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FEDERAL REGISTER

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UNITED STATES STATUTES AT LARGE

[86th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1960, proposed amendment to the Constitution, and Presidential proclamations

Price: $8.75

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 10956

AMENDMENT OF EXECUTIVE ORDER NO. 10841,[1] RELATING TO INTERNATIONAL COOPERATION UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Executive Order No. 10841 of September 30, 1959, entitled "Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1954, as Amended, Relating to International Cooperation," is hereby amended by changing the period at the end of paragraph (2) of section 2(a) thereof to a colon and adding to such paragraph the following: "*Provided*, that each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination."

JOHN F. KENNEDY

THE WHITE HOUSE,
August 10, 1961.

[F.R. Doc. 61-7747; Filed, Aug. 10, 1961; 3:44 p.m.]

Reorganization Plan No. 7 of 1961

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended[2]

MARITIME FUNCTIONS

PART I—FEDERAL MARITIME COMMISSION

SECTION 101. *Creation of Federal Maritime Commission.* (a) There is hereby established a Federal Maritime Commission, hereinafter referred to as the Commission.

(b) The Commission shall not be a part of any executive department or under the authority of the head of any executive department.

SEC. 102. *Composition of the Commission.* (a) The Commission shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. Each Commissioner shall be removable by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) The President shall from time to time designate one of the Commissioners to be the Chairman of the Commission.

(c) Of the first five Commissioners appointed hereunder, one shall be appointed for a term expiring on June 30, 1962, one for a term expiring on June 30, 1963, one for a term expiring on June 30, 1964, and two for terms expiring on June 30, 1965. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Not more than three of the Commissioners shall be appointed from the same political party. A vacancy in the office of any such Commissioner shall be filled in the same manner as the original appointment. The Chairman of the Commission shall receive a salary at the rate of $20,500 per annum, and each of the other Commissioners shall receive a salary at the rate of $20,000 per annum.

(d) A vacancy in the Commission, so long as there shall be three Commissioners in office, shall not impair the power of the Commission to execute its functions. Any three of the Commissioners in office shall constitute a quorum for the transaction of the business of the Commission and the affirmative votes of any three Commissioners shall be sufficient for the disposition of any matter which may come before the Commission.

SEC. 103. *Transfer of functions to Commission.* The following functions, which are now vested in the Federal Maritime Board under the provisions of Reorganization Plan No. 21 of 1950 (64 Stat. 1273), are hereby transferred from that Board to the Commission:

(a) All functions under the provisions of sections 14–20, inclusive, and sections 22–33, inclusive, of the Shipping Act, 1916, as amended (46 U.S.C. 812–819 and 821–832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(b) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 843–848).

(c) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 876), exclusive of subsection (1)(a) thereof.

(d) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212(e) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1122(f)).

(e) To the extent that they relate to functions transferred to the Commission by the foregoing provisions of this section:

(1) The functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820).

(2) The functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1118, and 1124).

SEC. 104. *Transfer of functions to Chairman.* There are hereby transferred to the Chairman of the Commission:

(a) The functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of Reorganization Plan No. 6 of 1949, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

(b) The functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

SEC. 105. *Authority to delegate.* (a) The Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended.

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or

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[1] 24 F.R. 7941; 3 CFR, 1959 Supp., p. 131.

[2] Effective August 12, 1961, under the provisions of section 6 of the act; published pursuant to section 11 of the act (63 Stat. 203; 5 U.S.C. 133z).

employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: *Provided, however,* That the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such action before the Commission for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

(d) There are hereby transferred to the Chairman of the Commission the functions with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to Commission personnel, including Commissioners, pursuant to the foregoing subsections of this section.

PART II—DEPARTMENT OF COMMERCE

SECTION 201. *Maritime Administrator.* There shall be at the head of the Maritime Administration (established by the provisions of Part II of Reorganization Plan No. 21 of 1950) a Maritime Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive a salary at the rate of $20,000 per annum, and shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 202. *Functions of Secretary of Commerce.* (a) Except to the extent inconsistent with the provisions of sections 101(b) or 104(b) of this reorganization plan, there shall remain vested in the Secretary of Commerce all the functions conferred upon the Secretary by the provisions of Reorganization Plan No. 21 of 1950.

(b) There are hereby transferred to the Secretary of Commerce:

(1) All functions of the Federal Maritime Board under the provisions of section 105(1) to 105(3), inclusive, of Reorganization Plan No. 21 of 1950.

(2) Except to the extent transferred to the Commission by the provisions of section 103(e) of this reorganization plan, the functions described in the said section 103(e).

(3) Any other functions of the Federal Maritime Board not otherwise transferred by the provisions of Part I of this reorganization plan.

(4) Except to the extent transferred to the Chairman of the Commission by the provisions of Part I of this reorganization plan, the functions of the Chairman of the Federal Maritime Board.

SEC. 203. *Delegation of functions.* The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) shall be applicable to all functions transferred to the Secretary of Commerce by, or remaining vested in him under, the provisions of this reorganization plan.

PART III—GENERAL PROVISIONS

SECTION 301. *Conflict of interest.* The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, as affected by the provisions of Reorganization Plan No. 21 of 1950 (46 U.S.C. 1111(b)) (prohibiting the members of the Federal Maritime Board and all officers and employees of that board or of the Maritime Administration from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Board or the Maritime Administration may have business relations) shall hereafter be applicable to the Commissioners composing the Commission and all officers and employees of the Commission and to the Maritime Administrator and all other officers and employees of the Maritime Administration.

SEC. 302. *Interim appointments.* Pending the initial appointment hereunder of the Commissioners composing the Commission and of the Maritime Administrator, but not for a period exceeding 90 days, such officers of the executive branch of the Government (including any person who is a member of the Federal Maritime Board or Deputy Maritime Administrator immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be Acting Commissioners of the Federal Maritime Commission or Acting Maritime Administrator. The President may designate one of such Acting Commissioners as Acting Chairman of the Commission. Any person who is not while serving under an interim appointment pursuant to the foregoing provisions of this section receiving compensation attached to another Federal office shall receive the compensation herein provided for the office wherein he serves in an interim capacity.

SEC. 303. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Commission or to the Chairman of the Commission by the provisions of Part I of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Subject to the foregoing provisions of this section, the Secretary of Commerce may transfer within the Department of Commerce personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions which were transferred to the Department of Commerce (including the Federal Maritime Board and the Chairman thereof) by the provisions of Reorganization Plan No. 21 of 1950.

SEC. 304. *Abolition of Federal Maritime Board.* The Federal Maritime Board, including the offices of the members of the Board, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the said Board not otherwise provided for in this reorganization plan.

SEC. 305. *Status of prior plan.* The following provisions of Reorganization Plan No. 21 of 1950 are hereby superseded:

(1) Part I.
(2) Section 202.
(3) Sections 302 to 307, inclusive.

[F.R. Doc. 61-7761; Filed, Aug. 11, 1961; 10:34 a.m.]

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1961 CCC Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Soybeans]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1961-Crop Soybean Loan and Purchase Agreement Program

The regulations issued by the Commodity Credit Corporation and the Agricultural Stabilization and Conservation Service (26 F.R. 5743) with respect to soybeans produced in 1961 which contained specific requirements for the 1961-crop soybean price support program are hereby amended as follows:

Section 421.527 *Availability of price support*, and § 421.528 *Eligible soybeans*, are amended to provide for the extension of soybean price support through warehouse-storage loans and/or purchase agreements to eligible cooperative marketing associations of soybean producers so that the amended sections read as follows:

§ 421.527 Availability of price support.

(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever soybeans are grown in the United States, except that farm-storage loans will not be available in areas where the State committee determines that soybeans cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support shall be made at the office of the county committee which keeps the farm program records for the farm except that, in the case of cooperative marketing associations, application for price support shall be made in the county where the main office of the cooperative marketing association of producers in the State is located or in such other county as the State committee determines the application can be more expeditiously handled. If the cooperative marketing association applies for price support on soybeans produced in more than one State, separate applications for the soybeans produced in each State to be placed under price support shall be made. Such applications shall be made in the State where the soybeans were produced. If the cooperative marketing association applies for price support on soybeans produced in a State with different county support rates, separate applications for the soybeans produced in each county to be placed under price support shall be made.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1962, and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such final date. Applicable documents referred to herein include the Producer's Note and Loan Agreement for warehouse-storage loans, and Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Cooperative marketing association.* (1) A cooperative marketing association which satisfies the requirements of this paragraph shall be deemed an eligible producer and shall be eligible for soybean price support through warehouse-storage loans and purchase agreements on eligible soybeans as defined in § 421.528: *Provided*, That warehouse-storage loans may be made to an association which tenders to CCC warehouse receipts issued by it on its own soybeans only in those States where the issuance and pledge of such warehouse receipts are valid under State law.

(2) The association must be a producer-owned cooperative marketing association of producers under the control of its producer-members. The association shall submit with its application a brief statement of its method of operations showing the manner in which producer-members have control of the association.

(3) The articles of incorporation or association, or bylaws, of the association must provide for (i) annual membership meeting at a location which will provide reasonable opportunity for all members to attend and to participate in such meeting, (ii) notice of all district, area, or annual meetings to be given all members affected by such meetings, (iii) membership in the association to be open to all farmer-producers of soybeans except former members whose membership in the association was terminated for violation of their membership contracts or agreements, (iv) voting on election of officers and directors to be by secret ballot, (v) each member to have only one vote regardless of the number of shares of stock owned or controlled by him, and (vi) a summary financial statement prepared by an independent accountant who made the annual audit of the association to be made available to each member of the association.

(4) The association must submit with its application for approval evidence demonstrating to the satisfaction of the Executive Vice President, CCC, that the association's operation is on a financially sound basis, and the association must have been in existence and conducted legitimate marketing operations for its producer-members for a period of not less than two years prior to the date of its application for approval as eligible for price support: *Provided, however*, If the association has been operating for less than two years, it must, in order to qualify, submit evidence that it is so organized and staffed that it will be able to provide effective marketing operations for its producer-members.

(5) The association must submit with its application for approval for price support a detailed report concerning all transactions for the year preceding the date of the application whereby any director, officer, or employee of the association and any of such person's close relatives, or any partnership in which such person and his close relatives are entitled to receive more than 5 percent of the profits, or any corporation in which any such person and his close relatives own more than 5 percent of the stock entered into a contract or agreement with the association, received fees for transacting business with or on behalf of the association, or where a director, officer or employee of the association was an agent, director, employee, or officer of a party to a contract or agreement with the association. A close relative shall be deemed to refer to a husband or a wife or a person related as child, parent, brother, or sister by blood, adoption, or marriage and shall include in-laws within such categories of relationship. The report shall include transactions involving purchases, sales, processing, handling, marketing, transportation, warehousing, insurance and related activities, but not transactions which are no different than those entered into by the association with its general membership. A statement must also be submitted indicating whether any such transactions as defined in this subparagraph are contemplated in the period between the date of the application and September 30, 1962, and if such transactions are contemplated, a detailed statement of the reasons therefor. The association shall not be eligible for price support unless it demonstrates to the satisfaction of the Executive Vice President of CCC that any such transactions in the year preceding the date of application or in the period beginning with the date of application and ending on September 30, 1962, have not and will not operate to the detriment of members of the association.

(6) All eligible soybeans delivered to the association by producer-members must be marketed through the association pursuant to a Uniform Marketing Agreement between the association and each of its producer-members who delivered such eligible soybeans.

(7) Not less than 80 percent of the soybeans marketed by the association must be soybeans produced by producer-members of the association.

(8) The association must have authority to obtain a loan on the security

of the soybeans and give a lien thereon as well as authority to sell such soybeans.

(9) The association must maintain a record of the quantity of soybeans eligible for price support under § 421.528, acquired by or delivered to the association from each source, and such record must show the disposition of the soybeans from each source. Similar records must be maintained for soybeans not eligible for price support under § 421.528. The association must keep in inventory at all times a quantity of soybeans equivalent in quality and quantity to the quality and quantity of the soybeans shown on its outstanding warehouse receipts. Price support may be obtained by the association only on the quantity of eligible soybeans which remains undisposed of in its inventory at the time of application for price support.

(10) Proceeds from the disposition of all soybeans eligible for price support, disposed of by marketing or by delivery to CCC under loan or purchase agreement, or both, shall be distributed only to the eligible producer-members who delivered such eligible soybeans to the association and only on the basis which results in the proceeds being distributed proportionally to such producer-members according to the quantity and quality of such eligible soybeans delivered by each eligible producer-member. Also, where different basic county support rates are involved, the association in distributing the proceeds, shall compute each producer-member's share of the proceeds derived from delivery of soybeans to CCC under loan or purchase agreement so that each producer-member receives full credit for such soybeans based on the applicable county support rate. This provision shall not be construed to prohibit the association from establishing separate pools and distributing the proceeds proportionally to the producer-members whose soybeans are included in each pool.

(11) Soybeans held by the association must be made available for inspection by CCC at all reasonable times so long as the association has soybeans under price support and the books and records of the association must be available to CCC for inspection at all reasonable times through May 1, 1967.

(12) Notwithstanding the requirements of subparagraph (2) of this paragraph that the association shall consist of producers, a cooperative marketing association, which includes in its membership other cooperative marketing associations composed of producer-members, shall be eligible for price support if its member associations meet the requirements for price support under this paragraph, except that the requirements in subparagraph (8) of this paragraph shall be deemed to be satisfied if such member associations have the right to deliver soybeans of their producer-members to the association applying for price support and to authorize such association to sell the soybeans and to obtain a loan on the security of the soybeans and to give a lien thereon. The association applying for price support shall (i) in its charter, by-laws, marketing contracts or by other legal means require that its member association meet such requirements for price support, (ii) submit the material and certifications required by subparagraphs (4) and (5) of this paragraph with respect to each member association, (iii) certify to CCC that its member associations are in fact eligible for price support under the requirements of this subparagraph, and (iv) except for the requirement that it consist of producers, otherwise qualify for price support under this paragraph.

(13) Determinations with respect to the eligibility of cooperative marketing associations of producers pursuant to this paragraph for either warehouse-storage loans or purchase agreements, or both, shall be made by the Executive Vice President, CCC.

(14) The Commodity Credit Corporation shall have the right at any time after application for approval as as eligible cooperative is received to examine the records of the cooperative and to make such other investigations as it deems necessary in order to determine whether the cooperative is operating in accordance with its articles of incorporation, by-laws, agreements with producers or member associations and with the representations made in its application for approval.

§ 421.528 Eligible soybeans.

Soybeans, to be eligible for price support, must meet all of the applicable requirements set forth in this section:

(a) (1) The soybeans must have been produced in the United States in 1961 by an eligible producer on a farm on which the total acreage of conserving and idle land in 1961 is not less than the 1959–60 average acreage of such conserving and idle land. The 1959–60 average acreage of conserving and idle land may be adjusted by the county committee for flood or abnormal weather conditions occurring in 1959–1960. In addition, in counties designated by the ASC State committees, further adjustments in the required acreage of conserving and idle land for the farm in 1961 may be made by the county committee for flood, abnormal weather conditions, insects, or any other natural disaster occurring in 1961. For the purpose of this special requirement, "conserving land" is farm land devoted to generally accepted conservation uses as determined by the county committee, and "idle land" is all other form land not devoted to crop production or to conservation uses. In making determinations under this paragraph all land on the farm is to be considered rather than crop land only. A producer shall not be deemed to have violated the requirements of this paragraph if he establishes to the satisfaction of the county committee that neither the operator nor any producer on the farm had actual knowledge of such requirements prior to the planting of soybeans or other crops on the farm which caused noncompliance with such requirements. Any producer in doubt as to whether he has met requirements for conserving and idle land on the farm shall make available to the county committee all pertinent information, prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support on soybeans produced on the farm. The term "farms" as used herein shall have the same meaning as defined in Part 719, Title 7, Chapter VII, Reconstitution of Farms, Farm Allotments, and Farm History and Soil Bank Base Acreages (23 F.R. 6731, as amended), without regard to special farm reconstitutions under the feed grain program.

(2) Each producer shall sign one of the following certifications, as applicable, for 1961 crop soybeans produced on each farm with respect to which he applies for price support:

(i) The undersigned producer certifies that the total acreage of conserving and idle land in 1961 on the farm identified above is not less than the 1959–60 average acreage of conserving and idle land on such farm, or

(ii) The undersigned producer certifies that the total acreage of conserving and idle land in 1961 on the farm identified above is not less than an acreage equivalent to the 1959–60 average acreage of conserving and idle land on such farm, as adjusted by the county committee for flood or abnormal weather conditions occurring in 1959–60, and in counties designed by the State committee, as adjusted by the county committee for flood, abnormal weather conditions, insects, or other natural disasters occurring in 1961 on such farm, or

(iii) The undersigned producer certifies that neither the operator nor any producer on the farm identified above had actual knowledge of the provisions of the 1961 crop soybean price support program with respect to the acreage of conserving and idle land required for the farm in 1961, prior to the planting of soybeans or other crops on the farm which caused noncompliance with such requirements.

(3) In the case of a cooperative marketing association applying for soybean price support under this paragraph, the association shall submit in behalf of each producer who produced the soybeans tendered by the association for price support a properly executed Form CCC–127 containing the certification required by subparagraph (2) of this paragraph and such additional information as required by such form. Where such producer or the association is in doubt as to whether such producer has met the requirements of subparagraph (1) of this paragraph, prior to signing the certification, the producer shall supply the county committee of the county in which his farm is located with necessary information for the county committee to determine if the producer has met such requirements. When the county committee has made its determination, a copy of such determination shall be attached to the Form CCC–127 executed by the producer. If the producer makes a false certification on the Form CCC-127, he shall be subject to the provisions of section 15(a) of the Commodity Credit Corporation Charter Act. If the association obtains price support on soybeans produced by a producer who does not meet the requirements regarding conserving and idle land on the farm as

provided in this paragraph (a), the association shall be liable to CCC for any loss incurred by CCC on such soybeans and such loss shall be deemed to be the amount received by the association from CCC on such soybeans plus charges and interest, less the market price of such soybeans on the loan maturity date, as determined by CCC.

(b)(1) At the time the soybeans are placed under loan or delivered under a purchase agreement, the beneficial interest in the soybeans must be in the eligible producer tendering the soybeans for loan or for delivery under a purchase agreement or must have been in him and a former producer whom he succeeded before the soybeans were harvested.

(2) In the case of cooperating marketing associations, the beneficial interest in the soybeans must have been in the eligible producer-member who delivered the soybeans to the association or the member association meeting the requirements of § 421.527(e)(12) and must have always have been in them and former producers whom they succeeded before the soybeans were harvested. Soybeans acquired by cooperative marketing associations shall not be eligible for price support if the producer-members who delivered the soybeans to the association or to a member association do not retain the right to share proportionately in the proceeds from the marketing of the soybeans as provided in § 421.527(e)(10). Soybeans acquired by the association other than from producer-members and other than from member associations are not eligible for price support.

(3) Any producer-member or association in doubt as to whether the requirements of this paragraph (b) have been fulfilled should make available to the county committee, prior to filling an application, all pertinent information which will permit a determination to be made by CCC as to the eligibility for price support.

(4) To meet the requirements of succession to a former producer, the rights, responsibilities and interests of the former producer with respect to the farming unit on which the soybeans were produced shall be substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) Soybeans, at the time they are placed under loan, and soybeans under purchase agreement which are in approved warehouse storage prior to notification by a producer of his intention to sell to CCC, must meet the following requirements:

(1) The soybeans must be soybeans of any class, grading No. 4 or better.

(2) Soybeans grading "Garlicky" or "Weevily," or containing mercurial compounds or other substances poisonous to man or animals, or containing in excess of 14 percent moisture, shall not be eligible except that soybeans represented by warehouse receipts which indicate that the soybeans are ineligible solely because of containing in excess of 14 percent moisture will be eligible if the warehouseman certifies on the supplemental certification or on a statement attached to the warehouse receipt that soybeans of 14 percent moisture or less of an eligible grade and quality will be delivered. The certification shall be substantially as follows:

On soybeans containing in excess of 14 percent moisture delivery will be made of soybeans which grade No. __, which contain not in excess of 14 percent moisture, which are otherwise of the same quality or better as the soybeans described on warehouse receipt No. __, and which are the actual quantity obtained after drying the soybeans described in such receipt to not in excess of 14 percent moisture. No lien for processing will be claimed by the warehouseman from the Commodity Credit Corporation or any subsequent holder of the warehouse receipt.

(3) If offered as security for a farm-storage loan, the soybeans must have been stored in the granary at least 30 days prior to their inspection, measurement, sampling, and sealing unless otherwise approved by the State committee.

(d) Except as otherwise provided in § 421.535(a), soybeans under purchase agreement stored in other than approved warehouse storage shall not be eligible for sale to CCC if they do not meet the requirements of paragraph (c) (1) and (2) of this section on the basis of a predelivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.535(a) and the soybeans on the basis of an inspection made at the time of delivery meet the requirements set forth in paragraph (c) (1) and (2) of this section.

(Sec. 4, 62 Stat. 1070, as amended; sec. 562 (Stat. 1072; secs. 203, 301, 401, 63 Stat. 1053, as amended; 15 U.S.C. 714 b and c, 7 U.S.C. 1446d, 1447, 1421)

Effective date. These regulations shall become effective upon the date of their publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on August 9, 1961.

ROBERT G. LEWIS,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 61-7745; Filed, Aug. 11, 1961; 8:50 a.m.]

[1961 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1961-Crop Barley Loan and Purchase Agreement Program

ELIGIBLE BARLEY; DETERMINATION OF QUANTITY

Correction

In F.R. Doc. 61-7385, appearing at page 7007 of the issue for Friday, August 4, 1961, the following correction is made in the tabular material of § 421.180(c): The item for "44 pounds or over" should read "44 pounds or over, but less than 45 pounds".

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Defense

Effective upon publication in the FEDERAL REGISTER, subparagraph (11) of paragraph (a) of § 6.304 is amended as set out below.

§ 6.304 Department of Defense.

(a) *Office of the Secretary.* * * *

(11) Two Confidential Assistants to the Assistant Secretary of Defense (International Security Affairs).

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-7699; Filed, Aug. 11, 1961; 8:47 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Health, Education, and Welfare

Effective upon publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (a) of § 6.314 is amended as set out below.

§ 6.314 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(2) Two Confidential Assistants to the Secretary.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 61-7669; Filed, Aug. 11, 1961; 8:45 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAM

[Bulletin NSCP-2601]

PART 706—NAVAL STORES CONSERVATION

Subpart G—1962

The purpose of the Naval Stores Conservation Program (hereinafter referred to as "this program") is to restrict turpentining to the more productive timber, to conserve the worked trees, to protect

and permit undisturbed growth of the uncupped trees and to conserve the soil, water and timber resources.

Through the 1962 program the Federal Government will share with turpentine farmers the cost of carrying out approved conservation practices in accordance with the provisions of this bulletin and such modifications thereof as may hereafter be made. Cost-shares are predicated upon the economic use and conservation of soil and timber resources on turpentine farms, and computed on the faces in the tract or drift where an approved conservation practice is carried out.

This program provides cost-sharing for conservation practices only on turpentine farms having tracts or drifts of faces which were installed during, or after, the 1958 season, except as provided under § 706.18.

The Naval Stores Program regulations were contained prior to 1962 in Part 1106 but beginning with the 1962 program year the regulations will appear in Part 706, respectively, in accordance with the changes in codification contained in F.R. Doc. 61-6061; Filed June 28, 1961, 26 F.R. 5788.

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AUTHORITY, AVAILABILITY OF FUNDS, APPLICABILITY AND ADMINISTRATION

706.31 Authority.
706.32 Availability of funds.
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AUTHORITY: §§ 706.1 to 706.34 issued under sec. 4, 49 Stat. 164, secs. 7-17, 49 Stat. 1148, as amended, 75 Stat. 225; 16 U.S.C. 590d, 590g-590q.

GENERAL PROVISIONS

§ 706.1 General requirements.

No tract or drift can qualify for cost-sharing under more than one conservation practice other than as provided for under practices specified in §§ 706.15, 706.16, and 706.18. In each of the practices the faces are to be worked sufficiently to obtain at least one dipping of gum from the current year's working.

§ 706.2 Required performance.

(a) *Approved conservation practices.* Each participating producer shall carry out at least one of the approved conservation practices in every tract or drift of faces operated by him during the 1962 turpentine season. This requirement will not apply if the Forest Service determines that the condition of a particular tract or drift does not warrant carrying out approved conservation practices as a practical or economic matter, in which case the Forest Service may approve face installations made without carrying out a conservation practice. In cases where such approval is given for specific tracts or drifts of the turpentine farm, no cost will be shared for any faces in such tracts or drifts.

(b) *Practice components.* Cost-sharing may be approved under the 1962 program for only the component parts of the practices which are completed during the program year. The producer must complete all the remaining components of the practice in accordance with good forestry practices and all applicable requirements of this program if cost-sharing is offered to him therefor under a subsequent program. Separate rates of cost-sharing have been established for each component part of each practice.

(c) *Dual cupping.* The installation of two cups on trees less than 14 inches d.b.h in any tract or drift cupped under the provisions of §§ 706.9, 706.10, 706.11, 706.12, or 706.14 may be approved by the Forest Service as meeting the requirements of these practices where the Forest Service has determined that such action conforms to sound conservation practice.

