to certain banks to raise the balance of the required consideration, estimated at not over $11,000,000; and

A public hearing having been held after appropriate notice, and the Commission having considered the record and having this day issued its Findings and Opinion herein, on the basis of such Findings and Opinion:

It is ordered, That said application as amended be, and hereby is, granted effective forthwith, subject to the terms and conditions prescribed in rule U-24.

It is further ordered, That jurisdiction be, and hereby is, reserved with respect to the fees and expenses of all counsel.

By the Commission.

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

[F. R. Doc. 57-1669; Filed, Mar. 5, 1957; 8:49 a. m.]

[File No. 70-3462]

STANDARD SHARES, INC.

ORDER AUTHORIZING BANK LOAN AND ACQUISITION OF COMMON STOCK OF SUBSIDIARY

FEBRUARY 28, 1957.

Standard Shares, Inc. ("Standard Shares"), a registered holding company which was formerly named Standard Power and Light Corporation and which is in process of transformation into an investment company, has filed an application-declaration with this Commission, pursuant to sections 6 (a), 7, 9, 10 and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and rule U-43 of the rules and regulations promulgated thereunder, regarding the following proposed transactions:

Standard Shares owns 986,000 shares (45.59 percent) of the outstanding common stock of Standard Gas and Electric Company ("Standard Gas") which in turn owns all of the outstanding common stock of Philadelphia Company ("Philadelphia") which in turn owns 547,678 shares (50.9 percent) of the outstanding common stock of Pittsburgh Railways Company ("Pittsburgh"). Standard Gas and Philadelphia are also registered holding companies and have heretofore been ordered by this Commission to liquidate and dissolve. Pittsburgh is a non-utility subsidiary company engaged in the public transportation service in the City of Pittsburgh and its environs.

The Commission has approved an application filed by Standard Gas under section 11 (e) of the act which proposes certain amendments to Step IV of its plan previously filed with the Commission under said section (Holding Company Act Release No. 13376). Under said Step IV, as amended, Philadelphia, in partial liquidation, will distribute to Standard Gas the 547,678 shares of common stock of Pittsburgh and Standard Gas will distribute to its stockholders warrants to purchase 540,651.75 shares of such stock through a rights offering.

The subscription price for the Pittsburgh common stock will be $6 per share less any dividends paid thereon after October 19, 1956. Standard Shares has agreed to exercise the subscription rights to which it will be entitled under said Step IV and to purchase from Standard Gas at the subscription price any shares not subscribed for or purchased by others during the subscription period. In addition, Standard Shares will purchase at the subscription price the 7,026.25 remaining common shares of Pittsburgh not covered by the subscription offer.

Standard Shares further desires to make such additional purchases of common shares of Pittsburgh, through the purchase and exercise of warrants or otherwise, as may be necessary to increase its holdings thereof to an amount not exceeding approximately 51 percent of the outstanding common stock of Pittsburgh. It will be necessary for Standard Shares to expend approximately $1,500,000 in order to exercise the warrants it will receive on account of its holdings of Standard Gas stock and to acquire from Standard Gas the shares of Pittsburgh common stock not covered by the subscription offer. In addition, Standard Shares' obligation under its agreement to purchase at the subscription price all unsubscribed shares of Pittsburgh stock may require an expenditure of up to $1,765,000. Furthermore, if it becomes necessary for Standard Shares to acquire and exercise warrants or to purchase Pittsburgh stock on the market, a larger sum may have to be expended. The cash necessary to purchase the shares of Pittsburgh common stock will be derived through the issuance of a promissory note in an amount not to exceed $3,500,000 maturing nine months from the issue date and bearing interest at the prime rate of interest for short term commercial loans on the date of issuance. The note is prepayable, without premium, in whole or in part, or at any time and from time to time at the option of Standard Shares, provided such repayment is not made from funds obtained by future borrowings from any other lender. Standard Shares has agreed to pay a commitment fee at the rate of ¼ of 1 percent per annum for a period beginning with the date of this order and ending three months thereafter or the issue date of said note or May 15, 1957, whichever is earlier.

No State commission or Federal commission, other than this Commission, has jurisdiction over the transactions proposed by Standard Shares and the miscellaneous expenses, including printing, postage, telephone and traveling, in connection with the proposed transactions are estimated not to exceed $1,000. The record is incomplete with respect to fees and expenses of all counsel in connection with the application-declaration and jurisdiction will be reserved with respect thereto.