(d) *First year working.* The cost-share for this component is applicable to tracts or drifts having only eligible virgin working faces, i.e., faces installed for the first working during the 1962 season. If faces have been installed contrary to the requirements for eligible faces, the cups and tins for such faces shall be removed within 60 days after the producer is notified by the Forest Service, or the tract or drift will be considered only for qualification for cost-shares under the next lower practice for which qualified.

(e) *Second, third, fourth, or fifth year working.* The cost-shares for working of faces for second, third, fourth, or fifth years are applicable under the 1962 program to faces which were installed and met the eligible face requirements during the 1958, 1959, 1960, or 1961 season. Such cost-shares may also be allowed to new participating producers working tracts or drifts which had some undersized trees from which cups have been removed by the time of first elevation. New faces installed in 1962 and those installed in 1962 or prior years contrary to the requirements for eligible faces will disqualify the tracts or drifts for cost-sharing, unless the cups and tins on such faces shall be removed within 60 days after the producer is notified by the Forest Service. If such faces are not removed within the period approved by the Forest Service there may be withheld or required to be refunded the entire cost-shares for the tract or drift previously paid to the producer who installed the improper faces.

(f) *Practices under § 706.9, § 706.10, § 706.11 § 706.12, § 706.13, § 706.14, § 706.15, or § 706.17 which require more than one year for completion.* Cost-shares may be approved under this program for the completion of a component of a practice only on the condition that the producer agrees in writing to complete the remaining components of the practice according to program provisions and within the time prescribed by the Forest Service, unless prevented from doing so by reasons beyond his control, or refund the cost-shares paid to him. The extension of the period for completion of the components shall not constitute a commitment to approve cost-shares therefor under a subsequent program. Approval of cost-sharing for other practices under a subsequent program may also be denied until the remaining components are completed.

§ 706.3 Double-headed nails requirement.

Use of double-headed nails is required in the elevation of all cups and tins.

§ 706.4 Fire protection.

Each producer shall during the 1962 turpentine season cooperate with any existing cooperative fire control system serving the general area where his turpentine farm is located, unless he is otherwise following approved forest fire protection on his turpentine farm.

§ 706.5 Bark-bar requirement.

No back face shall be worked on any tree unless a live bark-bar on each side of the back face is provided and maintained throughout the 1962 turpentine season, the total of the two bark-bars being not less than 7 inches in width, measured horizontally along the bark surface at the narrowest point: *Provided, however,* That the restriction with respect to the width of the bark-bar shall not apply to any tree which has on it two or more old faces, including any back face installed prior to 1962. Faces having bark-bars totaling less than 7 inches shall not be worked in a manner that will result in leaving bark-bars less than

those of former workings measured at the narrowest point.

§ 706.6 Inspection assistance.

Each producer shall assist representatives of the Forest Service in the administration of this program by:

(a) Giving them free access to his turpentine farm or farms;

(b) Counting all faces and reporting separately thereon by tracts and drifts to the local inspector (Area Forester);

(c) Furnishing information on burned areas, cutting operations, and interest in other turpentine farms as requested;

(d) Furnishing competent labor to assist the local inspector (Area Forester) in counting faces;

(e) Submitting an application for payment of Federal cost-shares (Form NSCP-1) and other prescribed forms;

(f) Notifying the Forest Service promptly of any change in ownership, control, or number of faces worked; and

(g) Otherwise facilitating the work of the inspector (Area Forester) in checking compliance with the terms and conditions of this program.

CONSERVATION PRACTICES AND RATES OF FEDERAL COST-SHARES

§ 706.9 Practice 1: Working only 9 inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 9 inch d.b.h. or larger trees over a period of two to five years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 9 inches d.b.h. and only one face on trees less than 14 inches d.b.h., except as provided in § 706.2(c).

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of 9 inch d.b.h. or larger trees; 2 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; ½ cent per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.10 Practice 2: Working only 10 inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 10 inch d.b.h. or larger trees over a period of two to five years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 10 inches d.b.h. and only one face on trees less than 14 inches d.b.h., except as provided in § 706.2(c).

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of 10 inch d.b.h. or larger trees; 4 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 3 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.11 Practice 3: Working only 11 inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 11 inch d.b.h. or larger trees over a period of two to five years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 11 inches d.b.h. and only one face on trees less than 14 inches d.b.h., except as provided in § 706.2(c).

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of 11 inch d.b.h. or larger trees; 6 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 3 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.12 Practice 4: Working only 12 inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 12 inch d.b.h. or larger trees over a period of two to five years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 12 inches d.b.h. and only one face on trees less than 14 inches d.b.h., except as provided in § 706.2(c).

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of 12 inch d.b.h. or larger trees; 7 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 3 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.13 Practice 5: Restricting turpentining to previously worked trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins over a period of two to five years only on trees having a previously worked face.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces on round trees.

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of faces on previously worked trees; 7 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 3 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.14 Practice 6: Working only selectively marked trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on selectively marked trees over a period of two to five years.

(b) *Eligible faces.* Only trees 9 inches or more d.b.h. which should be removed to improve the timber stand may be cupped. Cupping shall be limited to trees selectively marked in advance in accordance with good, approved timber management practices to insure production of larger diameter class timber or to provide other stand improvement measures as approved by the Forest Service: *Provided,* That the number of remaining uncupped trees per acre shall average at least the minimum number per acre specified by the Forest Service in its Minimum Stocking Guide issued June 4, 1956, as amended, and be well distributed over the area.

(c) *Components of practice and rates of cost-sharing.* (1) Initial installation and first year working of selectively marked trees; 8 cents per face. If faces have been installed contrary to the requirements for eligible faces, the area will be considered only for qualification for cost-shares under one of the diameter cupping practices specified in §§ 706.9, 706.10, 706.11, or 706.12.

(2) Working of faces for second, third, fourth, or fifth year; 4 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; ½ cent per face. This component is not applicable where § 706.15 is used.

§ 706.15 Practice 7: Initial use of spiral gutters or Varn aprons and double-headed nails.

(a) *Purpose.* To minimize damage to the tree in installing faces for the virgin year or in the first elevation and to conserve the worked portion of the tree.

(b) *Description of practice.* This practice consists of using spiral gutters or Varn aprons attached with double-headed nails when cups and tins are initially installed on the face or when cups and tins are elevated for the first time.

(c) *Eligible faces.* Faces on trees installed to meet the requirements of §§ 706.9, 706.10, 706.11, 706.12, 706.13, 706.14, and 706.17 may qualify for this practice, the cost-share for which is in addition to the aforesaid sections.

(d) *Component of practice and rate of cost-sharing.* (1) Initial use of spiral gutters or Varn aprons in the virgin installation or in the first elevation of cups and tins; 2 cents per face.

(i) The cost-share rate established for initiating this practice is limited to tracts or drifts having only virgin working faces, i.e., faces installed for the first working during the 1962 season or faces

upon which the cups and tins are elevated for the first time during the 1962 season. On accepting cost-sharing for this practice the producer agrees to use the spiral gutter or Varn apron and double-headed nails to attach the tins in all subsequent raisings and attachment of tins to the face.

(ii) Cups and tins shall be installed in a manner that will minimize the loss of gum and restrict amount of damage to the tree. Spiral gutters or Varn aprons shall be used and the tins shall be attached to the tree with double-headed nails. In smoothing the tree and seating the cup for virgin installation exposure of wood shall be limited to areas on the tree having burls, ridges, or other deformities.

§ 706.16 Practice 8: Removal of cups and tins from faces on small trees.

(a) *Purpose.* To encourage producers who have not participated in the 1960 or 1961 programs to discontinue working small unproductive trees, to promote improved naval stores and forestry practices, and to improve productivity of the woodland.

(b) *Description of practice.* This practice consists of removing the cups and tins and discontinuing the working of small unproductive timber and meeting all other requirements for participation in this program.

(c) *Eligible faces.* All faces installed for the first working in 1962 on trees under 9 inches d.b.h. and all but one face on trees between 9 and 14 inches d.b.h. having two or more faces. Working of faces shall be discontinued and cups and tins removed by tracts or drifts within 60 days after the producer is notified by the Forest Service to meet the eligible face requirements of § 706.9. Only producers who did not participate in the 1960 or 1961 programs are eligible for cost-sharing under this practice.

(d) *Component of practice and rate of cost-sharing.* (1) Removal of cups and tins on trees under 9 inches d.b.h. and on trees between 9 and 14 inches d.b.h. having more than one face; 8 cents per face. The cost-share for this component is applicable to faces discontinued by removal of cups and tins to permit the tract or drift to meet the eligible face requirements of § 706.9.

§ 706.17 Practice 9: Pilot plant tests of new methods and equipment.

(a) *Purpose.* To conduct controlled demonstrations or experiments to test values of management practices, new methods and equipment for gum production.

(b) *Description of practice.* This practice consists of carrying out practical demonstrations or tests of management practices, new methods or equipment according to requirements of the Forest Service.

(c) *Eligible faces.* Only faces or check trees in selected tracts used in controlled demonstrations or tests carried out in accordance with provisions prescribed by the Forest Service are eligible for cost-sharing.

(d) *Components of practice and rates of cost-sharing.* (1) Eight cents per face for faces meeting the requirements of § 706.9.

(2) Eleven cents per face for faces meeting the requirements of §§ 706.10, 706.11, 706.12, 706.13, and 706.14.

§ 706.18 Practice 10: Hardware removal.

(a) *Purpose.* To encourage producers to remove all hardware to conserve the worked section of the tree for use in other products.

(b) *Description of practice.* This practice consists of removing all cups, nails, and tins by the producer who last worked the face.

(c) *Eligible faces.* All faces last worked in 1961 or 1962 on which no subsequent work will be done and from which all hardware is removed by December 31, 1962.

(d) *Components of practice and rate of cost-sharing; 2 cents per eligible face.* Use of this practice is optional. To qualify for cost-shares under this component in tracts or drifts having in excess of 5 percent of back-faced timber, all hardware must also be removed from the old faces or all trees with such old faces must be cut out of the tracts or drifts. No cost-share will be approved for the removal of hardware in any tract or drift unless all hardware is removed from all remaining trees with eligible faces.

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

§ 706.19 Increase in small Federal cost-shares.

The total of the payment computed for any producer with respect to his turpentine farm under the Naval Stores Conservation Program and the cost-share computed for him on the same farm under the Agricultural Conservation Program shall be increased as follows: (a) Any Federal cost-sharing amounting to 71 cents or less shall be increased to $1.00; (b) any Federal cost-sharing amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent; (c) any Federal cost-sharing amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of cost-shares computed:	*Increase in cost-shares*
$1.00 to $1.99	$0.40
$2.00 to $2.99	0.80
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	$9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.99	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	(1)
$200.00 and over	(2)

[1] Increase to $200.
[2] No increase.

§ 706.20 Maintenance of practices.

The sharing of costs by the Federal Government for performance of approved practices included in this program will be subject to the condition that the producer with whom the costs are shared will maintain such practices in accordance with good forestry practices as long as the timber remains under his control. There may be withheld or required to be refunded all cost-shares on tracts or drifts in which failure to maintain any or all practices occurs, except as modified by this section or § 706.2(e). The producer shall not be expected to maintain and complete the practice when prevented by destruction of the timber by fire, weather, insects, diseases, or other conditions beyond his control. Measures which will be considered as failure to maintain practices in accordance with good forestry practices shall include, but are not restricted to, the following:

(a) The cutting contrary to good forestry practices of turpentine trees in tracts or drifts (including current nonworking areas) on which costs have been or would be shared under this or the 1958, 1959, 1960, or 1961 program. There may be withheld or required to be refunded the amount previously paid for each face for which costs were shared in 1958, 1959, 1960, 1961, or 1962 in the tracts or drifts in which such cutting occurs. Conformity to the following rules shall be considered good cutting practice:

(1) When turpentine trees are cut for thinnings at least the minimum number of trees per acre specified in the Minimum Stocking Guide issued by the Forest Service June 4, 1956, as amended,

shall be left uncut and undamaged and well distributed over the cutting area.

(2) When turpentine trees are cut in a harvest cutting, at least 400 turpentine trees per acre shall be left uncut and undamaged and well distributed over the cutting area, or a minimum of the following number or combination of numbers of thrifty turpentine seed trees per acre: 9 inches or over d.b.h.—6 trees, 8 inches d.b.h.—9 trees, or 7 inches d.b.h.—12 trees, shall be left uncut and undamaged, or if clearcut, artificial planting of at least 500 trees per acre will be accomplished prior to April 1, 1965.

(b) Raising cups and tins without double-headed nails. There may be withheld or required to be refunded all of the cost-shares earned under this or previous programs on the tracts or drifts in which such improper raising occurs.

(c) Picking up additional faces after the first year's working will disqualify the tract or drift for any further cost-sharing, unless the hardware is removed to limit the working to one age class of faces. Such removal must be accomplished within 60 days of notification by the Forest Service.

(d) Failure to meet bark-bar requirement. There may be withheld or required to be refunded all or any part of cost-shares earned under this program on the tracts or drifts in which such improper chipping occurs.

(e) The burning by the producer on any tract or drift of his turpentine farm which will destroy natural reforestation on land which is not fully stocked with turpentine trees or which will result in damage to established turpentine tree reproduction. There may be withheld or required to be refunded all or any part of cost-shares earned under this program on the tracts or drifts in which such improper burning occurs.

(f) The installation of new faces on round trees less than 9 inches d.b.h. or more than one face on round trees less than 14 inches d.b.h. in tracts or drifts having working faces installed during or prior to the 1957 turpentine season. There may be withheld or required to be refunded 2 cents per face for each working face installed during or prior to 1957 in the tracts or drifts in which such installation occurs.

§ 706.21 Practices defeating purposes of programs.

If the Forest Service finds that any producer has adopted or participated in any practice which tends to defeat the purposes of this program or previous programs, it may withhold or require to be refunded all or any part of any cost-share which has been or otherwise would be made to such producer under this program, except as modified by § 706.2 (e) or § 706.20.

§ 706.22 Federal cost-shares not subject to claims.

Any Federal cost-share, or portion thereof, due any person shall be determined and allowed without regard to questions of title under State law; without deduction of claims for advances (except as provided in § 706.23 and except for indebtedness to the United States subject to set-off under order issued by the Secretary (Part 13 of this title)) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

§ 706.23 Assignments.

Any producer who may be entitled to any Federal cost-share under the 1962 program may assign his right thereto, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1962, including the carrying out of soil and water conserving practices. No assignment will be recognized unless it is made in writing on Form ACP-69 and in accordance with the regulations issued by the Secretary (Part 709 of this chapter), witnessed, however, by an inspector or the Program Supervisor of the Forest Service and filed with the Forest Service, Valdosta, Georgia.

§ 706.24 Death, incompetency, or disappearance of producer.

In case of death, incompetency, or disappearance of any producer, his share of cost-sharings shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP-122, as amended (Part 707 of this chapter).

§ 706.25 Maximum Federal cost-shares limitation.

The total of all cost-shares under the 1962 Naval Stores Conservation and the 1962 Agricultural Conservation Programs to any person with respect to farms, ranching units, and turpentine places in the United States, Puerto Rico, and the Virgin Islands for approved practices which are not carried out under pooling agreements shall not exceed the sum of $2,500, and for all approved practices, including those carried out under pooling agreements, shall not exceed the sum of $10,000.

§ 706.26 Evasion.

All or any part of any Federal cost-share which has been or otherwise would be made to any producer participating in this program may be withheld or required to be refunded if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means which was designed to evade, or which has the effect of evading, the provisions of § 706.25.

APPLICATIONS FOR PAYMENT OF FEDERAL COST-SHARES

§ 706.27 Persons eligible to file application for payment of Federal cost-shares.

An application for payment of Federal cost-shares may be filed by any producer who contributed to the performance of any approved Naval Stores Conservation practice and is working faces for the production of gum naval stores, during the 1962 turpentine season, which were installed during or after the 1958 season. If it is determined that two or more producers contributed to carrying out the practice the Federal cost-shares shall be divided among such producers in the proportion which the Program Supervisor determines they contributed to carrying out the practice. In making this determination, the Program Supervisor shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each practice on a particular acreage, and shall assume that each contributed equally unless it is established to the satisfaction of the Program Supervisor that their respective contributions thereto were not in equal proportion. The furnishing of land, trees, or the right to use water will not be considered as a contribution to the carrying out of any practice.

§ 706.28 Time and manner of filing applications and required information.

Payment of Federal cost-shares will be made only when a report of performance is submitted to the Forest Service on or before January 31, 1963, on the prescribed form (NSCP-1) Application for Payment. Payment of Federal cost-shares may be withheld from any producer who fails to file any form or furnish any information required with respect to any turpentine farm which is being operated by him.

§ 706.29 Appeals.

Any producer may, within 15 days after notice thereof is forwarded to or made available to him, request the Regional Forester in writing to review the recommendation or determination of the Program Supervisor in any matter affecting the right to or the amount of his Federal cost-shares with respect to the producer's turpentine farm. The Regional Forester shall notify the producer of his decision in writing within 60 days after the submission of the appeal. If the producer is dissatisfied with the decision of the Regional Forester he may, within 15 days after the decision is forwarded to or made available to him, request the Chief of the Forest Service to review the case and render his decision, which shall be final.

DEFINITIONS

§ 706.30 Definitions.

(a) *Gum naval stores.* Crude gum (oleoresin), gum turpentine and gum rosin produced from living trees.

(b) *Producer* or *turpentine farmer.* Any person, firm, partnership, corporation, or other business enterprise doing business as a single legal entity, producing gum naval stores from turpentine trees controlled through fee ownership, cash lease, percentage lease, share lease, or other form of control.

(c) *Turpentine tree.* Any tree of either of the two species, longleaf pine (Pinus palustris) or slash pine (Pinus elliottii Engelm).

(d) *Turpentine farm.* This includes (1) land growing turpentine trees, owned or leased by a producer in one general locality, which are currently being worked for gum naval stores, herein referred to as a working area; and (2) all commercially valuable or potentially

valuable forest land, owned by a producer on which turpentine trees are growing and which are not being currently worked for gum naval stores, herein referred to as a nonworking area.

(e) *Tract.* A portion of a working area having a continuous stand of trees supporting faces of one age class or intermingled age classes.

(f) *Drift.* A portion or subdivision of a tract set apart for convenience of operation or administration.

(g) *Turpentine season.* The entire calendar year, or, if a farm is operated less than the full calendar year, that period within the calendar year during which a producer is operating his turpentine farm for the production of gum naval stores.

(h) *Face.* The whole wound or aggregate of streaks made by chipping, streaking, or pulling the live tree to stimulate the flow of crude gum (oleoresin), herein referred to as gum.

(i) *Cup.* A container made of metal, clay, or other material hung on or below the face to accumulate the flow of gum.

(j) *Tins.* The gutters or aprons, made of sheet metal or other material, used to conduct the gum from a face into a cup.

(k) *D.b.h.* Diameter breast height; i.e., diameter of tree measured 4½ feet from the ground.

(l) *Round tree.* Any tree which has not been faced or scarred.

(m) *Scarred tree.* A tree having an idle face not over 36 inches in vertical measurement from the shoulder of the first streak to the shoulder of the last streak.

(n) *Worked-out face.* An idle face which is 60 inches or more in vertical measurement between the shoulder of the first streak and the shoulder of the last streak, or a dry face.

(o) *Back face.* A face placed on a tree having a previously worked face.

(p) *Spiral gutter.* A curved gutter that follows a spiral path around the tree.

(q) *Varn apron.* A curved two-piece adjustable apron with tacking flange.

(r) *Double-headed nail.* Double-headed nails specially designed for naval stores use are produced commercially by several manufacturers. The use of a double-headed nail meeting the following minimum specifications is required where this practice is used: The overall length shall be 1⅜ inches; distance between heads a minimum of ¼ inch; its wire gauge no smaller than 13; the driving head shall be of the flat "Common Nail" type with diameter between 5/32 and ¼ inches and diameter of clinching head ¼ inch. Experience has shown that the use of double-headed nails meeting these specifications is satisfactory and meets the requirements for any type of installation and easy removal from the trees.

(s) *Virgin streak.* The first chipping of the tree following initial installation of the face.

(t) *Hardware.* All gutters, aprons, or metal strips of any kind whatsoever together with nails used to support same and nails used to support cups for the collection of raw gum resin.

AUTHORITY, AVAILABILITY OF FUNDS, APPLICABILITY AND ADMINISTRATION

§ 706.31 Authority.

This program is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Related Agencies Appropriation Act, 1962.

§ 706.32 Availability of funds.

(a) The provisions of this program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the paying of the Federal cost-shares herein provided for is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation and by the extent of participation in this program.

(b) The funds provided for this program will not be available for the payment of applications filed after December 31, 1963.

(c) If the total estimated earnings under the Naval Stores Conservation Program exceed the total funds available for cost-sharing, such cost-shares will be reduced equitably. Such reduction shall be made first from the cost-shares for practice 7 (§ 706.15).

§ 706.33 Applicability.

(a) The provisions of this program are not applicable to any turpentining operations within the public domain of the United States, including the lands and timber owned by the United States which were acquired or reserved for conservation purposes, or which are to be retained permanently under Government ownership (such lands include, but are not limited to lands owned by the United States which are administered by the Forest Service or the Soil Conservation Service of the Department of Agriculture, or by the Bureau of Land Management or the Fish and Wildlife Service of the Department of the Interior).

(b) This program is applicable to (1) turpentine farms on privately owned lands, (2) lands owned by a State or political subdivision or agency thereof, or (3) lands owned by corporations which are either partly or wholly owned by the United States provided such lands are temporarily under such government or corporation ownership and are not acquired or reserved for conservation purposes. Of the lands covered by subparagraph (3) of this paragraph only turpentine farms on lands meeting eligibility provisions of subparagraph (3) of this paragraph that are administered by the Farmers Home Administration, the Federal Farm Mortgage Corporation, a Production Credit Association, or the U.S. Department of Defense, shall be considered eligible unless the Forest Service finds that land administered by any other agency complied with all of the foregoing provisions for eligibility.

§ 706.34 Administration.

The Forest Service shall have charge of the administration of this program and is hereby authorized to prepare and to issue such bulletins, instructions and forms, and to make such determinations, as may be required to administer this program, pursuant to the provisions of this bulletin, and the field work shall be administered by the Forest Service through the office of the Regional Forester, United States Forest Service, 50 Seventh Street NE., Atlanta 23, Georgia. Information concerning this program may be secured from the Forest Service, Valdosta, Georgia, or from any local Area Forester of the Forest Service.

Done at Washington, D.C., this 8th day of August 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-7706; Filed, Aug. 11, 1961; 8:48 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 16]

PART 719—RECONSTITUTION OF FARMS, FARM ALLOTMENTS, AND FARM HISTORY AND SOIL BANK BASE ACREAGES

Miscellaneous Amendments

Basis and purpose. This amendment is issued pursuant to section 375(b) of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1375(b)), and section 124 of the Soil Bank Act (7 U.S.C. 1812) for the purpose of: (1) expanding the definition of "allotment" to include reference to computation of allotment diversion credit and the preservation of allotment history; (2) including the definition of "representative of the State committee"; (3) removing definitions for "field" and "subdivision" which have been incorporated in Part 718, § 718.2 (25 F.R. 12166); (4) including reference to the planting of corn and grain sorghums on farms participating in the feed grain program as related to the time and effective date of reconstitutions; (5) adding a new § 719.13 to provide procedures for determining commodity allotment diversion credit for participation in the conservation reserve or Great Plains program; and (6) adding a new § 719.14 to provide procedures related to the preservation of history acreage for unused acreage allotments.

1. Section 719.2 (25 F.R. 1065, 26 F.R. 1753, and 26 F.R. 5034) is amended to read as follows:

§ 719.2 Definitions.

As used in the regulations in this part and in all instructions, forms, and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the text or subject matter otherwise requires:

(a) "Allotment" means an acreage of a specific crop established pursuant to the Agricultural Adjustment Act of 1938 and any amendments thereto heretofore or hereafter made: *Provided, however,*

That for the purposes of applying the provisions of §§ 719.13 and 719.14, "allotment" means the acreage established pursuant to the Agricultural Adjustment Act of 1938, as amended, minus the acreage released to the county committee and the amount of any reduction in the established allotment for violation of the marketing quota regulations in a prior year but before adding reapportioned acreage or the amount of any increase granted for a type of peanuts determined to be in short supply or the amount of any increase in the cotton allotment under the Choice (B) program in 1959 and 1960.

* * * * *

(n) "History acreage," with respect to any commodity or program, means the acreages determined in accordance with the applicable regulations to be considered in establishing acreage allotments and soil bank bases for the current year.

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

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

(q) "Photograph number" means the number assigned to the photograph for the purpose of identification and may be either the roll and exposure number or a number assigned by the county committee which is recognized in identifying the photographs for internal operations.

(r) "Preceding year" means the calendar year immediately preceding the year for which the allotments or soil bank bases are established.

(s) "Producer" means a person who, as owner, landlord, tenant, or sharecropper, shares in a sugar crop at time of harvest or is entitled to share in the other crops available for marketing from the farm or in the proceeds thereof and in the case of rice also means a person who furnishes water for a share of the crop.

(t) "Reconstitution" means the changing of the identity of a farm as it exists on county office records to a new identity approved by the county committee by process of "division" or "combination." The term shall also include the constitution and identification of land as a farm for the first time.

(u) "Representative of the State committee" means a member of the State committee or any employee of the State committee.

(v) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(w) "Soil bank contract" means an acreage reserve agreement or conservation reserve contract, entered into pursuant to the Soil Bank Act (7 U.S.C. 1801 et seq.).

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

2. Section 719.11(f) (26 F.R. 2686) is amended to read as follows:

§ 719.11 Guidelines for applying farm definition.

* * * * *

(f) *Timing and effective date of reconstitutions.* Farms shall be reconstituted as soon as it is determined that the land areas are not properly constituted in accordance with the farm definition: *Provided, however,* That a reconstitution made after the planting of an allotment crop has been completed on the farm, or after the plantings of corn and grain sorghums have been completed on a farm which is participating in the feed grain program, shall not be effective for that crop for the current year unless the conditions supporting the reconstitution existed at the time such crop was planted on the farm and a change in operation had occurred prior to the beginning of such planting but had not been reported to the county office: *And provided further,* That a reconstitution shall not be effective with respect to the conservation reserve program for the current year if, at the time a reconstitution of the farm(s) is required, the action would cause noncompliance with the terms and conditions of the conservation reserve contract(s) for the current year. Notwithstanding this proviso, a reconstitution resulting from a division of a parent farm shall be effective for the current year for conservation reserve purposes unless (1) all of the persons having control of the land being subdivided are eligible and enter into a common modified contract covering the parent farm for the year in which loss of control occurs and (2) simultaneously with the execution of the common modified contract, individual contracts covering the reconstituted farms are entered into and approved to become effective on the following January 1. A reconstitution which does not become effective for the current year under the provisions of this paragraph shall become effective beginning with the next succeeding crop year (succeeding program year in case of the conservation reserve program).

3. A new § 719.13 is added to this part to read as follows:

§ 719.13 Determination of commodity allotment diversion credit for participation in the conservation reserve or Great Plains program.

(a) *General rules.* The acreage on any farm which is determined to have been diverted from the production of any commodity subject to acreage allotments or marketing quotas in order to carry out the provisions of a conservation reserve or Great Plains contract or in order to maintain, for the applicable period of extended protection, previously established permanent vegetation designated under the contract or any change in land use from cropland to permanent vegetative cover, including trees, carried out under the contract shall be considered as acreage devoted to the commodity for purposes of establishing future State, county, and farm acreage allotments under the provisions of the Agricultural Adjustment Act of 1938, as amended. The period of extended protection shall be a period after the expiration of the contract which is equal to the period of the contract: *Provided, however,* That, in the case of conservation reserve, if the contract is applicable to separate land areas on the farm for different periods of time, each such land area shall be considered separately in determining the period of extended protection. The period of extended protection for any given land area shall not apply if the contract applicable to that area is cancelled or terminated prior to the end of the period of years approved under the terms of the contract. In the determination of allotment crop history acreages for the farm(s) or tract(s) resulting from the division of a parent farm, the potential allotment history credit determined under provisions of this § 719.13 shall accrue to the farm(s) or tract(s) on which the permanent vegetation is physically located. The term "final acreage" when used in making apportionments under the provisions of paragraphs (d) and (e) of this § 719.13 shall be the acreage of the crop as finally determined for the farm except that such acreage shall be the planted acreage in case of cotton. The "final acreage" shall be the acreage determined for the farm prior to any adjustments for abnormal conditions affecting acreage.

(b) *Maximum diversion credit under provisions of a conservation reserve contract.* In determining maximum diversion credit for a conservation reserve farm, the maximum acreage which may be considered as diverted from the production of allotment crops shall be the acreage placed in the conservation reserve at the regular rate for areas for which the conservation reserve contract has not expired plus the acreage placed in the conservation reserve at the regular rate for areas for which the conservation reserve contract has expired but for which the period of extended protection of allotment history credit has not expired less any part of the acreage for which the period of extended protection is otherwise applicable but on which the permanent vegetation is not properly maintained.

(c) *Maximum diversion credit under provisions of a Great Plains contract*—(1) *During the period of a contract.* The maximum acreage for the farm which may be considered as diverted from the production of allotment crops in order to carry out the provisions of a Great Plains contract currently in effect shall be the sum of the amounts by which each underplanted crop allotment exceeds the final acreage of such crop.

(2) *After expiration of a contract.* The maximum acreage which may be considered as diverted from the production of allotment crops after a contract has expired for the farm but before the period of extended protection has ended is the acreage designated by the pro-

ducer and a work unit conservationist representing the Soil Conservation Service as having been changed from cropland to permanent vegetation under the terms of the contract less any part of such acreage which is not being properly maintained: *Provided, however,* That such maximum shall not be greater than the sum of the amounts by which each underplanted crop allotment exceeds the final acreage of such crop.

(d) *Apportionment of diversion credits earned under a conservation reserve contract*—(1) *General rules.* Diversion credits earned for a farm under a conservation reserve contract shall be apportioned each year, beginning with 1960, to the various crops for which allotments are established for the farm. The apportionment shall be made in accordance with subparagraphs (2) and (3) of this paragraph (d).

(2) *Allotment established for only one crop.* When an allotment is established for only one crop on the farm, the acreage considered as diverted from the production of such crop under the provisions of a conservation reserve contract shall be the acreage determined pursuant to paragraph (b) of this § 719.13 not to exceed the amount by which the farm allotment exceeds the final acreage of the crop on the farm.

(3) *Allotments established for two or more crops.* (i) When allotments are established for two or more crops on the farm and the acreage determined pursuant to paragraph (b) of this § 719.13 equals or exceeds the sum of the amounts by which each underplanted crop allotment exceeds the final acreage of such crop on the farm, the acreage considered as diverted from the production of each crop shall be the amount by which the allotment for such crop exceeds the final acreage of such crop on the farm.

(ii) When allotments are established for two or more crops on the farm and the acreage determined pursuant to paragraph (b) of this § 719.13 is less than the sum of the amounts by which each underplanted crop allotment exceeds the final acreage of such crop on the farm, the acreage determined pursuant to paragraph (b) of this § 719.13 shall be considered as the acreage diverted from the production of all allotment crops on the farm. Such acreage shall be prorated among the allotment crops as follows: Determine the amount by which each underplanted crop allotment exceeds the final acreage of such crop on the farm and obtain the total of these amounts; divide the acreage determined pursuant to paragraph (b) of this § 719.13 by this total, carrying the result to four places beyond the decimal, to obtain the proration factor; multiply the amount by which the allotment for each underplanted crop exceeds the final acreage of such crop on the farm by the proration factor. The result obtained will be the acreage to be considered as diverted from the production of the crop under the provisions of the conservation reserve contract.

(4) *Use of diversion credit.* The diversion credit determined under the provisions of this paragraph (d) for each underplanted allotment crop shall be considered as the acreage devoted to the crop and shall be utilized in the establishment of future State, county, and farm acreage allotments under the provisions of the Agricultural Adjustment Act of 1938, as amended.

(e) *Determination of diversion credits earned under a Great Plains contract*—(1) *During the period of a contract.* The acreage considered as diverted from the production of each allotment in order to carry out the provisions of a Great Plains contract currently in effect shall be determined by the county committee after consultation with the producer and a work unit conservationist representing the Soil Conservation Service. The acreage so determined for each allotment crop shall not exceed the amount by which the allotment for such crop exceeds the sum of the final acreage of such crop for the farm and the acreage considered as diverted from the production of the crop under the provisions of a conservation reserve contract.

(2) *After expiration of a contract.* After a Great Plains contract has expired for a farm, the county committee shall determine the acreage diverted from the production of each allotment crop in order to maintain a change in land use from cropland to permanent vegetation. If considered necessary, the county committee may consult with a work unit conservationist representing the Soil Conservation Service in making this determination. The acreage so determined for each allotment crop shall not exceed the amount by which the allotment for such crop exceeds the sum of the final acreage of such crop on the farm and the acreage considered as diverted from the production of the crop under the provisions of a conservation reserve contract. The acreage considered as diverted from the production of all allotment crops on the farm shall not exceed the acreage determined under the provisions of paragraph (c)(2) of this section.

(3) *Use of diversion credit.* The diversion credit determined for each underplanted allotment crop under the provisions of this paragraph (e) shall be considered as the acreage devoted to the crop and shall be utilized in the establishment of future State, county, and farm acreage allotments under the provisions of the Agricultural Adjustment Act of 1938, as amended.

4. A new § 719.14 is added to this chapter to read as follows:

§ 719.14 Preservation of history acreage for unused acreage allotments.

For 1960 and subsequent years, the farm acreage allotment established for a commodity shall be preserved as history acreage if, in the current year or in either of the two preceding years, an acreage equal to 75 percent or more of the farm acreage allotment for such year actually was planted or devoted to the commodity on the farm. In determining the acreage planted or devoted to the commodity, the acreage considered as diverted from the production of the commodity under the provision of the Soil Bank Act or the Great Plains program shall be included pursuant to the provisions of § 719.13. The current farm acreage allotment also shall be preserved as history acreage if the land is federally owned and a restrictive lease prohibiting the planting of the allotment crop on the federally-owned land is in effect. The provisions of this section do not apply to an acreage which is released to the county committee or to released acreage which the county committee reapportions to a farm. In the event an erroneous notice of allotment is not discovered and corrected prior to the time the commodity is planted on the farm for which such notice was issued, the 75 percent provision shall be applied to the smaller of the allotment of which the producer was notified or the correct allotment for the farm.

(Sec. 375, 52 Stat. 66, as amended; sec. 124, 70 Stat. 198; 7 U.S.C. 1375, 1812. Interpret or apply sec. 377, 73 Stat. 393, 7 U.S.C. 1377)

Effective date. The constitution and reconstitution of farms is a continuous operation, reconstitutions which may result in changes in allotment and history acreages for the 1962 crop of wheat are currently being made, and allotment history diversion credits and the application of the provision for the automatic preservation of unused allotments for 1961 wheat and other allotment crops as related to the establishment of 1962 allotments are being determined. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable and contrary to the public interest and that this amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington D.C., on August 7, 1961.

ROBERT G. LEWIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 61-7707; Filed, Aug. 11, 1961; 8:49 a.m.]

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

[Valencia Orange Reg. 240]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.540 Valencia Orange Regulation 240.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that

the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 10, 1961.

(b) *Order*. (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., August 13, 1961, and ending at 12:01 a.m., P.s.t., August 20, 1961, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 550,000 cartons;
(iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

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

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 11, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-7812; Filed, Aug. 11, 1961; 11:37 a.m.]

[Lemon Reg. 912]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.1019 Lemon Regulation 912.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 8, 1961.

(b) *Order*. (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., August 13, 1961, and ending at 12:01 a.m., P.s.t., August 20, 1961, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 325,500 cartons;
(iii) District 3: Unlimited movement.

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

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 10, 1961.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-7741; Filed, Aug. 11, 1961; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-WA-134]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Federal Airway Description; Correction

The purpose of this amendment to § 600.6059 of the regulations of the Administrator is to correct the errors in the description of low altitude VOR Federal airway No. 59.

In a previous amendment to Victor 59 the segment of the airway from Pulaski, Va., to Parkersburg, W. Va., was inadvertently omitted when the airway was redescribed. Although this segment was omitted in the description, it has continued to be depicted on charts and used by aircraft. Therefore, action is taken herein to correct the description of Victor 59.

Additionally, in the previous amendment to Victor 59 the radial of the Mansfield, Ohio, VOR which forms the intersection on Victor 59 between Newcomerstown, Ohio, and Cleveland, Ohio, was changed from 100° True to 104° True. However, in the annual reissue of Part 600 for the year 1958 this radial was incorrectly shown as 100° True and has been carried as such since that time. Action is taken herein to correct this error.

Since this correction is editorial in nature and imposes no additional burden on the public, compliance with the notice, public procedure and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), § 600.6059 (14 CFR 600.6059) is amended to read:

§ 600.6059 VOR Federal airway No. 59 (Pulaski, Va., to Cleveland, Ohio).

From the Pulaski, Va., VOR via the Beckley, W. Va., VOR; Parkersburg, W. Va., VOR; Newcomerstown, Ohio, VOR; INT of the Tiverton, Ohio, VOR direct radial to the Youngstown, Ohio,

VOR with the Mansfield, Ohio, VORTAC 104° radial; to the Cleveland, Ohio, VORTAC.

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

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 8, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7673; Filed, Aug. 11, 1961; 8:45 a.m.]

[Airspace Docket No. 61-NY-10]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration of Federal Airway

On March 21, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 2375) stating that the Federal Aviation Agency proposed to extend VOR Federal airway No. 1729 from Erie, Pa., to the United States/Canadian border.

No adverse comments were received regarding the proposed amendment.

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

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

In the text of § 600.1729 (26 F.R. 1079) "thence to the Erie, Pa., VOR." is deleted and "thence to the Erie, Pa., VOR; thence 10 mile wide airway to the United States/Canadian border via the Erie, Pa., VOR 005° radial." is substituted therefor.

This amendment shall become effective 0001 e.s.t., October 19, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 7, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7675; Filed, Aug. 11, 1961; 8:45 a.m.]

[Airspace Docket No. 61-NY-12]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Alteration of Federal Airways

On April 13, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 3156) stating that the Federal Aviation Agency proposed to alter intermediate altitude VOR Federal airways Nos. 1503 and 1695.

No adverse comments were received regarding the proposed amendments.

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

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. In the text of § 600.1503 (26 F.R. 1079) "to the Presque Isle, Me., VOR." is deleted and "Presque Isle, Maine, VOR; to the U.S./Canadian Border via the Presque Isle VOR 359° radials." is substituted therefor.

2. In the text of § 600.1695 (26 F.R. 1079) "Millinocket, Me., VOR; to the Presque Isle, Me., VOR." is deleted and "INT of the Bangor VOR 059° and the Millinocket, Me., VOR 185° radials; thence 16 mile wide airway to the U.S./Canadian Border via the Bangor VOR 059° radial." is substituted therefor.

These amendments shall become effective 0001 e.s.t., October 19, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 7, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7676; Filed, Aug. 11, 1961; 8:45 a.m.]

[Airspace Docket No. 60-WA-166]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration and Revocation of Control Area Extension

On December 24, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 13726) stating that the Federal Aviation Agency (FAA) proposed to alter the Miami control area extension (§ 601.1408) and to revoke the Key West control area extension (§ 601.1434).

Since this action involves the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order No. 10854.

Subsequent to the publication of this notice, the FAA published Amendment 60-21 to the Civil Air Regulations, Part 60, Air Traffic Rules. However, implementation of the provisions of the amendment in this area is being deferred pending an evaluation of the controlled airspace requirements in the entire Miami Air Route Traffic Control Center area. Upon completion of this review, separate airspace action will be initiated to redesignate the Miami control area extension (§ 601.1408) as a transition area with appropriate controlled airspace floor assignments.

No adverse comments were received regarding the proposed amendments.

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

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. Section 601.1408 (14 CFR 601.1408) is amended to read:

§ 601.1408 Control area extension (Miami, Fla.).

That airspace bounded on the N. by a line extending from Lat. 25°49'00" N., Long. 81°47'00" W.; to Lat. 25°46'40" N., Long. 81°09'15" W.; to Lat. 25°30'30" N., Long. 80°51'20" W.; to Lat. 25°34'00" N., Long. 80°25'00" W.; on the E. by Long. 80°25'00" W.; on the S. by VOR Federal airway No. 35; and on the W. by VOR Federal airway No. 225, excluding the portion below 2,000 feet MSL which lies outside the United States and that portion above 20,000 feet MSL which coincides with the Key West Warning Area (W-173).

§ 601.1434 [Amendment]

2. Section 601.1434 (14 CFR 601.1434) Control area extension (Key West, Fla.) is revoked.

These amendments shall become effective 0001 e.s.t., September 21, 1961.

(Sec. 307(a) and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on August 7, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7674; Filed, Aug. 11, 1961; 8:45 a.m.]

[Airspace Docket No. 60-WA-271]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation and Alteration of Control Area Extensions, Designation of Reporting Points

On March 31, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 2726) stating that the Federal Aviation Agency (FAA) proposed to alter the Key West, Fla., control area extension (§601.1233); alter the Marathon, Fla., control area extension (§ 601.1234); and designate a new control area extension and reporting points.

Since these actions involve the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order No. 10854.

No adverse comments were received regarding the proposed amendments.

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

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

1. Section 601.1233 (14 CFR 601.1233) is amended to read:

§ 601.1233 Control area extension (Key West, Fla.).

That airspace bounded on the N. by the Key West, Fla., control area extension (§ 601.1319) and VOR Federal airway No. 35, on the E. by a line 5 miles E. of and parallel to the 187° bearing from the Key West RR, on the S. by the Havana, Cuba, control area and on the W. by a line 5 miles W. of and parallel to the SW. course of the Key West RR, excluding the portion below 2,000 feet MSL outside of the United States.

2. Section 601.1234 (14 CFR 601.1234) is amended to read:

§ 601.1234 Control area extension (Marathon, Fla.).

That airspace bounded on the N. by VOR Federal airway No. 35, on the E. by a line 5 miles E. of and parallel to the 209° bearing from the Marathon, Fla., RBN, on the S. by the Havana, Cuba, control area, and on the W. by a line 5 miles W. of and parallel to the 219° bearing from the Marathon RBN, excluding the portion below 2,000 feet MSL and excluding the portion which would coincide with the Key West, Fla., Warning Area (W-465).

3. Part 601 (14 CFR Part 601) is amended by adding the following section:

§ 601.1475 Control area extension (Sombrero Key, Fla.).

Within 5 miles either side of the 186° bearing from the Marathon, Fla., RBN, extending from the RBN to the Havana, Cuba, control area excluding the portion below 2,000 feet MSL and excluding the portion which coincides with the Key West, Fla., Warning Area (W-465).

§ 601.5001 [Amendment]

4. In § 601.5001 (14 CFR 601.5001, 25 F.R. 12997) the following changes are made:

(a) In the text delete:

Balboa Intersection: INT of a line bearing 186° True from the Key West, Fla., RR and a line bearing 215° True from the Marathon, Fla., RBN.

(b) In the text add:

Sea Lion INT: INT of the SW. course of the Key West, Fla., RR with Lat. 24°00'00" N.

Fantail INT: INT of the 187° bearing from the Key West, Fla., RR with Lat. 24°00'00" N.

Whale INT: INT of the 209° bearing from the Marathon, Fla., RBN with Lat. 24°00'00" N.

Balboa INT: INT of the 219° bearing from the Marathon, Fla., RBN with Lat. 24°00'00" N.

Tadpole INT: INT of the 186° bearing from the Marathon, Fla., RBN with Lat. 24°00'00" N.

These amendments shall become effective 0001 e.s.t., September 21, 1961.

(Secs. 307(a), and 1110, 72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510, and Executive Order 10854, 24 F.R. 9565)

Issued in Washington, D.C., on August 7, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7678; Filed, Aug. 11, 1961; 8:46 a.m.]

[Airspace Docket No. 61-KC-15]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Part-Time Control Zone

On June 21, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 5528) stating that the Federal Aviation Agency proposed to establish a part-time control zone at Pontiac, Mich.

No adverse comments were received regarding the proposed amendments.

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

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, Part 601 (14 CFR Part 601) is amended by adding the following section:

§ 601.2454 Pontiac, Mich., control zone.

Within a 5-mile radius of the Pontiac Municipal Airport, Pontiac, Mich., (Lat. 42°39'55" N., Long. 83°25'05" W.), and within 2 miles either side of the 116° radial of the Pontiac VOR extending from the 5-mile radius zone to the VOR, from 0600 to 2200 hours, local standard time, daily.

This amendment shall become effective 0001 e.s.t., September 21, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 8, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7679; Filed, Aug. 11, 1961; 8:46 a.m.]

[Airspace Docket No. 60-NY-133]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Transition Area

On December 31, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 14048), stating that the Federal Aviation Agency proposed to designate a control area extension at DuBois, Pa.

No adverse comments were received regarding the proposed amendments.

Since the publication of this notice, the Federal Aviation Agency has published Civil Air Regulations, Part 60, Air Traffic Rules, Amendment 60-21 (26 F.R. 570), which provides in part for the designation of transition areas in lieu of control area extensions to extend upward from 700 feet above the surface when designated in conjunction with an airport with no control zone but for which an instrument approach procedure has been prescribed. Accordingly, the controlled airspace proposed in the notice will be designated as a transition area. However, the description will be altered, in part, to reduce the length of the northeast extension based on the 056° bearing from the DuBois, Pa., radio beacon from 17 miles to 12 miles northeast of the radio beacon. Re-evaluation of the controlled airspace requirements at DuBois indicates that the additional distance is not required to protect aircraft executing prescribed instrument approach procedures at DuBois-Jefferson County Airport.

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

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

Part 601 (14 CFR Part 601) is amended by adding the following section:

§ 601.10408 DuBois, Pa., transition area.

That airspace extending upward from 700 feet above the surface within 8 miles NW. and 5 miles SE. of the 056° bearing from the DuBois, Pa., RBN extending from the RBN to 12 miles NE.; within 5 miles either side of the 238° bearing from the DuBois RBN extending from the RBN to the northern boundary of VOR Federal airway No. 6; and within 5 miles either side of the 148° bearing from the DuBois RBN extending from the RBN to the northern boundary of VOR Federal airway No. 6.

This amendment shall become effective 0001 e.s.t., September 21, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 8, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7680; Filed, Aug. 11, 1961; 8:46 a.m.]

[Airspace Docket No. 60-FW-116]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Revocation of Control Area Extension; Designation of Transition Area; Alteration of Control Zone

On April 19, 1961, a notice of proposed rule making was published in the FEDERAL

REGISTER (26 F.R. 3316) stating that the Federal Aviation Agency proposed to alter the Asheville, N.C. control zone, revoke the Asheville control area extension, and designate the Asheville transition area.

No objections were offered by The Department of the Army, the Air Transport Association of America, or the Department of the Air Force. The Aircraft Owners and Pilots Association (AOPA) objected to the designation of controlled airspace east of Asheville in the area presently designated as the Asheville control area extension, because they found no stated need for this portion of the proposal. The AOPA stated further that if such a requirement exists, it is doubted that there is a need for designation of a transition area down to 1200 feet above the surface. This control area extension is presently providing protection for aircraft enroute between Asheville and Charlotte, N.C., inbound and outbound from both terminals. The route being used is via the Asheville VOR 090° and the Fort Mill VOR 348° radials. A floor higher than 1200 feet above the surface for the transition area is not considered suitable since transition between the adjoining airways would be impaired. Although not stated in the notice, the Federal Aviation Agency expects to have long range radar, located near Maiden, North Carolina, in operation by December 1961. This radar will be utilized by the Atlanta Air Route Traffic Control Center and will permit radar vectoring of aircraft in the proposed transition area to and from the Charlotte, Hickory, and Asheville, North Carolina and the Greenville and Spartanburg, South Carolina terminals.

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

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12528) and for the reasons stated herein and in the notice, the following action is taken:

1. Section 601.2372 (14 CFR 601.2372) is amended to read:

§ 601.2372 Asheville, N.C., control zone.

Within a 5-mile radius of the Asheville Airport (Lat. 35°26′00″ N., Long. 82°32′25″ W.), and within 2 miles either side of the 341° bearing from the Asheville RBN (Lat. 35°21′06″ N., Long. 82°30′16″ W.), extending from the 5-mile radius zone to the RBN.

2. Part 601 (14 CFR Part 601) is amended as follows:

§ 601.1396 [Amendment].

Section 601.1396 Control area extension (Asheville, N.C.) is revoked.

Section 601.10007 is added to read:

§ 601.10007 Asheville, N.C., transition area.

The airspace E. of Asheville, N.C., extending upward from 1,200 feet above the surface bounded on the NW. by VOR Federal airway No. 222, on the E. by VOR Federal airway No. 259, on the SE. by VOR Federal airway No. 20, and on the SW. by VOR Federal airway No. 296; and the airspace W. of Asheville within a 30-mile radius of the Asheville VOR bounded on the NE. by VOR Federal airway No. 185 and on the SE. by VOR Federal airway No. 222.

This amendment shall become effective 0001 e.s.t., September 21, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 8, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7681; Filed, Aug. 11, 1961; 8:46 a.m.]

[Airspace Docket No. 60-LA-87]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

PART 608—SPECIAL USE AIRSPACE

Designation and Alteration of Control Zones; Designation of Transition Areas; Revocation of Control Area Extensions and Alteration of Restricted Areas

On May 27, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 4695) stating that the Federal Aviation Agency (FAA) proposed amendments to Part 601 and §§ 601.2285, 601.7101, and 608.25 of the regulations of the Administrator which would result in the following:

1. Designate the FAA, Los Angeles ARTC Center, as the controlling agency for R-2505 and R-2506.
2. Alter § 601.7101 *Designation of the continental control area* to include the following restricted areas: R-2502, R-2505, R-2508, R-2509, R-2515, and R-2524.
3. Designate a transition area at Palmdale, Calif.
4. Designate a transition area at Victorville, Calif.
5. Revoke the Edwards AFB, Calif., and the Daggett, Calif., control area extensions.
6. Revoke the Victorville, Calif., control area extension.
7. Designate a control zone at the NAF China Lake, Calif.
8. Designate a control zone at the Edwards AFB, Calif.
9. Redesignate the control zone at Victorville, Calif. (George AFB).