It is requested that the Commission's order herein become effective upon issuance thereof.

Due notice having been given of the filing of said application-declaration (Holding Company Act Release No. 13168) and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the application-declaration, as amended, be granted and permitted to become effective forthwith:

It is ordered, Pursuant to rule U-23 and the applicable provisions of the act, that said application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in rule U-24 and to the following reservation of jurisdiction.

It is further ordered, That jurisdiction be, and the same hereby is, reserved over the payment of fees and expenses of all counsel in connection with the proposed transactions.

By the Commission.

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

[F. R. Doc. 57-1670; Filed, Mar. 5, 1957; 8:49 a. m.]

[File No. 812-1068]

ADAMS EXPRESS CO. AND AMERICAN INTERNATIONAL CORP.

NOTICE OF FILING OF APPLICATION FOR ORDER EXEMPTING PURCHASE OF SECURITIES FROM AFFILIATES DURING EXISTENCE OF UNDERWRITING SYNDICATE

FEBRUARY 28, 1957.

Notice is hereby given that Adams Express Company ("Adams") and American International Corporation ("American"), affiliated registered closed-end diversified management companies, have filed an application pursuant to section 10 (f) and, as to American, pursuant to section 17 (b) of the Investment Company Act of 1940 ("act"), for an order of the Commission exempting from the

provisions of sections 10 (f) and 17 (a) the proposed purchase by Adams and American from Adamex Securities Corporation ("Adamex"), of convertible Subordinated Debentures due March 1, 1977 ("Debentures"), of Daystrom, Incorporated ("Daystrom"), a New Jersey corporation. Adams owns approximately 70 percent of the outstanding voting securities of American.

The application states that on February 5, 1957, Daystrom filed a registration statement (File No. 2-13069) under the Securities Act of 1933 covering a proposed issue of $8,000,000 of Debentures. The Debentures are to be dated March 1, 1957, with interest payable semi-annually. Among the principal underwriters named or to be named in such registration statement are Adamex, Hallgarten and Co. ("Hallgarten") and R. W. Pressprich and Co. ("Pressprich"). Adamex is a wholly-owned subsidiary of Adams, primarily engaged in the business of underwriting and distributing securities issued by other persons. Maurice Newton, a partner in Hallgarten, and Clinton S. Lutkins, a partner in Pressprich, are members of the Board of Managers of Adams and of the Board of Directors of American. By definition under the Act, Messrs. Newton and Lutkins are affiliated persons of Hallgarten and Pressprich, respectively, and both are affiliated persons of Adams and American. Adamex is also by definition an affiliated person of Adams and American.

Adams, which had total assets as of September 30, 1956 of $95,944,961, may determine to purchase from Adamex not to exceed a principal amount of $180,000 of the Debentures, which is 2.25 percent of the total issue, and American, which had total assets as of September 30, 1956 of $41,613,500, may determine to purchase not to exceed a principal amount of $120,000 of the Debentures, which is 1.5 percent of the total issue. Such purchases will not be made until after Daystrom's registration statement has become effective and the price and other terms of such offering have been made public.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer or director of such registered company or is a person of which any such officer or director is an affiliated person. The Commission may exempt a transaction from this prohibition if and to the extent that such exemptiton is consistent with the protection of investors. Since partners of Hallgarten and Pressprich, members of the principal underwriting group, are a manager of Adams and a director for American, respectively, and since Adamex is an affiliate of American, the proposed purchase is prohibited by the provisions of section 10 (f) unless the Commission finds that the proposed acquisition of securities is consistent with the protection of investors.

Section 17 (a) of the act, among other things, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling to such registered investment company any securities or property, subject to certain exceptions not pertinent here. The Commission upon application pursuant to section 17 (b) may grant an exemption from the prohibitions of section 17 (a) if it finds that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of the registered investment company concerned, as recited in its registration statement and reports filed under the act, and is consistent with the general purposes of the act.

Adams and American state in their application that the decision by either of them to purchase any of the debentures, if made, will be based upon the opinion of its management that the purchase of such debentures, at the public offering price, will constitute a good investment for such applicant. The application states that Adams presently owns 3,600 shares (0.41 percent) and American 2,500 shares (0.28 percent) of the common stock of Daystrom. The application also states that Adams and American believe that the requested exemption is consistent with the protection of investors as required by section 10 (f) of the act. American further believes that all the requirements of section 17 (b) of the act are met.

Notice is further given that any interested person may, not later than March 12, 1957, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

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

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