The Department of the Air Force concurred with the proposed amendments. No other comments were received within the period allotted for comments.

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

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, the following actions are taken:

§ 608.25 [Amendment]

1. In § 608.25 *California* (26 F.R. 874) the following changes are made:

(a) R-2505 China Lake, Calif., "Using Agency. Commander, Naval Ordnance Test Center, China Lake, Calif." is deleted and "Controlling Agency. Federal Aviation Agency, Los Angeles ARTC Center. Using Agency. Commander, Naval Ordnance Test Center, China Lake, Calif." is substituted therefor.

(b) R-2506 China Lake South, Calif. "Using Agency. Commander, Naval Ordnance Test Center, China Lake, Calif." is deleted and "Controlling Agency. Federal Aviation Agency, Los Angeles ARTC Center. Using Agency. Commander, Naval Ordnance Test Center, China Lake, Calif." is substituted therefor.

§ 601.7101 [Amendment]

2. In the text of § 601.7101 (26 F.R. 1399) the following are added:

(a) R-2502 Camp Irwin, Calif.
(b) R-2505 China Lake, Calif.
(c) R-2508 California Complex.
(d) R-2509 Cuddeback Dry Lake, Calif.
(e) R-2515 Muroc Lake, Calif.
(f) R-2524 Trona, Calif.

3. In Part 601 (14 CFR Part 601) the following sections are added:

§ 601.10006 Palmdale, Calif., transition area.

The area extending upward from 1,200 feet above the surface bounded by a line extending from Lat. 35°34′30″ N., Long. 116°23′30″ W., thence to Lat. 35°28′35″ N., Long. 116°18′45″ W., thence S. along Long. 116°18′45″ W. to the NW. boundary of VOR Federal airway No. 8 N.; thence along the NW. boundary of VOR Federal airway No. 8 N.; the N. boundary of VOR Federal airway No. 12; the N. boundary of VOR Federal airway No. 137, and the E. boundary of VOR Federal airway No. 23 and VOR Federal airway No. 23 E. to Lat. 35°36′00″ N., Long. 119°01′30″ W., thence to Lat. 35°37′30″ N., Long. 117°47′30″ W., thence to Lat. 35°40′30″ N., Long. 117°47′00″ W., thence to Lat. 36°05′25″ N., Long. 117°52′00″ W., thence to Lat. 36°06′45″ N., Long. 117°41′30″ W., thence to Lat. 35°42′00″ N., Long. 117°35′45″ W., thence to Lat. 35°36′00″ N., Long. 117°26′00″ W., thence to Lat. 35°25′00″ N., Long. 117°26′00″ W., thence to Lat. 35°25′00″ N., Long. 117°16′52″ W., thence to Lat. 35°15′56″ N., Long. 117°16′52″ W., thence to Lat. 35°15′56″ N., Long. 117°06′30″ W., thence to Lat. 35°34′30″ N., Long. 116°29′40″ W., thence to point of beginning. The portions of this transition area that coincide with Restricted Areas R-2502, R-2505, R-2506, R-2509, R-2515 and

R-2524 shall be used only after obtaining prior approval from the appropriate authority.

§ 601.10010 Victorville, Calif., transition area.

The area extending upward from 1,200 feet above the surface bounded on the N. by VOR Federal airway No. 12, on the SE. by VOR Federal airway No. 8 and on the SW. by a line 5 miles SW. of and parallel to the 124° radial of the Palmdale VOR. The portion of this transition area that coincides with the Victorville (George AFB) Restricted Area/Military Climb Corridor (R-2526) shall be used only after obtaining prior approval from the appropriate authority.

§ 601.2483 China Lake, Calif. (NAF China Lake), control zone.

Within a 5-mile radius of NAF China Lake (Lat. 35°41'15'' N., Long. 117°41'35'' W.), within a one mile radius of Ridgecrest-Davis, Calif., Airport (Lat. 35°36'40'' N., Long. 117°40'25'' W.) and within 2 miles either side of the 350° and 148° radials of the NAF China Lake TACAN extending from the 5-mile radius zone to 3 miles N. and SE.

§ 601.2482 Edwards AFB, Calif., control zone.

Within a 5-mile radius of Edwards AFB (Lat. 34°54'20'' N., Long. 117°52'55'' W.), within a 3-mile radius of Edwards Air Force Auxiliary North Base (Lat. 34°59'11'' N., Long. 117°51'41'' W.) and within 2 miles either side of the Edwards AFB VOR 239° radial extending from the 5-mile radius zone to the VOR and within 2 miles either side of the Edwards VOR 239° radial extending from the 5-mile radius zone to 3 miles SW.

4. Section 601.2285 (14 CFR 601.2285) is amended to read:

§ 601.2285 Victorville, Calif., control zone.

Within a 5-mile radius of George AFB (Lat. 34°35'50'' N., Long. 117°22'35'' W.) and within 2 miles either side of the George AFB VOR 355° and 005° radials extending from the 5-mile radius zone to 11 miles N. of the VOR.

§§ 601.1085, 601.1189, 601.1030 [Revocations]

5. In Part 601 (14 CFR Part 601) the following sections are revoked:

(a) § 601.1085 Control Area Extension (Edwards AFB, Calif.).

(b) § 601.1189 Control Area Extension (Daggett, Calif.).

(c) § 601.1030 Control Area Extension (Victorville, Calif.).

This amendment shall become effective 0001 e.s.t., September 21, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 8, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-7677; Filed, Aug. 11, 1961; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Dockets 8342 c.o. and 8343 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Golden Press, Inc., et al.

Subpart—Discriminating in price under section 2, Clayton Act—Payment for Services or Facilities for Processing or Sale under 2(d): § 13.825 *Allowances for services or facilities.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies Sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist orders: Golden Press, Inc., Poughkeepsie, N.Y., Docket 8342; and Grosset & Dunlap, Inc., et al., New York, N.Y., Docket 8343; both July 8, 1961]

In the Matters of: Golden Press, Inc., a Corporation; and Grosset & Dunlap, Inc., Wonder Books, Inc., Treasure Books, Inc., Corporations

Identical consent orders requiring publishers of children's books—one in Poughkeepsie, N.Y., and three in New York City—to cease violating section 2(d) of the Clayton Act by making payments for services furnished by some of their customers while not making such allowances available on proportionally equal terms to all competitors of the latter, such as paying favored retail customers for promoting and displaying their publications on newsstands and in retail outlets such as drug chains and department stores, and making such payments on the basis of individual negotiations and not on proportionally equal terms.

Identical orders to cease and desist, combining respondents in the two matters, are as follows:

It is ordered, That respondent Golden Press, Inc.; and each of the named respondents, Grosset & Dunlap, Inc., Wonder Books, Inc., Treasure Books, Inc.; their officers, agents, representatives or employees, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of children's books in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of any children's book published, sold or offered for sale by such respondent, unless such payment or consideration is affirmatively offered or otherwise made available on proportionally equal terms to all of its other customers competing with such favored customer in the distribution of such children's book.

By separate "Decision of the Commission", etc., in each of these two cases, reports of compliance (combining all respondents) were required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of these orders, file with the Commission reports in writing setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: July 7, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 61-7683; Filed, Aug. 11, 1961; 8:46 a.m.]

[Docket 8251]

PART 13—PROHIBITED TRADE PRACTICES

Nation-Wide Fur Storage and Cleaners et al.

Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Porducts Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended; Sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Nation-Wide Fur Storage and Cleaners et al., Cleveland, Ohio, Docket 8251, July 14, 1961]

In the Matter of Nation-Wide Fur Storage and Cleaners, a Corporation, and Bernard Golden, Individually and as an Officer of Said Corporation

Order requiring furriers in Cleveland, Ohio, to cease violating the Fur Products Labeling Act by failing to comply with labeling requirements.

The order to cease and desist is as follows:

It is ordered, That Nation-Wide Fur Storage and Cleaners, a corporation, and its officers, and Bernard Golden, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from misbranding fur products by:

A. Failing to affix labels showing in words and figures plainly legible all the information required to be disclosed by

each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Setting forth on labels affixed to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information.

(3) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

C. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section.

D. Failing to set forth on labels the item number or mark assigned to a fur product.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered, That the respondents, Nation-Wide Fur Storage and Cleaners, a corporation, and Bernard Golden, individually and as an officer of said corporation, 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 to cease and desist.

Issued: July 14, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 61-7684; Filed, Aug. 11, 1961; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

CHROMIUM (CR III) COMPLEX OF *N*-ETHYL-*N*-HEPTADECYLFLUORO-OCTANE SULFONYL GLYCINE

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Minnesota Mining and Manufacturing Company, 900 Bush Avenue, St. Paul 6, Minnesota, and other relevant material, has concluded that the following regulation should issue with respect to the food additive chromium (Cr III) complex of *N*-ethyl-*N*-heptadecylfluoro-octane sulfonyl glycine as an ingredient of coated papers used in packaging animal feeds. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations (21 CFR 121) are amended by adding to Subpart F the following new section:

§ 121.2518 Chromium (Cr III) complex of *N*-ethyl-*N*-heptadecylfluoro-octane sulfonyl glycine.

The chromium (Cr III) complex of *N*-ethyl-*N*-heptadecylfluoro-octane sulfonyl glycine may be safely used as a component of paper for packaging animal feed used in accordance with the following prescribed conditions:

(a) The fluorochemical complex is used as a component of paper in an amount not to exceed 0.5 percent by weight of the paper.

(b) The food contact surface of the paper is overcoated with a polymeric or resinous coating of at least one-third mil in thickness.

(c) The labeling shall contain adequate directions for the use of the additive to insure compliance with paragraphs (a) and (b) of this section.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 7, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7700; Filed, Aug. 11, 1961; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

Penicillin; Pyrogen Tests

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tests and methods of assay for penicillin and penicillin-containing drugs are amended by revising § 141a.3 to read as follows:

§ 141a.3 Sodium penicillin, calcium penicillin, potassium penicillin; pyrogens.

(a) *Temperature recording.* Use an accurate clinical thermometer or any other temperature-recording device of equal sensitivity that has been tested to determine the time necessary to reach the maximum reading. Insert the temperature-recording device into the rectum of the test animal to a depth of not less than 7.5 centimeters and allow sufficient time to reach a maximum temperature, as previously determined, before taking the reading.

(b) *Test animal.* Use healthy, mature rabbits, each weighing not less than 1500 grams and which have maintained their weight on an antibiotic-free diet for at least 1 week under the environmental conditions specified in this section. House the animals individually in an area of uniform temperature (±3° C. (±5° F.)) and free from disturbances likely to excite them. Do not use animals for pyrogen tests more frequently than once every 48 hours or prior to 2 weeks following their having been given a test sample that was adjudged pyrogenic. One to 3 days before using an animal that has not been used for a test during the previous 2 weeks, condition it by conducting a sham test as directed under paragraph (c) of this section, omitting the injection.

(c) *Procedure.* Perform the test in an area where the animals are housed or under similar environmental conditions. On the day of the test, withhold all food from the animals being used until after completion of the test, except that access to water may be allowed, and determine the "control temperature" of each animal. In any one test use only those animals the control temperatures of which do not deviate by more than 1° C. from each other, and do not use any animal with a temperature exceeding 39.8° C. The control temperature recorded for each rabbit constitutes the temperature from which any subsequent rise following the injection of the material is calculated. Render the syringes, needles, and glassware free from pyrogens by heating at 250° C. for not less than 30 minutes or by any other suitable method. Warm the product to be tested to approximately 37° C. Dilute the sample with sterile, pyrogen-free distilled water to a concentration of 2,000 units per milliliter. Inject 1 milliliter per kilogram into an ear vein of each of three rabbits within 30 minutes subsequent to the control temperature reading. Record the temperature at 1, 2, and 3 hours subsequent to the injection. If no rabbit shows an individual rise in temperature of 0.6° C. or more above its respective control temperature, and if the sum of the three temperature rises does not exceed 1.4° C., the sample meets the requirements for the absence of pyrogens. If one or two rabbits show a temperature rise of

0.6° C. or more, or if the sum of the temperature rises exceeds 1.4° C., repeat the test, using five other rabbits. If not more than three of the eight rabbits show individual rises in temperature of 0.6° C. or more, and if the sum of the eight temperature rises does not exceed 3.7° C., the sample meets the requirements for the absence of pyrogens.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since in order to determine compliance with the standards of purity for penicillin and penicillin-containing drugs, section 507 of the Federal Food, Drug, and Cosmetic Act requires the promulgation of adequate tests and methods of assay for these drugs.

Effective date. This order shall become effective 30 days from the date of its publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: August 7, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7701; Filed, Aug. 11, 1961; 8:47 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Final Order

In response to the notice of proposed rule making published in the FEDERAL REGISTER of April 29, 1961 (26 F.R. 3705), extensive written comments were received. Subsequently, on July 13 and 14, 1961, an opportunity was afforded for the oral presentation of views on the proposed regulations. Following review of the comments received both in writing and at the oral presentation, and other relevant material, the Commissioner of Food and Drugs has concluded that the following regulations should issue with respect to hazardous substances pursuant to the provisions of the Federal Hazardous Substances Labeling Act (sec. 10, 74 Stat. 378; 15 U.S.C.A. 1269), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625):

DEFINITIONS AND INTERPRETATIONS

Sec.
191.1 Definitions.
191.2 Human experience with hazardous substances.
191.3 Hazardous mixtures.
191.4 [Reserved]
191.5 [Reserved]
191.6 Listing of "strong sensitizer" substances.
191.7 Products requiring special labeling under section 3(b) of the act.

TESTING PROCEDURE FOR HAZARDOUS SUBSTANCES

Sec.
191.10 Method of testing toxic substances.
191.11 Method of testing primary irritant substances.
191.12 Test for eye irritants.
191.13 Tentative method of test for flashpoint of volatile flammable materials by tagliabue open-cup apparatus.
191.14 Method for determining extremely flammable and flammable solids.
191.15 Method for determining extremely flammable and flammable contents of self-pressurized containers.
191.16 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.

EXEMPTIONS

191.61 Exemptions for food, drugs, cosmetics, and fuels.
191.62 Exemption for full labeling requirements.
191.63 Exemptions for small packages, minor hazards, and special circumstances.

LABELING REQUIREMENTS

191.101 Placement, conspicuousness, contrast.
191.102 [Reserved]
191.103 Condensation of label information.
191.104 [Reserved]
191.105 Labeling requirements for accompanying literature.
191.106 Substances determined to be "special hazards."
191.107 Substances with multiple hazards.
191.108 Label comment.
191.109 Substances named in the Federal Caustic Poison Act.

PROCEDURAL REGULATIONS

191.201 Procedure for the issuance, amendment, or repeal of regulations declaring particular substances to be hazardous substances.

PROHIBITED ACTS AND PENALTIES

191.210 General.
191.211 Guaranty.
191.212 Definition of guaranty; suggested forms.
191.213 Presentation of views under section 7 of the act.

ADMINISTRATIVE

191.214 Examinations and investigations; samples.
191.215 Transitional period for relabeling.

AUTHORITY: §§ 191.1 to 191.215 issued under sec. 10, 74 Stat. 378; 15 U.S.C.A. 1269. Additional authority is cited following section affected.

DEFINITIONS AND INTERPRETATIONS

§ 191.1 Definitions.

(a) *Act.* "Act" as used in this part means the Federal Hazardous Substances Labeling Act.

(b) *Commissioner.* "Commissioner" means the Commissioner of Food and Drugs, Food and Drug Administration, Department of Health, Education, and Welfare.

(c) *Containers.* "Container intended or suitable for household use" means any carton, bottle, can, bag, tube, or any other container which under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell, or in or around any related building or shed, including but not limited to a garage, carport, barn, or storage shed. The term includes containers of such articles as polishes or cleaners designed primarily for professional use, but available in retail stores such as hobby shops for nonprofessional use. Also included are such items as antifreeze and radiator cleaners that, although principally for car use, may be stored in or around dwelling places. The term does not include industrial supplies that might be taken into a home by a serviceman. An article labeled as and marketed solely for industrial use does not become subject to this act because of the possibility that an industrial worker may misappropriate a supply for his own use. Size is not the only index of whether the container is "suitable for household use." The test shall be whether under any reasonably foreseeable condition of purchase, storage, or use the container may be found in or around a dwelling.

(d) *Prominently and conspicuously.* "Prominently" in section 2(p)(2) and "conspicuously" in section 2 (p)(1) and (p)(2) of the act means that, under customary conditions of purchase, storage, and use, the required information shall be visible, noticeable, and in clear and legible English. Some factors affecting a warning's prominence or conspicuousness are: Location, size of type, and contrast of printing against background. Also bearing on the effectiveness of a warning might be the effect of the package contents if spilled on the label. Unless impracticable because of the nature of the substance, the label shall be of such construction and finish as to withstand reasonably foreseeable spillage through foreseeable use. (See § 191.101.)

(e) *Highly toxic substances.* "Highly toxic" is any substance falling within any of the following categories:

(1) Any substance that produces death within 14 days in half or more than half of a group of white rats each weighing between 200 grams and 300 grams at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered.

(2) Any substance that produces death within 14 days in half or more than half of a group of white rats each weighing between 200 grams and 300 grams when inhaled continuously for a period of 1 hour or less in an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust, provided that such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner.

(3) Any substance that produces death within 14 days in half or more than half of a group of rabbits weighing between 2.3 kilograms and 3.0 kilograms each, tested in a dosage of 200 milligrams, or less, per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less by the method described in § 191.10.

The number of animals tested shall be sufficient to give a statistically significant result and be in conformity with good pharmacological practices.

(4) Any substance determined by the Commissioner to be "highly toxic" on the basis of human experience.

(f) *Toxic substances.* "Toxic substances" is any substance falling within any of the following categories:

(1) Any substance that produces death within 14 days in one-half of a group of white rats each weighing between 200 grams and 300 grams, at a single dose of more than 50 milligrams per kilogram but not more than 5 grams per kilogram of body weight, when orally administered. Substances falling in the toxicity range between 500 milligrams and 5 grams per kilogram of body weight will be considered for exemption from some or all of the labeling requirements of the act, under section 191.62, upon a showing that, because of the physical form of the substances (solid, a thick plastic, emulsion, etc.), the size or closure of the container, human experience with the article, or any other relevant factors, such labeling is not needed.

(2) Any substance that produces death within 14 days in one-half of a group of white rats each weighing between 200 grams and 300 grams, when inhaled continuously for a period of 1 hour or less at an atmospheric concentration of more than 200 parts per million but not more than 20,000 parts per million by volume of gas or vapor or more than 2 milligrams but not more than 200 milligrams per liter by volume of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner.

(3) Any substance that produces death within 14 days in one-half of a group of rabbits weighing between 2.3 kilograms and 3.0 kilograms each, tested at a dosage of more than 200 milligrams per kilogram of body weight but not more than 2 grams per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours by the method described in § 191.10.

The number of animals tested shall be sufficient to give statistically significant results and be in conformity with good pharmacological practice.

(4) Any substance that is "toxic" (but not "highly toxic") on the basis of human experience.

(g) *Irritants.* The term "irritant" includes "primary irritant to the skin" as well as substances irritant to the eye or to mucous membranes.

(2) The term "primary irritant" means a substance that is not corrosive and that the available data of human experience indicate is a primary irritant; or which results in an empirical score of five or more when tested by the method described in § 191.11.

(3) *Eye irritants.* A substance is an irritant to the eye mucosa if the available data on human experience indicate that it is an irritant for the eye mucosa, or when tested by the method described in § 191.12 shows that there is at any of the readings made at 24, 48, and 72 hours discernible opacity or ulceration of the cornea or inflammation of the iris, or that such substance produces in the conjunctivae (excluding the cornea and iris) a diffuse deep-crimson red with individual vessels not easily discernible, or an obvious swelling with partial eversion of the lids.

(h) *Corrosive.* A "corrosive substance" is one that causes visible destruction or irreversible alterations in the tissue at the site of contact. A test for a corrosive substance is whether, by human experience, such tissue destruction occurs at the site of application. A substance would be considered corrosive to the skin, if when tested on the intact skin of the albino rabbit by the technique described in § 191.11 the structure of the tissue at the site of contact is destroyed or changed irreversibly in 24 hours or less. Other appropriate tests should be applied when contact of the substance with other than skin tissue is being considered.

(i) *Strong sensitizer.* A "strong allergic sensitizer" is a substance that produces an allergenic sensitization in a substantial number of persons who come into contact with it. An allergic sensitization develops by means of an "antibody mechanism" in contradistinction to a primary irritant reaction which does not arise because of the participation of an "antibody mechanism." An allergic reaction ordinarily does not develop on first contact because of necessity of prior exposure to the substance in question. The sensitized tissue exhibits a greatly increased capacity to react to subsequent exposures of the offending agent. Thus, subsequent exposures may produce severe reactions with little correlation to the amounts of excitant involved. A "photodynamic sensitizer" is a substance that causes an alteration in the skin or mucous membranes, in general, or to the skin or mucous membrane at the site to which it has been applied, so that when these areas are subsequently exposed to ordinary sunlight or equivalent radiant energy an inflammatory reaction will develop.

(j) *Extremely flammable and flammable substances*—(1) *Extremely flammable substances.* The term "extremely flammable" means any substance that has a flashpoint at or below 20° F., as determined by the method described in § 191.13.

(2) *Flammable substances.* The term "flammable" means any substance that has a flashpoint of above 20° F., to and including 80° F., as determined by the method described in § 191.13.

(k) *Extremely flammable and flammable solids*—(1) *Extremely flammable solids.* A solid substance is "extremely flammable" if it ignites and burns at an ambient temperature of 80° F. or less when subjected to friction, or to percussion, or to an electrical spark.

(2) *Flammable solids.* A solid substance is "flammable" if, when tested by the method described in § 191.14, it ignites and burns with a self-sustained flame at a rate greater than $\frac{1}{10}$ of an inch per second along its major axis.

(l) *Extremely flammable and flammable contents of self-pressurized containers*—(1) *Extremely flammable contents.* Contents of self-pressurized containers are "extremely flammable" if when tested by the method prescribed in § 191.15, flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening and the flashpoint, when tested by the method described in § 191.16, is less than 20° F.

(2) *Flammable contents.* Contents of self-pressurized containers are "flammable" if when tested by the method described in § 191.15 a flame projection exceeding 18 inches is obtained at full valve opening or a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening.

(m) *Substances that generate pressure.* A substance is hazardous because it "generates pressure through decomposition, heat, or other means" if:

(1) It explodes when subjected to an electrical spark, or to percussion, or to the flame of a burning paraffin candle for 5 seconds or less; or

(2) It expels the closure of its container, or bursts its container, when held at or below 130° F. for 2 days or less; or

(3) It erupts from its opened container at a temperature of 130° F. or less, after having been held in the closed container at 130° F. for 2 days.

(n) *Radioactive substance.* The term "radioactive substance" means a substance which, because of nuclear instability, emits electromagnetic and/or particulate radiation that is capable of producing ions in its passage through matter. Source materials, special nuclear material, and byproduct materials described in section 2(f)(3) of the act are exempt.

(o) *"Accompanying literature".* "Accompanying literature" as used in section 2(n) of the act means any placard, pamphlet, booklet, book, sign, or other written, printed, or graphic matter or visual device which provides directions for use, written or otherwise, and is used in connection with the display, sale, demonstration, or merchandising of a hazardous substance in a container intended or suitable for household use.

(p) *Substantial personal injury or illness.* This term means any illness or injury of a significant nature. It need not be severe or serious. What is excluded by the word "substantial" is a wholly insignificant or negligible injury or illness.

(q) *Proximate result.* A proximate result is one that follows in the course of events without an unforeseeable, intervening, independent cause.

(r) *Reasonably foreseeable handling or use.* This includes the reasonably forseeable accidental handling or use, not only by the purchaser or intended user of the product, but by all others in a household, especially children.

§ 191.2 Human experience with hazardous substances.

Reliable data on human experience with any substance should be taken into account in determining whether an article is a "hazardous substance" within the meaning of the act, and when such data give reliable results different from results with animal data, the human experience takes precedence. Experience may show that an article is more or less toxic, irritant, or corrosive to man than

to test animals. Experience may also show other factors that are important in determining the degree of hazard to humans represented by the substance. For example, that radiator antifreeze is likely to be stored in the household or garage and likely to be ingested in significant quantities by some persons. Experience also indicates that a particular substance in liquid form is more likely to be ingested than is the same substance in a paste or a solid and that an aerosol is more likely to get into the eyes and the nasal passages than is a liquid.

§ 191.3 Hazardous mixtures.

For a mixture of substances, the determination of whether such mixture is "hazardous" as defined in section 2(f) of the act should be based on the physical, chemical, and pharmacological characteristics of the mixture. A mixture of substances may therefore be less hazardous or more hazardous than its components because of synergistic or antagonistic reactions. It may not be possible to reach a fully satisfactory decision concerning the toxic, irritant, corrosive, flammable, sensitizing, or pressure-generating properties of a substance from what is known about its components or ingredients. It is prudent to test the mixture itself.

§ 191.4 [Reserved]

§ 191.5 [Reserved]

§ 191.6 Listing of "strong sensitizer" substances.

The Commissioner of Food and Drugs, having considered the frequency of occurrence and the severity of reactions, finds the following substances to have a significant potential for causing hypersensitivity, and therefore they meet the definition for "strong sensitizer" as given in section 2(k) of the act.

(a) Paraphenylenediamine and products containing it.

(b) Powered orris root and products containing it.

(c) Epoxy resins systems containing in any concentration ethylenediamine, diethylenetriamine, and diglycidyl ethers of molecular weight of less than 200.

(d) Formaldehyde and products containing 1 percent or more of formaldehyde.

(e) Oil of bergamot and products containing 2 percent or more of oil of bergamot.

§ 191.7 Products requiring special labeling under section 3(b) of the act.

(a) Human experience as reported in the scientific literature and to the Poison Control Centers and the National Clearing House for Poison Control Centers establishes that the following substances are hazardous because of their toxicity and the frequency of their involvement in accidental ingestion:

(1) Carbon tetrachloride and mixtures containing it.

(2) Diethylene glycol including mixtures containing 10 percent or more by weight of diethylene glycol.

(3) Ethylene glycol including mixtures containing 10 percent or more by weight of ethylene glycol.

(4) Petroleum distillates such as kerosene, mineral seal oil, naphtha, gasoline, benzine, mineral spirits, paint thinner, Stoddard solvent, and related petroleum distillates and mixtures containing 10 percent or more by weight of such petroleum distillates.

(5) Methyl alcohol including mixtures containing 4 percent or more by weight of methyl alcohol.

(6) Turpentine including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine and, destructively distilled wood turpentine and mixtures containing 10 percent or more by weight of such turpentine.

(b) The Commissioner finds that these substances present special hazards and that the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

(1) *Carbon tetrachloride.* Because of the general systemic poisoning that might result from the ingestion or breathing of vapors of carbon tetrachloride and mixtures containing it, the label shall include the signal word "danger," the additional word "poison," and the skull and crossbones symbol. The statement of hazard shall include "May be fatal if inhaled or swallowed," and "Avoid contact with flame or hot surface."

(2) *Methyl alcohol.* Because of death and blindness that might result from the ingestion of methyl alcohol, the label for this substance (including mixtures) within the percentages specified in paragraph (a)(5) of this section shall include the signal word "danger," the additional word "poison," and the skull and crossbones symbol. The statement of hazard shall include "Vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous."

(3) *Turpentine and petroleum distillates.* Because these substances (including mixtures) within the percentages specified above, in addition to oral toxicity resulting in systemic poisoning are hazardous because of aspiration into the lungs with resulting chemical pneumonitis, pneumonia, and pulmonary edema, the signal word "danger" is specified, as well as the additional statements "Harmful or fatal if swallowed" and for kerosene and related petroleum distillates "Do not induce vomiting."

(4) *Ethylene glycol and diethylene glycol.* Because these substances (including mixtures) within the percentages specified above are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, the signal word "warning" is specified. In addition, for ethylene glycol the statement "Harmful or fatal if swallowed" and for diethylene glycol the statement "Harmful if swallowed" are required.

TESTING PROCEDURES FOR HAZARDOUS SUBSTANCES

§ 191.10 Method of testing toxic substances.

The method of testing the toxic substances named is § 191.1 (e)(3) and (f)(3) is as follows:

(a) *Acute dermal toxicity (single exposure).* In the acute exposures the agent is held in contact with the skin by means of a sleeve for periods varying up to 24 hours. The sleeve, made of rubber dam or other impervious material, is so constructed that the ends are reinforced with additional strips and should fit snugly around the trunk of the animal. The ends of the sleeve are tucked, permitting the central portion to "balloon" and furnish a reservoir for the dose. The reservoir must have sufficient capacity to contain the dose without pressure. In the following table are given the dimensions of sleeves and the approximate body surface exposed to the test substance. The sleeves may vary in size to accommodate smaller or larger subjects. In the testing of unctuous materials that adhere readily to the skin, mesh wire screen may be employed instead of the sleeve. The screen is padded and raised approximately 2 centimeters from the exposed skin. In the case of dry powder preparations, the skin and substance are moistened with physiological saline prior to exposure. The sleeve or screen is then slipped over the gauze which holds the dose applied to the skin. In the case of finely divided powders, the measured dose is evenly distributed on cotton gauze, which is then secured to the area of exposure.

DIMENSIONS OF SLEEVES FOR ACUTE DERMAL TOXICITY TEST

(Test Animal Rabbits)

Measurements in centimeters		Range of weight of animals (grams)	Average area of exposure ($cm.^2$)	Average percentage of total body surface
Diameter at ends	Over-all length			
7.0	12.5	2,500-3,500	240	10.7

(b) *Preparation of test animals.* The animals are prepared by clipping the skin of the trunk free of hair. Approximately one-half of the animals are further prepared by making epidermal abrasions every 2 centimeters or 3 centimeters longitudinally over the area of exposure. The abrasions are sufficiently deep to penetrate the stratum corneum (horny layer of the epidermis), but not to disturb the derma—that is, not to obtain bleeding.

(c) *Procedures for testing.* The sleeve is slipped onto the animal, which is then placed in a comfortable but immobilized position in a multiple animal holder. Selected doses of liquids and solutions are introduced under the sleeve. If there is slight leakage from the sleeve, which may occur during the first few hours of exposure, it is collected and reapplied. Dosage levels are adjusted in subsequent exposures (if necessary) to enable a calculation of a dose that would be fatal

to 50 percent of the animals. This can be determined from mortality ratios obtained at various doses employed. At the end of 24 hours the sleeves or screens are removed, the volume of unabsorbed material, if any, is measured, and the skin reactions are noted. The subjects are cleaned by thorough wiping, observed for gross symptoms of poisoning, and then observed for 2 weeks.

§ 191.11 Method of testing primary irritant substances.

Primary irritation to the skin is measured by a patch-test technique on the abraded and intact skin of the albino rabbit, clipped free of hair. A minimum of six subjects are used in abraded and intact skin tests. Introduce under a square patch such as surgical gauze measuring 1 inch x 1 inch, two single layers thick, 0.5 milliliter (in case of liquids) or 0.5 gram (in the case of solids and semisolids) of the test substance. Dissolve solids in an appropriate solvent and apply the solution as for liquids. The animals are immobilized with patches secured in place by adhesive tape. The entire trunk of the animal is then wrapped with an impervious material such as rubberized cloth for the 24-hour period of exposure. This material aids in maintaining the test patches in position and retards the evaporation of volatile substances. After 24 hours of exposure, the patches are removed and the resulting reactions are evaluated on the basis of the designated values in the following table:

Evaluation of skin reactions	*Value*[1]
Erythema and eschar formation:	
No erythema	0
Very slight erythema (barely perceptible)	1
Well-defined erythema	2
Moderate to severe erythema	3
Severe erythema (beet redness) to slight eschar formation (injuries in depth)	4
Edema formation:	
No edema	0
Very slight edema (barely perceptible)	1
Slight edema (edges of area well defined by definite raising)	2
Moderate edema (raised approximately 1 millimeter)	3
Severe edema (raised more than 1 millimeter and extending beyond the area of exposure)	4

[1] The "value" recorded for each reading is the average value of the six or more animals subject to the test.

Readings are again made at the end of a total of 72 hours (48 hours after the first reading). An equal number of exposures are made on areas of skin that have been previously abraded. The abrasions are minor incisions through the stratum corneum, but not sufficiently deep to disturb the derma or to produce bleeding. Evaluate the reactions of the abraded skin at 24 hours and 72 hours, as described in this paragraph. Add the values for erythema and Eschar formation at 24 hours and at 72 hours for intact skin to the values on abraded skin at 24 hours and at 72 hours (four values). Similarly, add the values for edema formation at 24 hours and at 72 hours for intact and abraded skin (four values). The total of the eight values is divided by four to give the primary irritation score. Example:

	Exposure time	Exposure unit
Erythema and eschar formation:	*Hours*	*Value*
Intact skin	24	2
Do	72	1
Abraded skin	24	3
Do	72	2
Subtotal		8
Edema formation:		
Intact skin	24	0
Do	72	1
Abraded skin	24	1
Do	72	2
Subtotal		4
Total		12

Primary irritation score is 12+4=3.

§ 191.12 Test for eye irritants.

Six albino rabbits are used for each substance tested. One-tenth of a milliliter of the test substance is instilled in one eye of each rabbit; the other eye, remaining untreated, serves as a control. The treated eyes are not washed following instillation. Ocular reactions are read either with the unaided eye or with the aid of a hand slit lamp. Readings are made at 24 hours, 48 hours, and 72 hours after treatment.

§ 191.13 Tentative method of test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus.[1 2]

SCOPE

1. (a) This method describes a test procedure for the determination of open-cup flashpoints of volatile flammable materials having flashpoints below 175° F.

(b) This method, when applied to paints and resin solutions which tend to skin over or which are very viscous, gives less reproducible results than when applied to solvents.

OUTLINE OF METHOD

2. The sample is placed in the cup of a Tag Open Tester, and heated at a slow but constant rate. A small test flame is passed at a uniform rate across the cup at specified intervals. The flashpoint is taken as the lowest temperature at which application of the test flame causes the vapor at the surface of the liquid to flash, that is, ignite but not continue to burn.

APPARATUS

3. The Tag open-cup tester is illustrated in Fig. 1. It consists of the following parts, which must conform to the dimensions shown, and have the additional characteristics as noted:

(a) *Copper bath*, preferably equipped with a constant level overflow so placed as to maintain the bath liquid level 1/8 inch below the rim of the glass cup.

[1] The Food and Drug Administration has obtained permission from the American Society for Testing Materials, Philadelphia, Pa., to reprint this method in these regulations. The text has been slightly modified, for practical reasons.

[2] ASTM Designation: D 1310–59T, issued 1954; revised 1955, 1956, 1959. This tentative method has been approved by the sponsoring committee and accepted by the American Society for Testing Materials in accordance with established procedures, for use pending adoption as standard. Suggestions for revisions should be addressed to the Society at 1916 Race St., Philadelphia, Pa.

(b) *Thermometer holder*. Support firmly with ringstand and clamp.

(c) *Thermometer*. For flashpoints above 40° F., use the ASTM Tag Closed Tester Thermometer, range of +20 to +230° F., in 1° F. divisions, and conforming to thermometer 9F. of ASTM Standard E 1. For flashpoints from 20° F. to 40° F., use ASTM Tag Closed Tester, Low Range, Thermometer 57F. For flashpoints below 20° F., use ASTM Thermometer 33F. The original Tag Open-Cup (Paper Scale) Thermometer will be a permissible alternate until January 1, 1962. It is calibrated to −20° F.

(d) *Glass test cup*. Glass test cup (Fig. 2), of molded clear glass, annealed, heat-resistant, and free from surface defects.

(e) *Leveling device*. Leveling device or guide, for proper adjustment of the liquid level in the cup (Fig. 3). This shall be made of No. 18-gage polished aluminum, with a projection for adjusting the liquid level when the sample is added to exactly 1/8-inch below the level of the edge or rim of the cup.

(f) "Micro," or small gas burner of suitable dimensions for heating the bath. A screw clamp may be used to help regulate the gas. A small electric heater may be used.

(g) Ignition taper, which is a small straight, blow-pipe type gas burner. The test flame torch prescribed in the method of test for flash and fire points by Cleveland Open Cup (ASTM designation: D 92) is satisfactory.

(h) Alternative methods for maintaining the ignition taper in a fixed horizontal plane above the liquid may be used, as follows:

(1) Guide wire, 3/32-inch in diameter and 3 1/2 inches in length, with a right-angle bend 1/2-inch from each end. This wire is placed snugly in holes drilled in the rim of the bath, so that the guide wire is 5/8-inch from the center of the cup and resting on the rim of the cup.

(2) Swivel-type taper holder, such as is used in ASTM METHOD D 92. The height and position of the taper are fixed by adjusting the holder on a suitable ringstand support adjacent to the flash cup.

(i) Draft shield, consisting of two rectangular sheets of noncombustible material, 24 inches x 28 inches, are fastened together along the 28-inch side, preferably by hinges. A triangular sheet, 24 inches x 24 inches x 34 inches is fastened by hinges to one of the lateral sheets (to form a top when shield is open). The interior of the draft shield shall be painted a flat black.

PROCEDURE

4. (a) Place the tester on a solid table free of vibration, in a location free of perceptible draft, and in a dim light.

(b) Run water, brine, or water-glycol solution into the bath to a predetermined level, which will fill the bath to 1/8-inch below the top when the cup is in place. An overflow is permissible for water-level control.

(c) Firmly support the thermometer vertically halfway between the center and edge of the cup on a diameter at right angles to the guide wire, or on a diameter passing through the center of the cup and the pivot of the taper. Place so that the bottom of the bulb is 1/4-inch from the inner bottom surface of the cup. If the old Tagliabue thermometer is used, immerse to well cover the mercury bulb, but not the wide body of the thermometer.

(d) Fill the glass cup with the sample liquid to a depth just 1/8-inch below the edge, as determined by the leveling device.

(e) Place the guide wire or swivel device in position, and set the draft shield around the tester so that the sides form right angles with each other and the tester is well toward the back of the shield.

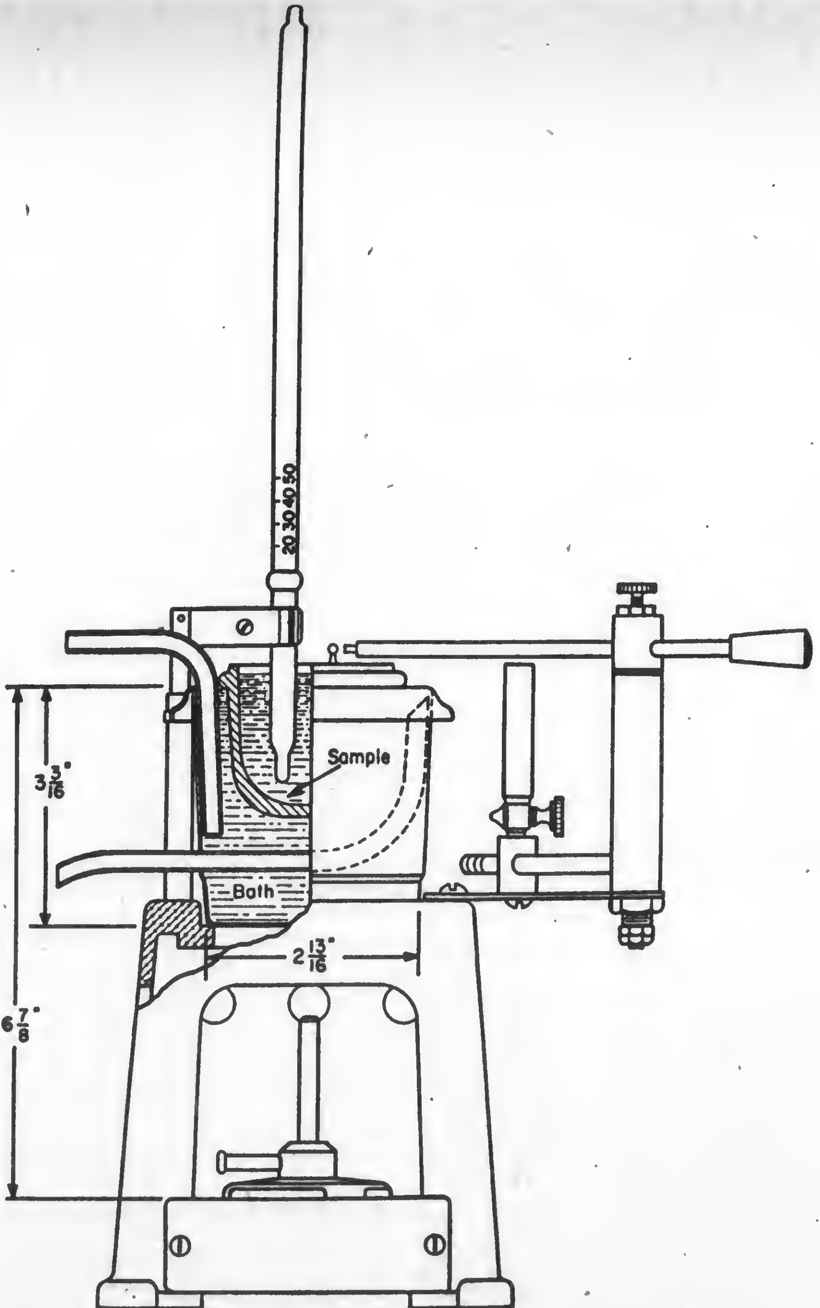

FIGURE 1—Tag open-cup flash tester.

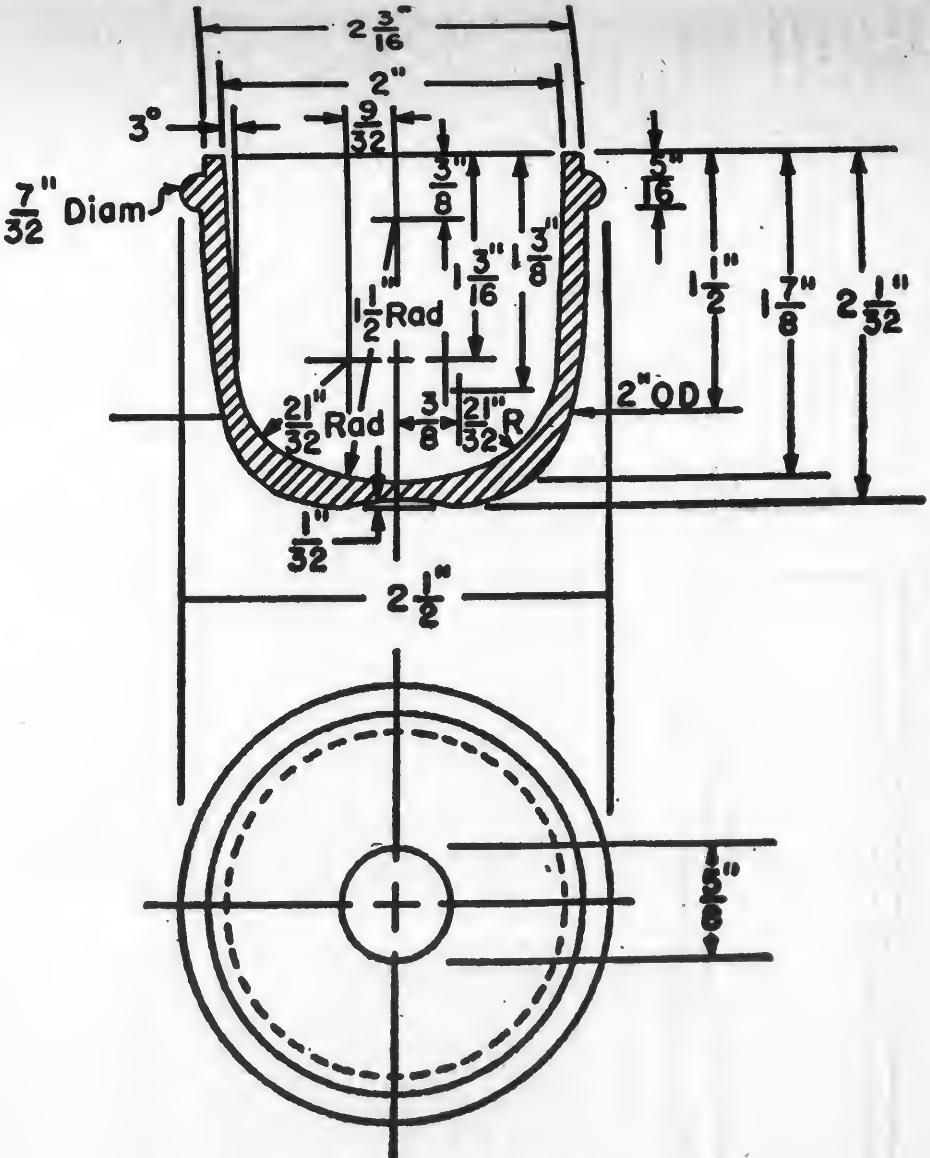

FIGURE 2—Glass test cup.

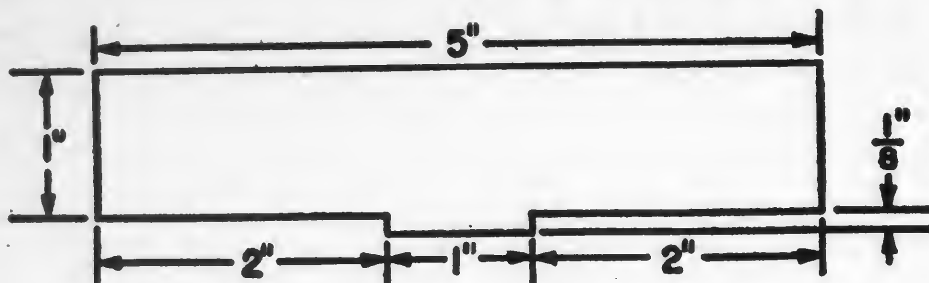

FIGURE 3—*Leveling device for adjusting liquid level in test cup.*

(f) If a guide wire is used, the taper, when passed, should rest lightly on the wire, with the end of the jet burner just clear of the edge of the guide wire. If the swivel-type holder is used, the horizontal and vertical positions of the jet are so adjusted that the jet passes on the circumference of a circle, having a radius of at least 6 inches, across the center of the cup at right angles to the diameter passing through the thermometer, and in a plane ⅛-inch above the upper edge of the cup. The taper should be kept in the "off" position, at one end or the other of the swing, except when the flame is applied.

(g) Light the ignition flame and adjust it to form a flame of spherical form matching in size the 5/32-inch sphere on the apparatus.

(h) Adjust heater source under bath so that the temperature of the sample increases at a rate of 2 ±0.5° F. per minute. With viscous materials this rate of heating cannot always be obtained.

INITIAL TEST

5. Determine an approximate flashpoint by passing the taper flame across the sample at intervals of 2° F. Each pass must be in one direction only. The time required to pass the ignition flame across the surface of the sample should be 1 second. Remove bubbles from the surface of the sample liquid before starting a determination. Meticulous attention to all details relating to the taper, size of taper flame, and rate of passing the taper is necessary for good results. When determining the flashpoint of viscous liquids and those liquids that tend to form a film of polymer, etc., on the surface, the surface film should be disturbed mechanically each time before the taper flame is passed.

RECORDED TESTS

6. Repeat the procedure by cooling a fresh portion of the sample, the glass cup, the bath solution, and the thermometer at least 20° F. below the approximate flashpoint. Resume heating, and pass the taper flame across the sample at two intervals of 5° F. and then at intervals of 2° F. until the flashpoint occurs.

REPORTING DATA

7. The average of not less than three recorded tests, other than the initial test, shall be used in determining the flashpoint and flammability of the substance.

STANDARDIZATION

8. (a) Make determinations in triplicate on the flashpoint of standard paraxylene and of standard isopropyl alcohol which meet the following specifications:

(i) *Specifications for p-xylene, flashpoint check grade. p*-Xylene shall conform to the following requirements:

Specific gravity: 15.56° C./15.56° C., 0.860 minimum, 0.866 maximum.

Boiling range: 2° C. maximum from start to dry point when tested in accordance with the method of test for distillation of industrial aromatic hydrocarbons (ASTM designation: D 850), or the method of test for distillation range of lacquer solvents and diluents (ASTM designation: D 1078). The range shall include the boiling point of pure *p*-xylene, which is 138.35° C. (281.03° F.).

Purity: 95 percent minimum, calculated in accordance with the method of test for determination of purity from freezing points of high-purity compounds (ASTM designation: D 1016), from the experimentally determined freezing point, measured by the method of test for measurement of freezing points of high-purity compounds for evaluation of purity (ASTM designation: D 1015).

(ii) *Specifications for isopropanol, flashpoint check grade.* Isopropanol shall conform to the following requirements:

Specific gravity: 0.8175 to 0.8185 at 20° C./20° C. as determined by means of a calibrated pycnometer.

Distillation range: Shall entirely distill within a 1.0° C. range which shall include the temperature 80.4° C. as determined by ASTM method D 1078.

Average these values for each compound. If the difference between the values for these two compounds is less than 15° F. (8.5° C.) or more than 27° F. (16° C.), repeat the determinations or obtain fresh standards.

(b) Calculate a correction factor as follows:

$$X=92-A$$
$$Y=71-B$$
$$\text{Correction}=\frac{X+Y}{2},$$

Where:
A=Observed flash of *p*-xylene, and
B=Observed flash of isopropyl alcohol.

Apply this correction of all determinations. Half units in correction shall be discarded.

PRECISION

9. (a) For hydrocarbon solvents having flashpoints between 60° F. and 110° F., repeatability is ±2° F. and the reproducibility is ±5° F.

(b) If results from two tests differ by more than 10° F., they shall be considered uncertain and should be checked. The calibration procedure provided in this method will cancel out the effect of barometric pressure if calibration and tests are run at the same pressure. Data supporting the precision are given in Appendix III of the 1956 Report of Committee D–1 on Paint, Varnish, Lacquers and Related Products, Proceedings, Am. Soc. Testing Mats., Vol. 56 (1956).

§ 191.14 Method for determining extremely flammable and flammable solids.

(a) *Preparation of sample*—(1) *Granules, powders, and pastes.* Pack the sample into a flat, rectangular metal boat with inner dimensions 6 inches long x 1 inch wide x one-fourth inch deep.

(2) *Rigid and pliable solids.* Measure the dimensions of the sample and support it by means of metal ringstands, clamps, rings, or other suitable devices as needed, so that the major axis is oriented horizontally and the maximum surface is freely exposed to the atmosphere.

(b) *Procedure.* Place the prepared sample in a draft-free area that can be ventilated and cleared after each test. The temperature of the sample at the time of testing shall be between 68° F. and 86° F. Hold a burning paraffin candle whose diameter is at least 1 inch, so that the flame is in contact with the surface of the sample at the end of the major axis for 5 seconds or until the sample ignites, whichever is less. Remove the candle. By means of a stopwatch, determine the time of combustion with self-sustained flame. Do not exceed 60 seconds. Extinguish flame with a CO_2 or similar nondestructive type extinguisher. Measure the dimensions of the burnt area and calculate the rate of burning along the major axis of the sample.

§ 191.15 Method for determining extremely flammable and flammable contents of self-pressurized containers.

(a) *Equipment required.* The test equipment consists of a base 8 inches wide, 2 feet long, marked in 6-inch intervals. A rule 2 feet long and marked in inches is supported horizontally on the side of the base and about 6 inches above it. A paraffin candle 1 inch or more in diameter, and of such height that the top third of the flame is at the height of the horizontal rule, is placed at the zero point in the base.

(b) *Procedure.* The test is conducted in a draft-free area that can be ventilated and cleared after each test. Place the self-pressurized container at a distance of 6 inches from the flame source. Spray for periods of 15 seconds to 20 seconds (one observer noting the extension of the flame and the other operating the container) through the top third of the flame and at a right angle to the flame. The height of the flame should be approximately 2 inches. Take three readings for each test, and average. As a precaution do not spray large quantities in a small, confined space. Free space of previously discharged material.

§ 191.16 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.

The apparatus used is the Tagliabue Open-Cup Flashpoint Apparatus as described in § 191.13. Some means such as dry ice in an open container is used to chill the pressurized container. The container, the flash cup, and the bath solution of the apparatus (brine or glycol may be used) are chilled to a temperature of about 25° F. below zero. The chilled container is punctured to exhaust the propellant. The chilled formulation is transferred to the test apparatus and tested in accordance with the method described in § 191.13.

EXEMPTIONS

§ 191.61 Exemptions for food, drugs, cosmetics, and fuels.

(a) *Food, drugs, and cosmetics.* Substances subject to the Federal Food, Drug, and Cosmetic Act are exempted by section 2(f)(2) of the act; but where a food, drug, or cosmetic offers a substantial risk of injury or illness from any handling or use that is customary or usual it may be regarded as misbranded under the Federal Food, Drug, and Cosmetic Act because its label fails to reveal material facts with respect to consequences that may result from use of the article (21 U.S.C. 321(n)) when its label fails to bear information to alert the householder to this hazard.

(b) *Fuels.* A substance intended to be used as a fuel is exempt from the requirements of the act when in containers that are intended to be or are installed as part of the heating, cooling, or refrigeration system of a house. A portable container used for delivery or temporary or additional storage, and containing a substance that is a hazardous substance as defined in section 2(f) of the act, is not exempt from the labeling prescribed in section 2(p) of the act, even though it contains a fuel to be used in the heating, cooking, or refrigeration system of a house.

§ 191.62 Exemption from full labeling requirements.

(a) Any person who believes a particular hazardous substance in a container intended or suitable for household use should be exempted from full label compliance otherwise applicable under this act, because of the size of the package or because of the minor hazard presented by the substance, or for other good and sufficient reason, may submit to the Commissioner a request for exemption under section 3(c) of the act, presenting facts in support of the view that full compliance is impracticable or is not necessary for the protection of the public health. The Commissioner shall determine on the basis of the facts submitted and all other available information whether the requested exemption is consistent with adequate protection of the public health and safety. If he so finds, he shall detail the exemption granted and the reasons therefor by appropriate order published in the FEDERAL REGISTER.

(b) The Commissioner may, on his own initiative, determine on the basis of facts available to him that a particular hazardous substance in a container intended or suitable for household use should be exempted from full labeling compliance otherwise applicable under this act because of the size of the package, or because of the minor hazard presented by the substance, or for other good and sufficient reason. If he so finds, he shall detail the exemption granted and the reasons therefor by appropriate order in the FEDERAL REGISTER.

§ 191.63 Exemptions for small packages, minor hazards, and special circumstances.

The following exemptions are granted for the labeling of hazardous substances in containers suitable or intended for household use under the provisions of § 191.62(b):

(a) When the sole hazard from a substance in a self-pressurized container is that it generates pressure, the name of the component which contributes the hazard need not be stated.

(b) Common matches, including book matches, wooden matches, and so-called "safety" matches are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the product being considered hazardous because of being "flammable" or "highly flammable" as defined in § 191.1(k).

(c) Paper items such as newspapers, wrapping papers, toilet and cleansing tissues, and paper writing supplies are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 191.1(k).

(d) Thread, string, twine, rope, cord, and similar materials are exempted from the labeling requirements of section 2(p)(1) of the act insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 191.1(k).

LABELING REQUIREMENTS

§ 191.101 Placement, conspicuousness, contrast.

(a) The signal word, the statement of the principal hazard or hazards, and instructions to read carefully any cautionary information that may be placed elsewhere on the label shall appear together on the main panel of the label. Such information shall be placed together and distinctively apart from other wording or designs. The necessary prominence shall be achieved by placement within the borders of a square or rectangle with or without a borderline, and by use of suitable contrasts with the background achieved by distinctive typography or color, and by both color and typography when needed.

(b) If the product is "highly toxic" as defined in § 191.1(e) the labeling shall also include in conjunction with the word "poison," the skull and crossbones symbol.

(c) The signal word and statement of hazard shall be in capital letters. The size of the signal word (and the word "poison" if required) shall be of a size bearing a reasonable relationship to the other type on the main panel, but shall not be less than 18 point type, and the size of the statement of hazard shall not be less than 12 point type, unless the label space on the container is too small to accommodate such type size. When the size of the label space requires a reduction in type size, the reduction shall be made to a size no smaller than is necessary and in no event to a size smaller than 6 point type.

(d) All the items of label information required by section 2(p)(1) of the act (or by regulations prescribing additional information under section 3(b)) may appear on the main panel; but if they do not, all items except those required by paragraph (a) of this section to appear on the main panel, shall be placed together in a distinctive place with adequate contrast, achieved by typography, color, or layout, in proximity to the directions for use. The type size required for this additional information shall bear a reasonable relationship to the other type used and shall be no smaller than 10 point unless the available label space requires reductions, in which event it shall be reduced no smaller than necessary and in no event smaller than 6 point type unless because of small label space an exemption has been granted under section 3(c) of the act and § 191.63.

§ 191.103 Condensation of label information.

Whenever the statement of the principal hazard or hazards itself provides the precautionary measures to be followed or avoided, a clear statement of the principal hazard will satisfy both the provisions of section 2(p) (E) and (F) of the act. When the statement of precautionary measures in effect provides instruction for first-aid treatment, the statement of the precautionary measures will satisfy both section 2(p) (F) and (G) of the act.

§ 191.105 Labeling requirements for accompanying literature.

When any accompanying literature includes or bears any directions for use (by printed word, picture, design, or combination of such methods), such placard, pamphlet, booklet, book, sign, or other graphic or visual device shall bear all the information required by section 2(p) of the act.

§ 191.106 Substances determined to be "special hazards."

Whenever the Commissioner determines that for a particular hazardous substance in a container intended or suitable for household use, the requirements of section 2(p) of the act are not adequate for the protection of the public health and safety because of some special hazard, he shall by order publish in the FEDERAL REGISTER such reasonable variations or additional label requirements as he finds necessary for the protection of the public health and safety. Such order shall specify a date not less than 90 days after the order is published, unless emergency conditions stated in the order specify an earlier date, after which any container of such hazardous substance intended or suitable for household use which fails to bear a label in accordance with such order shall be deemed to be a misbranded package of a hazardous substance.

§ 191.107 Substances with multiple hazards.

(a) Any article that presents more than one type of hazard (for example, if the article is both "toxic" and "flammable") must be labeled with an affirmative statement of each such hazard; precautionary measures describing the action to be followed or avoided for each such hazard; instructions, when necessary or appropriate, for first-aid treatment of persons suffering from the ill

effects that may result from each such hazard; instructions for handling and storage of packages that require special care in handling and storage because of more than one type of hazard presented by the article, as well as the common or usual name (or the chemical name if there is no common or usual name) for each hazardous component present in the article.

(b) Label information referring to the possibility of one hazard may be combined with parallel information concerning any additional hazards presented by the article; *Provided*, That the resulting condensed label statement shall contain all of the information needed for dealing with each type of hazard presented by the article.

§ 191.108 Label comment.

The Commissioner will offer informal comment on any proposed label and accompanying literature involving a hazardous substance if he is furnished with:

(a) Complete labeling or proposed labeling, which may be in draft form.

(b) Complete quantitative formula.

(c) Adequate clinical pharmacological, toxicologicals, physical, and chemical data applicable to the possible hazard of the substance.

(d) Any other information available that would facilitate preparation of a suitable label, such as complaints of injuries resulting from the product's use, or other evidence that would furnish human-experience data.

§ 191.109 Substances named in the Federal Caustic Poison Act.

The Commissioner finds that for those substances covered by the Federal Caustic Poison Act (44 Stat. 1406), the requirement of section 2(p)(1) of the Federal Hazardous Substances Labeling Act are not adequate for the protection of the public health. Labeling for those substances, in the concentrations listed in the Federal Caustic Poison Act, were required to bear the signal word "poison." The Commissioner believes that the lack of the designation "poison" would indicate to the consumer a lesser hazard than heretofore and that such would not be in the interest of the public health. Under the authority granted in section 3(b) of the act, the Commissioner therefore finds that for the following substances, and at the following concentrations, the word "poison" is necessary instead of any signal word.

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more.

(b) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid (H_2SO_4) in a concentration of 10 percent or more.

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of 5 percent or more.

(d) Carbolic acid (C_6H_5OH), also known as phenol, and any preparation containing carbolic acid in a concentration of 5 percent or more.

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 percent or more.

(f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 percent or more.

(h) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration that will yield 10 percent or more by weight of available chlorine.

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and vienna paste (vienna caustic), in a concentration of 10 percent or more.

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide ($NaOH$), including caustic soda and lye in a concentration of 10 percent or more.

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 percent or more.

(l) Ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of 5 percent or more.

PROCEDURAL REGULATIONS

§ 191.201 Procedure for the issuance, amendment, or repeal of regulations declaring particular substances to be hazardous substances.

(a) The Commissioner may, upon his own initiative or upon the petition of any interested person, showing reasonable grounds therefor, propose the issuance, amendment, or repeal of any regulation provided for in section 3(a) of the act, declaring particular substances to be hazardous substances. The proposal shall be published in the FEDERAL REGISTER, with an invitation for written comments. As soon as practicable after the comments have been received, the Commissioner shall by order act upon the proposal to declare the substance to be a hazardous substance for purposes of the act, or to amend or repeal any regulation previously issued.

(b) Within 30 days after publication of such order, any person who will be adversely affected thereby, if placed in effect, may file objections and a request for a public hearing. The objections shall not be accepted for filing if they fail to establish that the objector will be adversely affected by the regulation, if the objections do not specify with particularity the provisions of the regulation to which objection is taken, or if the objections do not state reasonable grounds. Reasonable grounds are grounds from which it is reasonable to conclude that facts can be established by reliable evidence at the hearing which will call for changing the provisions specified in the objections. Whenever legally valid objections have been filed, a public hearing on the objections will be held.

(c) As soon as practicable after the time for filing objections has expired, the Commissioner shall publish a notice in the FEDERAL REGISTER specifying the parts of the order that have been stayed by proper objections, or, if no objections have been filed, stating that fact.

(d) The procedure at such public hearing shall follow as nearly as practicable procedure described in § 120.14 through § 120.28 of this chapter.

(e) The Assistant General Counsel for Food and Drugs of the Department of Health, Education, and Welfare is hereby designated as the officer upon whom a copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in court the record on which the order of the Commissioner is based in accordance with 28 U.S.C. 2112.

PROHIBITED ACTS AND PENALTIES

§ 191.210 General.

The provisions of these regulations with respect to the doing of any act shall be applicable also to the causing of such act to be done.

§ 191.211 Guaranty.

In case of the giving of a guaranty or undertaking referred to in section 5(b)(2) of the act, each person signing such guaranty or undertaking, or causing it to be signed, shall be considered to have given it. Each person causing a guaranty or undertaking to be false is chargeable with violations of section 4(d) of the act.

§ 191.212 Definition of guaranty; suggested forms.

(a) A guaranty or undertaking referred to in section 5(b)(2) of the act may be:

(1) Limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery; or

(2) General and continuing; in which case, in its application to any shipment or other delivery of an article, it shall be considered to have been given at the date such article was shipped or delivered, or caused to be shipped or delivered, by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking each section 5(b)(2) of the act:

(1) *Limited form for use on invoice or bill of sale.*

____

(Name of person giving the guaranty or undertaking)

hereby guarantees that no article listed herein is in a misbranded package within the meaning of the Federal Hazardous Substances Labeling Act.

____

(Signature and post-office address of person giving the guaranty or undertaking)

(2) *General and continuing forms.*

The article comprising each shipment or other delivery hereafter made by ________

____

(Name of person giving the guaranty or undertaking)

to, or on the order of ________________

____

(Name and post-office address of person to whom the guaranty or undertaking is given)

is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not in a misbranded package within the meaning of the Federal Hazardous Substances Labeling Act.

____

(Signature and post-office address of person giving the guaranty or undertaking)

(c) The application of a guaranty or undertaking referred to in section 5(b)(2) of the act to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes misbranded within the meaning of the act.

§ 191.213 Presentation of views under section 7 of the act.

(a) Presentation of views under section 7 of the act shall be private and informal. The views presented shall be confined to matters relevant to the contemplated proceeding. Such views may be presented by letter or in person by the person to whom the notice was given, or by his representative. In case such person holds a guaranty or undertaking referred to in section 5(b)(2) of the act applicable to the article on which such notice was based, such guaranty or undertaking or a verified copy thereof, shall be made a part of such presentation of views.

(b) Upon request, seasonably made, by the person to whom a notice appointing a time and place for the presentation of views under section 7 of the act has been given, or by his representative, such time or place, or both such time and place, may be changed if the request states reasonable grounds therefor. Such request shall be addressed to the office of the Food and Drug Administration that issued the notice.

(c) Any officer or employee of the Food and Drug Administration who is currently authorized to hold hearings under section 305 of the Federal Food, Drug, and Cosmetic Act is hereby authorized to hold hearings under section 7 of the Federal Hazardous Substances Labeling Act.

ADMINISTRATIVE

§ 191.214 Examinations and investigations; samples.

When any officer or employee of the Department collects a sample of a hazardous substance for analysis under the act, the sample shall be designated as an official sample if records or other evidence is obtained by him or any other officer or employee of the Department indicating that the shipment or other lot of the article from which such sample was collected was introduced or delivered for introduction into interstate commerce, or was in or was received in interstate commerce, or was manufactured within a Territory not organized with a legislative body. Only samples so designated by an officer or employee of the Department shall be considered to be official samples.

(a) For the purpose of determining whether or not a sample is collected for analysis, the term "analysis" includes examinations and tests.

(b) The owner of a hazardous substance of which an official sample is collected is the person who owns the shipment or other lot of the article from which the sample is collected.

§ 191.215 Transitional period for relabeling.

The Commissioner recognizes that relabeling will be required to bring products subject to the Federal Hazardous Substances Labeling Act into full compliance. Many such products are marketed in lithographed cans, some of which are pressurized containers. This introduces special problems of relabeling. While most hazardous household substances now carry some warning information, the regulations in this part require that the warnings be amplified, additional information included, and that the warnings and related information be displayed more prominently. In order to meet the February 1, 1962, effective date of the statute, manufacturers and shippers of hazardous substances in containers intended or suitable for household use may develop stick-on labels or other means to provide the required information.

(Sec. 16, 74 Stat. 380; 15 U.S.C. 1261 (note))

Effective date. This order shall be effective February 1, 1962.

Dated: August 8, 1961.

[SEAL] GEORGE P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-7693; Filed, Aug. 11, 1961; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

REVISION OF REGULATIONS

CROSS REFERENCE: For a complete reorganization and revision of Chapter II of Title 24 of the Code of Federal Regulations, see Part II of this issue.

Chapter III—Public Housing Administration, Housing and Home Finance Agency

REDESIGNATION OF PARTS

EDITORIAL NOTE: Parts 300, 320, and 330 of Chapter III of Title 24 of the Code of Federal Regulations are hereby redesignated as Parts 1500, 1520, and 1530, respectively.

Chapter IV—Federal National Mortgage Association, Housing and Home Finance Agency

REDESIGNATION OF PART

EDITORIAL NOTE: Part 400 of Chapter IV of Title 24 of the Code of Federal Regulations is hereby redesignated as Part 1600.

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 41—SERVICE IN POST OFFICES

PART 61—MONEY ORDERS

Miscellaneous Amendments

Correction

In F.R. Doc. 61-7410, appearing at page 7056 of the issue for Saturday, August 5, 1961, the following corrections are made:

1. Section 41.5 should read as follows:

§ 41.5 Unauthorized use of premises.

Advertisements, circulars, or notices relating to any private business or having a political character shall not be placed on any portion of post office premises, except that official election notices issued by State or local governments may be displayed.

2. In § 61.3(g), the line which reads "rity cards are no acceptable. Drivers' " should be deleted.

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 73—BIOLOGIC PRODUCTS

Additional Standards: Packed Red Blood Cells (Human)

On March 8, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER proposing regulatory standards for the manufacture of Packed Red Blood Cells (Human).

Views and arguments respecting the proposed amendments were invited to be submitted within 60 days after publication of the notice in the FEDERAL REGISTER, and notice was given of intention to make any amendments that were adopted effective 60 days after the date of publication of the adopted amendments.

After consideration of all comments submitted, the following amendment to Part 73 of the Public Health Service regulations is hereby adopted to become effective 60 days after the date of publication in the FEDERAL REGISTER.

Amend Part 73 of the Public Health Service regulations by inserting at the end thereof the following center heading and sections:

ADDITIONAL STANDARDS: PACKED RED BLOOD CELLS (HUMAN)

Sec.
73.320 Proper name and definition.
73.321 Manufacture.
73.322 Pilot samples.
73.323 Containers.
73.324 Labeling.
73.325 Expiration date.
73.326 Storage.
73.327 General requirements.

AUTHORITY: §§ 73.320 to 73.327 issued under sec. 215, 58 Stat. 690 as amended; 42 U.S.C. 216. Interpret or apply sec. 351, 58 Stat. 702; 42 U.S.C. 262.

ADDITIONAL STANDARDS: PACKED RED BLOOD CELLS (HUMAN)

§ 73.320 Proper name and definition.

The proper name of this product shall be Packed Red Blood Cells (Human). The product is defined as red blood cells remaining after separating plasma from sedimented Citrated Whole Blood (Human) to attain an hematocrit reading of from 60 percent to 70 percent.

§ 73.321 Manufacture.

Packed Red Blood Cells (Human) shall be prepared from Citrated Whole Blood (Human) that meets the standards prescribed in §§ 73.301 through 73.304. Packed Red Blood Cells (Human) may be prepared either by centrifugation conducted no later than six days after the date of blood collection or by normal undisturbed sedimentation before the expiration date of the blood. Packed Red Blood Cells (Human) shall be maintained at a temperature between 1° and 10° C. during processing, all of which shall be conducted so as to maintain the sterility of the product. Surfaces of apparatus, including needles and tubing, that come in contact with the product during its processing shall be clean, sterile and pyrogen-free. If the method of processing involves a vented system, the vent shall be one that will exclude microorganisms and maintain a sterile system.

§ 73.322 Pilot samples.

Pilot samples shall meet the following standards:

(a) One or more pilot samples shall be provided with each unit of Packed Red Blood Cells (Human) when issued or reissued except as provided in § 73.304(e)(2).

(b) Pilot samples shall be either the original blood pilot sample or a sample of the Packed Red Blood Cells (Human) being processed.

(c) All containers of pilot samples accompanying a unit of Packed Red Blood Cells (Human) shall be filled at the time the blood is collected or at the time the final product is prepared, by the person performing the collection or preparation.

(d) All containers for all samples shall bear the donor's identification before they are filled.

(e) All containers for pilot samples accompanying a unit of cells shall be attached securely to the final container of Packed Red Blood Cells (Human) before the final container is filled, in a tamper-proof manner that will conspicuously indicate removal and reattachment.

§ 73.323 Containers.

Final containers used for Packed Red Blood Cells (Human) shall meet the requirements for blood containers prescribed in § 73.304(c) and may be either the original blood containers or different containers.

§ 73.324 Labeling.

Except for the proper name, "Citrated Whole Blood (Human)", labels for Packed Red Blood Cells (Human) shall bear the information required for the Citrated Whole Blood (Human) from which it is processed.

§ 73.325 Expiration date.

The dating period for Packed Red Blood Cells (Human) shall be no longer than 21 days after the date of bleeding the donor for the Citrated Whole Blood (Human) from which it was processed, except that if the hermetic seal is broken during processing the dating period shall be no longer than 24 hours after the seal was broken.

§ 73.326 Storage.

Immediately after processing, the cells shall be placed in storage and maintained within a 2° range between 1° and 6° C.

§ 73.327 General requirements.

Manufacturing responsibilities, periodic check on sterile technique, shipment, reissue and recordkeeping shall be carried out in all respects for Packed Red Blood Cells (Human) as prescribed in § 73.304 (a), (b), (d), (e), and (f) respectively for Whole Blood (Human).

Dated: August 2, 1961.

[SEAL] LUTHER L. TERRY,
Surgeon General.

Approved: August 8, 1961.

(*Signed*) ABRAHAM RIBICOFF,
Secretary.

[F.R. Doc. 61-7702; Filed, Aug. 11, 1961; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket No. 3666, Order No. 46]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte Nos. MC-13, MC-3]

PARTS 71-78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

PART 197—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES BY MOTOR VEHICLE

Need for Establishing Reasonable Requirements To Promote Safety of Operation of Motor Vehicles Used in Transporting Property by Private Carriers

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 28th day of July A.D. 1961.

The matter of regulations governing the transportation of explosives and other dangerous articles by contract and private carriers by motor vehicle, formulated and prescribed by the Commission, being under consideration, and

It appearing that Notice No. 48, dated November 29, 1960, was published in the FEDERAL REGISTER on December 3, 1960 (25 F.R. 12420), pursuant to the provisions of section 4 of the Administrative Procedure Act, which notice proposed that the effective provisions of 49 CFR Parts 71 through 78, Explosives and Other Dangerous Articles, and of 49 CFR Part 197, Transportation of Explosives and Other Dangerous Articles by Motor Vehicle, insofar as they relate to contract carriers by motor vehicle and private carriers by motor vehicle and to shippers by such carriers, be prescribed under the Transportation of Explosives Act, as amended (18 U.S.C. 834), instead of under the Interstate Commerce Act, as amended (49 U.S.C. 304); that certain amendments be made in the authority statements and certain bracketed paragraphs contained in the said regulations in conformity with such represcription; that pursuant to said notice interested parties were given an opportunity to be heard; and that written views were submitted to the Commission with respect to the proposals;

It further appearing that four parties submitted their views; that National Tank Truck Carriers, Inc., favor the adoption of the proposed changes; and that American Petroleum Institute and Manufacturing Chemists' Association, Inc., do not oppose the adoption of the proposed changes, but, advocate study of the need for modification of certain of the regulations to recognize differences between private carrier and for-hire carrier operations;

It further appearing that the remaining party submitting views, Institute of Makers of Explosives, expressed the view that the Commission lacks authority to prescribe § 197.01(b) of 49 CFR Part 197 under the Transportation of Explosives Act, as amended (18 U.S.C. 834), and that changes and additions should be made in the regulations governing the transportation of explosives and other dangerous articles to recognize distinctive practices of private carriers, including the exemption from Part 73, when transported by private carriers, of products, articles, or devices in the process of development and research, when prepared so as to afford an equal or greater degree of safety than is prescribed in the regulations for items having like hazards;

It further appearing that the Commission has authority under section 834 of the Transportation of Explosives Act, as amended, to make all necessary regulations for the safe transportation of explosives and other dangerous articles; that the prescribing of § 197.01(b) of 49 CFR under the Transportation of Explosives Act, as amended, will have the effect of also prescribing under that Act the remainder of the safety and hours of service regulations, Parts 190 to 196, inclusive, as they apply to contract carriers by motor vehicle and private carriers by motor vehicle to the extent that they are engaged in the transportation of explosives and other dangerous articles; that the situation in this respect then will be the same for such contract carriers and private carriers as it now is for common carriers of such articles; and that this is a desirable effect.

It further appearing that the revision referred to next above, as well as the other revisions outlined in the notice of proposed rule making are necessary and

appropriate in the public interest; that they are within the Commission's authority under the Transportation of Explosives Act, as amended; and that they are in keeping with the legislative purposes in amending the Transportation of Explosives Act, effective September 6, 1960, one of which was to bring about uniform penalties for violations of regulations prescribed thereunder whether common, contract, or private carriage by motor vehicle be involved;

It further appearing that the changes and additions in the existing regulations sought by the interested parties to recognize differences between private carrier and for-hire carrier operations, including the change in Part 73 relating to items in the process of development and research, are not within the scope of this proceeding; that they may not be made upon the present record; but that consideration will be given to including certain of them in a future proceeding;

It further appearing that there are several explanatory references in the existing regulations in 49 CFR Parts 71 to 78, inclusive, to sections and language of the Transportation of Explosives Act which require revision to bring them in consonance with the provisions of the Act as amended; that revision of these references as hereafter set forth is necessary in the interest of clarity and effects no substantive change in the regulations; and therefore for good cause it is found that notice of proposed rule making covering such revisions is unnecessary;

It is ordered, That the provisions of Title 49 Code of Federal Regulations Parts 71 through 78, Explosives and Other Dangerous Articles, and of Title 49 Code of Federal Regulations Part 197, Transportation of Explosives and Other Dangerous Articles by Motor Vehicle, in effect on the effective date of this order, insofar as they relate to contract carriers by motor vehicle and private carriers of property by motor vehicle, and to shippers making shipments by such carriers, be and they are hereby prescribed under the Transportation of Explosives Act, as amended, (18 U.S.C. 834);

It is further ordered, That all orders of the Commission previously entered which under section 204 of the Interstate Commerce Act (49 U.S.C. 304) prescribed or amended the provisions of the regulations which by the paragraph next above are prescribed under the Transportation of Explosives Act, as amended, be and they are hereby superseded by this order on its effective date;

It is further ordered, That Parts 71 through 78 and Part 197 be and they are hereby amended by deleting from the authority citations preceding the texts thereof all that follows the words "issued under" and substituting in lieu thereof "62 Stat. 738, 74 Stat. 808, 18 U.S.C. 834".

It is further ordered, That Parts 73 and 77 be and they are hereby amended by deleting the two bracketed paragraphs following the authority citation in the former and the three bracketed paragraphs following the authority citation in the latter, without change in Note 1 thereto, and by substituting in lieu of the deleted material in each part the following:

[The regulations in Parts 71–78 of this chapter are applicable to every common and contract carrier by motor vehicle and every private carrier of property by motor vehicle subject to the regulatory provisions of Sections 831–835, 62 Stat. 738, 74 Stat. 808; 18 U.S.C. 831–835.

[Private carriers of property by motor vehicle subject to Parts 71–78 of this chapter are prohibited from transporting any explosive or other dangerous article unless the article is properly described by name in papers required by Parts 71–78 of this chapter to accompany every shipment of such article; and every such article must be packed and marked and in proper condition for transportation according to the regulations in Parts 71–78 of this chapter.]

It is further ordered, That Part 71 be and it is hereby amended in the following manner:

Amend § 71.2 to read as follows:

§ 71.2 Act of Congress.

(a) Section 833, Title 18 of the United States Code, approved September 6, 1960 (Pub. Law 710, 86th Congress), which amended the act approved June 25, 1948 (Pub. Law 772, 80th Congress) provides that "Any person who knowingly delivers to any carrier engaged in interstate or foreign commerce by land or water, and any person who knowingly carries on or in any car or vehicle of any description operated in the transportation of passengers or property by any carrier engaged in interstate or foreign commerce by land, any explosive, or other dangerous article, specified in or designated by the Interstate Commerce Commission pursuant to section 834 of this chapter, under any false or deceptive marking, description, invoice, shipping order, or other declaration, or any person who so delivers any such article without informing such carrier in writing of the true character thereof, at the time such delivery is made, or without plainly marking on the outside of every package containing explosives or other dangerous articles the contents thereof, if such marking is required by regulations prescribed by the Interstate Commerce Commission, shall be fined" or imprisoned, as provided in the Act.

§ 71.3 [Amendment]

In § 71.3(a) amend the first two sentences to read as follows: "Section 834 of the act of September 6, 1960, authorizes the Commission to formulate regulations for the safe transportation of explosives and other dangerous articles and, either upon its own motion or upon application by any interested party, to make changes or modifications in such regulations made desirable by new information or altered conditions. It further provides that in the execution of sections 831–835 of the act the Commission may utilize the services of carrier and shipper associations, including the Bureau for the Safe Transportation of Explosives and other Dangerous Articles (hereafter called Bureau of Explosives)."

§ 71.6 [Amendment]

In § 71.6(a) change the words "The Act of June 25, 1948" to read "The Act of September 6, 1960".

§ 71.8 [Amendment]

Amend § 71.8(b) to read as follows:

(b) Section 832 of the act of September 6, 1960 provides that any person who knowingly transports certain explosives, or any radioactive materials, or etiologic agents, on or in any passenger car or passenger vehicle of any description operated in the transportation of passengers by any for-hire carrier engaged in interstate or foreign commerce, by land, shall be fined or imprisoned or both. It further provides that emergency movements and movements of small quantities of those commodities on or in any such car or vehicle may be made under such regulations as the Commission may prescribe. As used in Parts 71–78 of this chapter the term "passenger car or passenger vehicle of any description operated in the transportation of passengers by any for-hire carrier . . . by land" means any railroad car of a passenger train, or highway vehicle, with passengers for-hire in the same such railroad car or highway vehicle.

It is further ordered, That this order insofar as it relates to Parts 71 through 78 shall be issued under Docket 3666; that insofar as it relates to Part 197 shall be issued under Ex Parte MC-13; and that Ex Parte MC-3 be and it is hereby discontinued.

And it is further ordered, That this order shall become effective September 1, 1961, and shall remain in effect until further order of the Commission;

Notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(62 Stat. 738; 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 61-7696; Filed, Aug. 11, 1961; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2453]

[Arizona 030568]

ARIZONA

Modifying Reclamation Withdrawal to Permit Grant of Right-of-Way

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat.

388; 43 U.S.C. 416), it is ordered as follows:

1. The Departmental order of July 2, 1902, which withdrew lands in Arizona for reclamation purposes in the second form, in connection with the Salt River Project, and which was changed to the first form by order of the Bureau of Reclamation dated December 19, 1947, concurred in by the Bureau of Land Management on February 10, 1948, is hereby modified to the extent necessary to permit the grant of a right-of-way made by section 2477 of the United States Revised Statutes (43 U.S.C. 932) to become effective as to the following-described lands delineated on a map filed by the County of Maricopa, Arizona, designated "Map of Section 29, T. 1 N.—R. 2 E., Project FAS 239(5)," on file with the Bureau of Land Management in Arizona 030568:

GILA AND SALT RIVER BASE AND MERIDIAN

T. 1 N., R. 2 E.,
Sec. 29, NE¼NE¼ and N½SE¼NE¼, east 65 feet.

Containing approximately 3 acres.

2. The right-of-way shall be subject to the prior right of the United States, its successors and assigns, to use any of the lands to construct, reconstruct, operate and maintain dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, drainage works, flood channels, telephone and telegraph lines, electric transmission lines, roadways and appurtenant irrigation structures, without any payment by the United States, or its successors and assigns, for such right, with the agreement on the part of the County of Maricopa that if the construction or reconstruction of any or all of such dams, dikes, levees, reservoirs, canals, wastelands; laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways or appurtenant irrigation structures across, over or upon said lands should be made more expensive by reason of the existence of improvements or workings of the County thereon, such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto, and that within 30 days after demand is made upon the County for payment of such sums, the County will make payment thereof to the United States, or its successors and assigns, constructing or reconstructing such dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over or upon said lands. There is reserved to the United States the right of its officers, agents, employees, licensees and permittees, at all proper times and places freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing and protecting the rights reserved herein.

The United States, its officers, agents, employees and assigns, shall not be liable for any damage to the improvements or works of the County resulting from the construction, reconstruction, operation or maintenance of any of the works hereinabove enumerated.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

AUGUST 8, 1961.

[F.R. Doc. 61-7690; Filed, Aug. 11, 1961; 8:47 a.m.]

[Public Land Order 2454]

[New Mexico 075121]

NEW MEXICO

Revoking Executive Order No. 1262 of November 2, 1910, and No. 1510 of April 1, 1912, Which Withdrew Lands For Use of New Mexico National Guard

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Orders No. 1262 and No. 1510 of November 2, 1910, and April 1, 1912, respectively, which withdrew the following described lands for use of the National Guard of the Territory of New Mexico as a rifle range, are hereby revoked:

NEW MEXICO PRINCIPAL MERIDIAN

T. 7 S., R. 17 E.,
Sec. 1;
Sec. 2, E½, NW¼, and E¼SW¼;
Secs. 11 to 14, incl.;
Sec. 23, N½N½, SE¼NE¼, W½SW¼, NE¼SW¼, and SE¼;
Secs. 24 and 25;
Sec. 26, NE¼, S½NW¼, and S½;
Sec. 35.
T. 8 S., R. 17 E.,
Sec. 2, NE¼ and NE¼NW¼.

The area described aggregates 6927.95 acres, of which the NE¼ and NE¼NW¼, sec. 2, T. 8 S., R. 17 E., are national forest lands in the Lincoln National Forest.

2. The lands are located approximately 50 miles northwest of the City of Roswell, New Mexico. The topography varies from undulating on the north portion, to steeply rolling on the south portion. The elevation varies from 5400 to 5800 feet above sea level. The vegetative cover consists of grama grasses and tobosa on the undulating portions, and cedars, pinon-junipers, muhly, snakeweed, burro grass, yucca, and cactus on the steeply rolling portions. The soils vary from a moderately deep clay loam in the draws and drainages, to shallow, gravelly soils on ridges and knolls.

3. The State of New Mexico has waived the preference right granted to it by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

4. The public lands released from withdrawal by this order are hereby restored to the operation of the public land laws, including the mining laws, subject to valid existing rights and equitable claims, the requirements of applicable law, rules, and regulations, and the provisions of any existing withdrawals, the national forest lands being hereby opened to such forms of disposition as may by law be made of national forest lands. The lands have been open to application and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, New Mexico.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

AUGUST 8, 1961.

[F.R. Doc. 61-7691; Filed, Aug. 11, 1961; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Kentucky Woodlands National Wildlife Refuge, Kentucky

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KENTUCKY

KENTUCKY WOODLANDS NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Kentucky Woodlands National Wildlife Refuge, Kentucky, is permitted only on the area designated by signs as open to hunting. This open area, comprising 25,000 acres or 38 per cent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Squirrels, gray and fox; bobcats, woodchucks, crows, grey fox.

(b) Open season: September 11 through September 16.

(c) Daily bag limits: Squirrels—6; no bag limits on other species.

(d) Methods of hunting:

(1) Shotgun—any gauge but must be plugged to reduce capacity to three shells in magazine and chamber combined. No slugs or buckshot permitted.

(2) Rifles with caliber of less than .243 bore.

(3) No dogs permitted.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) Hunting during daylight hours only.

(3) A Federal permit is required to enter the public hunting area. A permit may be obtained at the Refuge Office during regular office hours.

(4) The provisions of this special regulation are effective to September 17, 1961.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7685; Filed, Aug. 11, 1961; 8:47 a.m.]

PART 32—HUNTING

Reelfoot National Wildlife Refuge

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

TENNESSEE

REELFOOT NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Reelfoot National Wildlife Refuge, Tennessee is permitted only on the area designated by signs as open to hunting. This open area, comprising 9,092 acres or 92 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: squirrel, crow, woodchuck, and gray fox.

(b) Open season: September 18, 1961 through September 23, 1961 and October 2, 1961 through October 7, 1961.

(c) Daily bag limits: squirrel—6; crow—no limit; woodchucks—no limit; gray fox—no limit.

(d) Methods of hunting:

(1) Rifles, 22 calibre or shotguns incapable of holding more than three shells may be used.

(2) Dogs: No dogs permitted.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits may be obtained from the refuge manager, Reelfoot National Wildlife Refuge, Samburg, Tennessee, starting September 11, 1961.

(3) The provisions of this special regulation are effective to October 8, 1961.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7686; Filed, Aug. 11, 1961; 8:47 a.m.]

PART 32—HUNTING

Noxubee National Wildlife Refuge, Mississippi

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of Big Game on the Noxubee National Wildlife Refuge, Mississippi is permitted only on the area designated by signs as open to hunting. This open area, comprising 43,321 acres or 97 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: deer.

(b) Open season: November 20 through 25; December 26 through 30, 1961 and January 1, 1962.

(c) Daily bag limits: One (1) buck with antlers over 4 inches long per season. Not more than two deer per license year.

(d) Methods of hunting:

(1) Weapons: any type gun may be used, except 22 calibre rifles and shotguns less than 20 gauge. Shells with buckshot smaller than No. 1 prohibited.

(2) Dogs: No dogs will be allowed.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits are obtainable from the refuge manager, Noxubee National Wildlife Refuge, Brooksville, Mississippi starting November 10, 1961.

(7) The provisions of this special regulation are effective to January 2, 1962.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7687; Filed, Aug. 11, 1961; 8:47 a.m.]

PART 32—HUNTING

Noxubee National Wildlife Refuge

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Noxubee National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 43,321 acres or 97 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Squirrel, rabbit, bobcat, fox, crow and feral cats.

(b) Open season: October 2 through 7 and October 9 through 14, 1961.

(c) Daily bag limits: 5 per day—10 in possession for both squirrel and rabbit. No bag limit on other species.

(d) Methods of hunting:

(1) Weapons: any type of gun. Shotguns incapable of holding more than 3 shells only may be used.

(2) Dogs: No dogs will be allowed.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. Permits are obtainable from the refuge, manager, Noxubee National Wildlife Refuge, Brooksville, Mississippi starting September 20, 1961.

(3) The provisions of this special regulation are effective to October 15, 1961.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7688; Filed, Aug. 11, 1961; 8:47 a.m.]

PART 32—HUNTING

Noxubee National Wildlife Refuge, Mississippi

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Noxubee National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 44,764 acres or 100 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: Wild Turkey, bobcats, fox, crows, feral cats.

(b) Open season: March 31; and April 2 through 7, 1962.

(c) Daily bag limits: One (1) gobbler per season. Other species, no limit.

(d) Methods of hunting:

(1) Weapons: any type of gun may be used.

(2) Baiting, feeding and hunting with dogs or live decoys or electrically or mechanically operated calling or sounding devices are prohibited.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge

areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is required to enter the public hunting area. A maximum of 400 permits will be issued for the entire hunt. Permits are obtainable from the refuge manager, Noxubee National Wildlife Refuge, Brooksville, Mississippi starting March 15, 1962.

(3) The provisions of this special regulation are effective to April 8, 1962.

FRANCIS C. GILLETT,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 61-7689; Filed, Aug. 11, 1961; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-333]

GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT OF FLORIDA

Notice of Hearing With Respect to Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900); notice is hereby given of a public hearing to be held in the Auditorium, Community Center, Vero Beach, Florida, beginning at 9:30 a.m., e.s.t., August 30, 1961, with respect to a proposed marketing agreement and order regulating the handling of grapefruit grown in the Indian River District of Florida. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed marketing agreement and order, hereinafter set forth, and to any appropriate modifications thereof.

The proposed marketing agreement and order, the provisions of which are as follows, was submitted, with a request for a public hearing thereon, by the Indian River Citrus League. (Sections identified with asterisks (* * *) apply to the proposed marketing agreement only):

DEFINITIONS

Section 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.

Sec. 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 (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Sec. 3 Person.

"Person" means an individual, partnership, corporation, association, business trust, legal representative, or any organized group of individuals.

Sec. 4 Fruit or grapefruit.

"Fruit", or "grapefruit" means any or all varieties of Citrus grandis, Osbeck, grown in the Indian River District.

Sec. 5 Variety.

"Variety or Varieties" means any one or more of the following classifications or groupings of fruit: (a) Marsh and other seedless grapefruit, excluding pink or red grapefruit; (b) Duncan and other seeded grapefruit, excluding pink or red grapefruit; (c) Pink or Red seedless grapefruit; and (d) Pink or Red seeded grapefruit.

Sec. 6 Producer or grower.

"Producer" is synonymous with "grower" and means any person engaged in the production of grapefruit in the Indian River District.

Sec. 7 Handler or shipper.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting grapefruit for another person) who, as owner, agent, or otherwise, handles grapefruit in fresh form, or causes grapefruit to be handled.

Sec. 8 Handle or ship.

"Handle", or "ship" means to transport, sell, or in any other way to place grapefruit in the current of commerce between the regulation area and any point outside thereof.

Sec. 9 Standard packed box.

"Standard packed box" means a unit of measure equivalent to one and three-fifths ($1\frac{3}{5}$) United States bushels of grapefruit, whether in bulk or in any container.

Sec. 10 Fiscal period.

"Fiscal period" means the period of time from August 1, of any year until July 31, of the following year, both dates inclusive.

Sec. 11 Committee.

"Committee" means Indian River Control Committee.

Sec. 12 Central Marketing Organization.

"Central Marketing Organization" means any organization which markets grapefruit for more than one handler pursuant to a written contract between such organization and each such handler.

Sec. 13 Regulation Area.

"Regulation Area" means that portion of the State of Florida which is bounded by the Suwannee River, the Georgia Border, the Atlantic Ocean and the Gulf of Mexico.

Sec. 14 Production area.

"Production area" means the Indian River District.

Sec. 15 Indian River District.

"Indian River District", or "District", means that part of the State of Florida particularly described as follows: Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the Southwest corner of Section 23, Township 14 South, Range 31 East; thence continue South to the Southwest corner of Section 35, Township 14 South, Range 31 East; thence East to the Northwest corner of Township 18 South, Range 32 East; thence South to the Southwest corner of Township 17 South, Range 32 East; thence East to the Northwest corner of Township 18 South, Range 33 East; thence South to the St. Johns River; thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Helen Blazes to the range line between Ranges 35 East and 36 East; thence South to the South line of Brevard County; thence East to the line between Ranges 36 East and 37 East; thence South to the Southwest corner of St. Lucie County; thence East to the line between Ranges 39 East and 40 East; thence South to the South line of Martin County; thence East to the line between Ranges 40 East and 41 East; thence South to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence East to the shore of the Atlantic Ocean; thence Northerly along the shore of the Atlantic Ocean to the point of beginning.

ADMINISTRATIVE BODY

Sec. 16 Establishment and membership.

There is hereby established an Indian River Control Committee consisting of twelve members, for each of whom there shall be an alternate member who shall be nominated and selected in the same manner and who shall have the same qualifications as the member for whom each is an alternate. Six (6) of the members and their respective alternates shall be growers who shall not be handlers, or employees of handlers, or employees of central marketing organizations. Six (6) of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations.

Sec. 17

Except as provided in Section 23, the term of office of members and alternate members shall begin on the first day of August and continue for (1) year and until their successors are selected and have qualified. The consecutive terms

of office of a member shall be limited to three terms. The terms of office of alternate members shall not be so limited.

Sec. 18

The initial members and alternate members shall hold office for a term beginning on the date designated by the Secretary and ending July 31, 1962, or until their successors are selected and have qualified.

Sec. 19 Nomination of grower members for the Indian River Control Committee.

(a) The Secretary shall give public notice of a meeting or meetings of producers to be held not later than July 10th of each year, for the purpose of making nominations for grower members and their alternates of the Indian River Control Committee.

(b) The Secretary shall prescribe uniform rules to govern such meeting or meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated and the total number of votes cast for each, and the chairman and secretary of each such meeting shall transmit to the Secretary their certificate as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July, except as provided for in Section 23.

Sec. 20 Selection of grower members of the Indian River Control Committee.

In selecting the grower members and their alternates of the Indian River Control Committee, the Secretary shall select six (6) members and six (6) alternate members from the nominees. Three (3) such members and their alternate members shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three (3) such members and their alternates shall be selected from growers not affiliated with such bona fide cooperative fresh fruit marketing organizations.

Sec. 21 Nomination of handler members for the Indian River Control Committee.

(a) The Secretary shall give public notice of meetings of handlers to be held not later than July 10th of each year, for the purpose of making nominations for handler members and their alternates for the Indian River Control Committee. Separate meetings shall be held for bona fide cooperative marketing organizations and for other handlers.

(b) The Secretary shall prescribe uniform rules to govern such meetings and the balloting thereat. In voting for nominees each handler shall be entitled to cast but one vote, which shall be weighted by the volume of fruit shipped by such handler during the then current fiscal period except as provided for in Section 23 hereof. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated and the total number of votes cast for each, and the chairman and secretary of each such meeting shall transmit to the Secretary their certificate as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July, except as provided for in Section 23.

Sec. 22 Selection of handler members of the Indian River Control Committee.

In selecting the handler members and their alternates of the Indian River Control Committee, the Secretary shall select six (6) members and six (6) alternate members from the nominees. Three (3) such members and their alternate members shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three (3) such members and their alternates shall be selected from handlers not affiliated with such bona fide cooperative fresh fruit marketing organizations.

Sec. 23 Nominations of initial members of the Indian River Control Committee.

The time and manner of nominating initial grower and handler members and alternate members of the committee and their respective terms of office shall be prescribed by the Secretary.

Sec. 24 Failure to nominate.

In the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of Sections 19 and 21 the Secretary may select such member or alternate member without regard to nominations.

Sec. 25 Acceptance of membership.

Any person selected by the Secretary as a member or alternate member of the committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

Sec. 26 Inability of members to serve.

(a) An alternate for a member of the committee shall act in the place and stead of such member (1) in his absence, or (2) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of the committee, a successor for the unexpired term of such person shall be selected by the Secretary. Such selection may be made without regard to the provisions of this subpart as to nominations.

Sec. 27 Powers of the Indian River Control Committee.

The committee, in addition to the power to administer the terms and provisions of this subpart, as herein specifically provided, shall have power (a) to make, only to the extent specifically permitted by the provisions contained in this subpart, administrative rules and regulations; (b) to receive, investigate and report to the Secretary complaints of violations of this subpart; and (c) to recommend to the Secretary amendments to this subpart.

Sec. 28 Duties of Indian River Control Committee.

It shall be the duty of the committee:

(a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary;

(c) To act as intermediary between the Secretary and the producers and handlers;

(d) To furnish the Secretary with such available information as he may request;

(e) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(f) To cause its books to be audited by one or more certified or registered public accountants at least once for each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(g) To prepare and publicly issue a monthly statement of financial operations of the committee; and

(h) To provide an adequate system for determining the total crop of grapefruit, and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this subpart.

Sec. 29 Compensation and expenses of committee members.

The members of the committee, and alternate members when acting as members, shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in the performance of their duties under this subpart.

Sec. 30 Procedure of committee.

(a) For the transaction of any business except a recommendation for regulations eight (8) members shall constitute a quorum and for any decision or action of the committee to be valid (except a recommendation for regulations) at least eight (8) concurring votes are necessary.

(b) Twelve (12) members shall constitute a quorum and twelve (12) concurring votes are necessary in order to make a valid recommendation for regulations during any portion of the fiscal period except as provided for in paragraph (c) of this section.

(c) For a valid recommendation for regulations to be effective in any season during any calendar week in the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April, a minimum of eight (8) members shall constitute a quorum and eight (8) concurring votes

are necessary: *Provided, however,* That no recommendation is valid for any week immediately following three or more continuous weeks of regulation unless twelve (12) members are present and twelve (12) members concur by voting for such recommendation for regulation. The votes of each member cast for or against any recommendations made pursuant to this subpart, shall be duly recorded. Each member must vote in person.

(d) In the event any member of the committee and his alternate are not present at any meeting of the committee, any alternate for any other member selected by a majority of the committee present, may serve in the place and stead of the absent member and his alternate.

(e) The committee shall give to the Secretary the same notice of meetings of the committee as is given to the members thereof.

Sec. 31 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employees appointed or employed by the committee, 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 committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and upon his disapproval shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

Sec. 32 Funds.

(a) All funds received by the committee pursuant to any provision of this subpart shall be used solely for the purposes herein specified and shall be accounted for in the manner provided in this subpart.

(b) 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, together with all books and records 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 subpart.

EXPENSES AND ASSESSMENTS

Sec. 33 Expenses.

The committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the committee under this subpart during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in section 34.

Sec. 34 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by such committee for the maintenance and functioning, during each fiscal period, of the committee established under this subpart. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed box of fruit to be paid by each such handler. 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) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee established under Section 16, handlers may make advance payment of assessments.

(c) The Secretary shall determine the beginning date of the fiscal period in the initial season of operation.

Sec. 35 Handler's accounts.

If at the end of a fiscal period it shall be determined that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him.

REGULATION

Sec. 36 Marketing policy.

(a) Prior to the first recommendation for regulation during any marketing season, the committee shall submit to the Secretary its marketing policy for such season. Such marketing policy shall contain the following information: (1) The estimated available crop of grapefruit in the district, including estimated quality; (2) the estimated utilization of the crop that will be marketed in domestic, export and byproduct channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) the available supplies of competitive deciduous fruits in all producing areas of the United States; (5) level and trend in consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of Indian River grapefruit. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers.

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

Sec. 37 Recommendations for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week.

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

(c) At any time during a week for which the Secretary, pursuant to Section 38, has fixed the quantity of grapefruit which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

Sec. 38 Issuance of volume regulation.

Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That the Secretary is precluded from the issuance of regulations which will in the aggregate exceed ten (10) weeks in any marketing season in the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April. The quantity so fixed may be increased by the Secretary at any time during any week. The Secretary may terminate or suspend, upon the recommendation of the committee, or upon other available information, any regulation at any time.

Sec. 39 Prorate bases.

(a) Each person who has previously handled grapefruit, and who desires to handle grapefruit, shall submit at such time and in such manner, as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this part.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended, the committee shall have available a prorate base for each person who has made application in accordance with the provisions of this section. Such prorate base for each handler shall be the average weekly quantity of grapefruit shipped by him in all of the weeks in the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April in the three (3) marketing seasons next preceding the season for which regulations are to be recommended. For handlers having only one or two seasons of past performance in seasons immediately preceding the season for which prorate bases are calculated, such handlers bases shall be a weekly average calculated in the same manner as described for handlers with three (3) seasons of past performance.

(e) If an applicant for a prorate base is a new handler, the committee shall compute a prorate base based upon his trade outlets and other factors which, in the judgment of the committee, are relevant and proper to be used in arriving at an equitable prorate base for such handler. Any person who has made no shipments in the season immediately preceding the season for which prorate bases are established shall be considered a new handler.

Sec. 40 Allotments.

Whenever the Secretary has fixed the quantity of grapefruit which may be handled during any week, the committee shall calculate the quantity of grapefruit which may be handled by each person during such week. The allotment for each applicant shall be that portion of the total quantity allotted to all such applicants which expressed in terms of percent shall be equal to the percentage that each such applicants allotment base is of the aggregate of the allotment bases of all such applicants. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this part.

Sec. 41 Overshipments.

During any week for which the Secretary has fixed the total quantity of grapefruit which may be handled, any person who has received an allotment and is not required to reduce the quantity of grapefruit which he may handle during such week, as provided in this section, or whose total allotment is not required for the repayment of an allotment loan, may handle in addition to his allotment an amount of such grapefruit equivalent to 10 percent of his allotment, or 500 boxes, whichever is greater. The quantity of grapefruit so handled in excess of such person's allotment (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from such person's allotment for the next week. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That at any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotments because of previous overshipments pursuant to this part.

Sec. 42 Undershipments.

If any person handles during any week a quantity of grapefruit covered by a regulation issued pursuant to Section 38, in an amount less than his allotment of grapefruit for such week, he may handle, in addition to his allotment for the next succeeding week only, a quantity of such grapefruit equivalent to such undershipment.

Sec. 43 Allotment loans.

(a) A person to whom allotments have been issued may lend such allotments to other persons to whom allotments have also been issued. Allotment loans shall be repayable the following week. Such loans shall be confirmed to the committee by both parties thereto within 48 hours after any such agreement has been entered into, and such agreements shall specify that such loan is to be repaid from the borrower's allotment the next succeeding week, or that he will repay the allotment loan as soon thereafter as he has allotments available to him for that purpose.

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

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section for use only during the week for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the week in which the repayment is made, and if such repayment of an allotment loan is for a week in which there is no volume regulation, such loan is deemed to be repaid.

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

Sec. 44 Priority of allotments.

During any week in which a person receives an allotment, and has the right to handle a quantity of grapefruit in addition to the quantity represented by his allotment, by reason of (a) an undershipment of an allotment, pursuant to Section 42; or (b) the repayment of a loaned allotment, pursuant to Section 43; or (c) a borrowed allotment, pursuant to Section 43; and such person handles a quantity of grapefruit which is less than the total quantity of such grapefruit which such person may handle during such week, the amount of such grapefruit handled shall first apply to such person's current weekly allotment including any quantity carried over from the previous week by reason of undershipment.

Sec. 45 Inspection and certification.

Whenever the handling of grapefruit is regulated pursuant to Section 38, each handler who handles any grapefruit shall, prior to the handling of any lot of grapefruit, cause such lot to be inspected by the Federal-State Inspection Service and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not be required if the particular lot of fruit previously had been so inspected and certified.

REPORTS

Sec. 46 Reports.

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.

MISCELLANEOUS PROVISIONS

Sec. 47 Fruit not subject to regulation.

Except as otherwise provided in this section, any person, may without regard to the provisions of Sections 37 and 38 and the regulations issued thereunder, ship any grapefruit for the following purposes: (a) To a charitable institution for consumption by such institution; (b) to a relief agency for distribution by such agency; (c) to a commercial processor for conversion by such processor into canned or frozen products or into a beverage base; (d) by parcel post; (e) in such minimum quantities, types of shipments, or for such purposes as the committee with the approval of the Secretary may specify; or (f) for export other than to Canada or Mexico. No assessment shall be levied on fruit so shipped. The committee shall, with the approval of the Secretary, prescribe such rules, regulations, or safeguards as it may deem necessary to prevent grapefruit handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle grapefruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the grapefruit will not be used for any purpose not authorized by this section.

Sec. 48 Compliance.

Except as provided in this part, no person shall handle grapefruit during any week in which a regulation issued by

the Secretary pursuant to Section 38 is in effect, unless such grapefruit are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such grapefruit under the provisions of this part; and no person shall handle grapefruit except in conformity with the provisions of this part and the regulations issued under this part.

Sec. 49 **Right of the Secretary.**

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

Sec. 50 **Effective time.**

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in Section 51.

Sec. 51 **Termination.**

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

(b) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who, during the preceding fiscal period, have been engaged in the production for market of fruit. *Provided*, That such majority have, during such period, produced for market more than 50 percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before July 31 of the then current fiscal period.

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

Sec. 52 **Proceedings after termination.**

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the same committee, of all the funds and property then in the possession of or under control of such administrative committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary; (2) shall, from time to time, account for all receipts and disbursements, or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, 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 joint trustees pursuant to this part.

(c) Any funds collected pursuant to Section 34, over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred during the operation of this part and during the liquidation period, shall be returned to handlers as soon as practicable after the termination of this part. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(d) Any person to whom funds, or claims have been transferred or delivered by the committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said joint trustees.

Sec. 53 **Duration of immunities.**

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

Sec. 54 **Agents.**

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

Sec. 55 **Derogation.**

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

Sec. 56 **Personal liability.**

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

Sec. 57 **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.

Sec. 58 **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. * * *

Sec. 59 **Additional parties.**

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such 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. * * *

Sec. 60 **Order with marketing agreement.**

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of grapefruit in the same manner as is provided for in this agreement. * * *

Copies of this notice of hearing may be obtained from the office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or the Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, P.O. Box 19, Lakeland, Florida.

Dated: August 10, 1961.

[F.R. Doc. 61-7757; Filed, Aug. 11, 1961; 8:50 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 813]

1961 SUGAR QUOTA FOR DOMESTIC BEET SUGAR AREA

Notice of Hearing on Proposed Allotment

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended) and in accordance with the applicable rules of practice and procedure (7 CFR 801.1 et seq) and on the basis of information available to me, I do hereby find that the allotment of the 1961 sugar quota for the Domestic Beet Sugar Area is necessary to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market sugar, and hereby give notice that a public hearing will be held in Washington, D.C., Room 6335 South Building, U.S. Department of Agriculture, on August 24, 1961, beginning at 10:00 a.m., e.d.t.

The preliminary finding made above is based upon the best information now available. The presently effective quota for the Domestic Beet Sugar Area is 2,609,170 short tons, raw value, equivalent to 48,769,533 cwt refined sugar. Effective inventories on January 1, 1961, were estimated to be 37,474,566 cwt. refined sugar. Thus, the maximum quantity of new-crop sugar that may be marketed within the quota is approximately 11,300,000 hundredweight. Production of sugar beets from the 1961-crop is

estimated at 18,577,000 tons or 13 percent above the previous year's crop from which sugar production totaled approximately 46,250,000 cwt. refined. Harvest will begin for the bulk of the beet acreage in October, thus making additional supplies of sugar available for marketing. Total marketings of beet sugar to date and the prospective supplies available for physical or constructive delivery during the remainder of 1961 indicate that total marketings could exceed the present quota for the Domestic Beet Sugar Area. Accordingly, allotment of the quota is found to be necessary in order to prevent disorderly marketing and to assure all processors an equitable opportunity to market sugar.

The purpose of this hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient and equitable distribution of the abovementioned quota for the calendar year 1961 among persons who process and market sugar produced from sugar beets grown in the Domestic Beet Sugar Area.

It will be appropriate at the hearing to present evidence on the basis of which the Secretary may affirm, modify, or revoke the finding with respect to the need for allotment of the quota and make or withhold allotment of any such quota in accordance therewith.

In addition, the subjects and issues of this hearing include (1) the manner in which consideration should be given to the statutory factors as provided in section 205(a) of the Act, and (2) the manner in which allotments should apply to sugar or liquid sugar processed under contracts providing for sugar beets or molasses to be sold to and processed for the account of one allottee by another.

It will also be appropriate at the hearing to present evidence on the basis of which the allotment of the quota or proration thereof may be revised or amended by the Secretary for the purposes of (1) allotting any increase or decrease in the quota resulting from a change in United States sugar requirements or from the proration of a deficit of any area quota; (2) prorating any deficit in the allotment for any allottee; and (3) substituting revised estimates or final actual data for estimates of such data wherever estimates are used in the formulation of an allotment of the quota.

Issued this 10th day of August, 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-7744; Filed, Aug. 11, 1961; 8:49 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 50-202]

MISCELLANEOUS CHEMICAL PRODUCTS AND PREPARATIONS INDUSTRY

Tentative Minimum Wage Determination

A complete record of proceedings held under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 43(a)) to determine the prevailing minimum wages for persons employed in the miscellaneous chemical products and preparations industry has been certified by the hearing examiner. A tentative decision, including a statement of findings and conclusions, as well as the reasons therefor, on all material issues of fact, law and discretion presented on the record, and any proposed wage determination is now appropriate under the applicable rules of practice (41 CFR 50-203.21(b)) and the Administrative Procedure Act (5 U.S.C. 1007(b)).

Definition. The notice of hearing tentatively defines the miscellaneous chemical products and preparations industry as follows:

That industry which manufactures (including packaging) or furnishes: specialty cleaning, polishing, and sanitation preparations (such as metal polishes, including automobile waxes; household, institutional and industrial plant insecticides, disinfectants and deodorants; and dry cleaning preparations); surface active agents, finishing agents, and sulfonated oils and assistants (such as wetting agents, emulsifiers, and penetrants); agricultural chemicals (such as trace elements, soil conditioners, and ready-to-use agricultural pest control chemicals including insecticides, fungicides, and herbicides); adhesives, glues, mucilage, cements and sizes; gelatin (except dessert preparations); household tints, dyes, and bleaches; bluings; writing inks; essential oils; industrial compounds (such as boiler and heat insulating compounds, metal, oil and water treating compounds, waterproofing compounds, and chemical supplies for foundries); automotive chemicals (such as cooling system chemicals including antifreeze, synthetic base hydraulic fluids, and de-icing and defrosting compounds); evaporated salt (except by-product salt); and pyrotechnics and fireworks except display (such as fuses, flares, signals, and railroad torpedoes).

Products and preparations excluded from the definition are: basic industrial inorganic and organic chemicals including industrial gases and basic plastic materials; bone black, carbon black, and lamp black; cyclic coal tar crudes; display fireworks; explosives and ammunition; fatty acids; fertilizers; fissionable materials; floor and furniture waxes and polishes; gum and wood chemicals; inorganic color pigments; paint and varnish removers; paints, varnishes, lacquers, japans and enamels; perfumes, cosmetics, and toilet preparations; petroleum crudes; prepared photographic developers, fixers and toners; printing ink; soap, glycerin, and synthetic organic detergents for household and institutional use; cleansers, washing compounds and other cleaning agents and compounds containing any soap and/or synthetic organic detergents; synthetic fibers; synthetic rubber; whiting, putty and wood fibers; and solid fuel propellants.

The products covered by the notice definition are diverse, and are included in several four-digit Standard Industrial Classification (SIC) groupings. However, there is substantial flexibility as to industrial scope afforded by the Walsh-Healey Public Contracts Act (Tires and Related Products: proposed decision, March 27, 1959, 24 F.R. 2404), and, in the opinion of the Wage and Hour economist testifying at the hearing, the products involved are properly includible in the definition of one industry for the purpose of this proceeding. In essence, the reasons relied upon by that economist were, first, that all products were included under Major Group 28 of the Standard Industrial Classification (SIC) Manual, with the exception of synthetic base hydraulic fluids which are found in the four-digit grouping 2992; and, second, that nearly all of the products involved are covered by the current wage determinations for the cleaning and polishing preparations, insecticides, and fungicides, and miscellaneous chemicals branch of the Chemical and Related Products Industry (41 CFR 50-202.44 (a)(2)) or the Fireworks Industry (41 CFR 50-202.20(a)).

Evaporated salt, however, was not among the products included under the current wage determinations referred to above. At the hearing, a representative of the Morton Salt Company asserted that salt is generally purchased by the Government along with seasoning and food items, and suggested that its inclusion in the noticed definition is inappropriate. However, he conceded that an administrative problem of classification arises because of the inclusion of salt in SIC 2899, one of the groupings covered by the noticed definition.

In view of the above and also the fact that no hardship appears to have resulted from the classification of the bulk of the products involved under current minimum wage determinations, I find that the noticed definition is appropriate here.

Product division. The wage survey conducted by the Bureau of Labor Statistics (BLS) for this industry (Government Exhibit 7) compiles minimum wage data for the industry as a whole and separately for each of three product groups. A fourth product group for solid fuel propellants had been considered after consultation with labor and management representatives. This group was not included in the tabulation because no establishment primarily engaged in the making of solid fuel propellants could be located. In connection with this non-inclusion, the Wage and Hour economist explained that the propellants are sold and packaged with a motor or part of a motor used for rockets. The three individual product groups included in the survey are defined as follows:

Product group 1—Specialty cleaning, polishing, and sanitation preparations (such as metal polishes, including automobile waxes; household, institutional and industrial plant insecticides, disinfectants and deodorants; and dry cleaning preparations); surface active agents, finishing agents, and sulfonated oils and assistants (such as wetting agents, emulsifiers, and penetrants); and agricultural chemicals (such as trace elements, soil conditioners, and ready-to-use agricultural pest control chemicals including insecticides, fungicides, and herbicides).

Product group 2—Adhesives, glues, mucilage, cements and sizes; gelatin (except dessert preparations); household tints, dyes, and bleaches; bluings; writing inks; essential oils; industrial compounds (such as boiler and heat insulating compounds, metal, oil and water treating compounds, and waterproofing compounds, and chemical supplies for foundries); automotive chemicals (such as cooling system chemicals including antifreeze, synthetic base hydraulic fluids, and de-icing and defrosting com-

pounds); and evaporated salt (except by-product salt).

Product group 3—Pyrotechnics and fireworks except display (such as fusees, flares, signals, and railroad torpedoes).

Counsel for the Chemical Specialties Manufacturers Association, Inc. (CSMA), and the spokesman for District 50, United Mine Workers of America (UMWA), propose that separate minimum wage determinations be made for each of the three product groups. On the other hand, a spokesman for the International Chemical Workers Union (ICWU), the Oil, Chemical and Atomic Workers International Union (OCAWIU), and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) proposes that only a single wage determination be made without product divisions. In support of the latter proposal, it was argued essentially that the subject matter of this wage determination involves a myriad of chemical products and that it is not administratively practicable to fix lines of demarcation. However, an analysis of the record reveals no significant overlap among establishments making products in the different divisions involved. Also, the BLS wage survey (Government Exhibit 7) shows considerable differences in the minimum wages paid by establishments in the three product divisions, and such differences have relevance as an indication of the existence of separate industrial groups. Cf. Paper and Paperboard Containers and Packaging Products Industry: final decision (January 4, 1961, 26 F.R. 7). In addition, the product divisions for the survey and the questionnaire used for the survey (Government Exhibit 6) were assembled after consultation with labor and management representatives at prehearing panel meetings as provided in 41 CFR 50-203.16. I find that the fixing of product divisions along the lines of demarcation indicated above is appropriate in this proceeding. However, for reasons to be discussed later, a deferment in any determination for Product Group 3 appears appropriate at this time.

Locality. Government Exhibit 4 shows on a regional basis the origin (place of manufacture) and destination contemplated by bids for Government contract awards exceeding $10,000 on invitations issued by procurement agencies for the fiscal year 1959. The geographic areas used were those requested by management representatives with the addition of the Border States, which were not included in the management request. There is testimony indicating that because of the wide distribution of bids and awards shown in tables 2, 3, and 4 of the exhibit with respect to origin and destination that a contracting officer inviting bids for products in the divisions of the industry would not be able to determine by the identity of the product and place of delivery where the place of manufacture would be. The areas of competition for Government contracts may therefore be said to include all regions wherein establishments in each of the divisions of the industry operate. In this connection, it is significant that neither the present minimum wage determinations for the cleaning and polishing preparations, insecticides and fungicides, and miscellaneous chemicals branch of the chemical and related products industry nor that for the fireworks industry, which together include nearly all products in the noticed definition, contain regional breakdowns. See 41 CFR 50-202.20(b) and 50-202.44(b) (2).

Upon the basis of the foregoing, I find that industrywide wage determinations for each of the divisions of the industry are appropriate and that the "locality" for each division embraces all regions in which the division operates. No party has proposed that determinations be narrower in geographic scope. As noted previously, however, for reasons to be discussed later, it has been decided to defer a determination for Product Group No. 3.

Probationary workers. No party proposes a tolerance for probationary workers, and none appears warranted under section 6 of the Walsh-Healey Public Contracts Act in the determinations involved. Table 9 of the BLS survey (Government Exhibit 7) indicates that less than a substantial portion of the establishments in the divisions for which determinations are to be made has a policy of hiring probationary workers. In Product Group 1, only about 14 percent of the establishments with about 22 percent of the covered employment had such a policy, and in Product Group 2, only about 21 percent of the establishments with about 39 percent of the covered employment had such a policy. Accordingly, no tolerance for probationary workers is provided.

Prevailing minimum wages. The most complete and significant wage data in the record is the BLS survey (Government Exhibit 7) showing minimum wages paid in the payroll period ending nearest June 15, 1959. All unions propose the use of Table 7 of that survey showing the lowest wages actually paid to covered workers (including probationary workers). There are no proposals urging the use of different tables showing lowest established job rates. Evidence of lowest wages actually paid has been considered reliable under the "persons employed" standard of the act. Therefore, the use of Table 7 is indeed appropriate.

Product Group 1. No single minimum wage in this group appears with such frequency that it may be fairly said on that ground alone to be the "prevailing minimum" wage "for persons employed" therein. A number of establishments are shown to have paid $1.00 as their minimum wage. However, those establishments represent only about 23.5 percent of those in the entire group and have only 19.3 percent of the covered employment. Moreover, it is of some significance that the table includes the minimum wages paid to probationary workers.

Under such circumstances, there is abundant precedent for using a statistical approach giving appropriate weight to the minimum wages paid by about one-half or more of the plants or production units involved and the minimum wages paid by one-half or more of the plants as weighted by their covered employment in finding the most representative minimum wage.

The spokesman for the International Chemical Workers Union, the Oil, Chemical and Atomic Workers International Union and the AFL-CIO proposes that only the minimum wages of plants weighted by their covered employment be considered to the exclusion of the minimum wages paid by plants without such weighting. However, I do not adopt this proposal because although plants having most of the employment in the industry necessarily have greater weight in influencing prevailing minimum wage practices in an industry, they do not have exclusive weight. Each production unit, regardless of size, offers some contribution to the minimum wage practices involved.

The Chemical Specialties Manufacturers Association, Inc., proposes that instead of a median approach the so-called "first quartile" method should be employed. There is no evidence in the record dealing with the suitability of this method in the industry under consideration. Further, this method was rejected in a recent determination on the ground that the requirements of the act are met more effectively by recognizing that the prevailing minimum wage lies close to the center of the several minimum wages paid in an industry. See Metal Business Furniture and Storage Equipment Industry: proposed decision. (Dec. 2, 1960, 25 F.R. 12363) I decline to employ the "first quartile" method here for the same reason.

As a consequence, I reject necessarily the proposal of the Chemical Specialties Manufacturers Association that $1.15 be determined as the prevailing minimum wage for Product Group 1 grounded upon that method. The proposal of the United Mine Workers of America relating to the prevailing minimum wage to be determined for Product Group 1 is coincident with that of the Association, and it is similarly rejected. The participating unions other than the United Mine Workers recommend a single minimum wage for the entire industry. However, as I propose to have separate determinations for the product groups involved, the recommendations of those unions need not be considered here.

In the payroll period covered by the BLS survey, a majority of the plants with a majority of the covered employment paid a minimum wage of $1.30 or more. In the range of the several minimum wages paid by establishments in this product grouping, the rate of $1.30 appears to be best representative and I find this minimum wage to be prevailing as of the survey date.

Product Group 2. As in the case of Product Group 1, no single minimum wage appears with such frequency that it may be fairly said on that ground alone to be the "prevailing minimum" wage for "persons employed" in the group.

The Chemical Specialties Manufacturers Association, Inc., proposes a minimum wage of $1.38 using a lower quartile

approach which has been discussed above and rejected. The United Mine Workers propose a minimum wage of $1.60, which rests at the plant median for the group as indicated below. The plant median, however, does not appear to offer the most representative minimum wage because no consideration is given to the employment in the plants involved.

Applying the same statistical approach employed with respect to Product Group 1, it is noted that 50.1 percent of the plants with 65.3 percent of the covered employment paid a minimum wage of $1.60 or more, and 51.3 percent of the plants weighted by their covered employment but comprising only 36.8 percent of the plants without such weighting paid a minimum wage of $1.74 or more. The most representative minimum wage appears to rest within the compass of these medians rather than at either of them. There, $1.67 appears to be most representative since 43.5 percent of the plants with 57.8 percent of the covered employment paid that minimum wage or more.

Product Group 3. Application to Product Group 3 of the same techniques employed with respect to Product Groups 1 and 2 discloses that $1.00 is clearly the minimum wage. This is the minimum wage payable under the present provisions of the Fair Labor Standards Act of 1938 (sec. 6, 52 Stat. 1062, 29 U.S.C. 206), which has been recently raised by the Fair Labor Standards Amendments of 1961 (Pub. Law 87-30, 87th Cong., 1st Sess.) to $1.15, effective September 3, 1961. Because of these circumstances, I have decided that the determination of any minimum wage less than that prescribed by the Fair Labor Standards Amendments of 1961 is inappropriate at this time.

Post-BLS survey increases. There is considerable evidence in the record relating to the increases, which have occurred in the product groups of this industry subsequent to the payroll period covered by the BLS survey.

Government Exhibit 5 contains data regarding wage increases negotiated by collective bargaining in the industry as a whole and by product group designation. The document was prepared from reports on collective bargaining agreements which appeared in the Bureau of National Affairs (BNA) Daily Labor Reports and the newspapers published by the International Chemical Workers Union, the Oil, Chemical and Atomic Workers Union, and District 50 of the United Mine Workers Union. The wage increase data relate to the lowest wage employees in the various bargaining units. Although the exhibit does not show all or a substantial portion of the wage adjustments which have occurred in the industry since the survey period, it is described as being illustrative of such adjustments.

International Chemical Workers Exhibit 1 shows the increases in lowest rates since June 1959 in plants organized by that union. The names of the companies listed by letter on the exhibit were identified by the union's witness during his testimony. The union represents about 8 or 10 percent of the covered workers in the defined industry. Upon the basis of this exhibit, the union's witness recommends that a wage increase of not less than 12 cents per hour be found for the industry as a whole since the date of the survey.

District 50 of the United Mine Workers of America, representing about one-fifth of the employees in Product Group 2, recommends a post-BLS survey increase of 12 cents per hour for that product group upon the basis of wage increases negotiated by that union with certain establishments. No recommendations were made by this union's witness with respect to Product Group No. 1.

The Oil, Chemical, and Atomic Workers International Union witness testified concerning minimum wage increases averaging 14 cents in its bargaining units. The data may, however, contain some information beyond the limits of the defined industry. For example, a number of the plants are shown to manufacture wax, which may include those household waxes excluded from the definition.

Government Exhibit 8 contains straight-time hourly earnings compiled from the Bureau of Labor Statistics Monthly Series of Hours and Earnings, but which were not published in the Employment and Earning Series. The data showing "straight-time" average hourly earnings was compiled from the gross average hourly earnings shown in BLS's published data adjusted by factors that have been heretofore published by BLS. The first table of the exhibit covers four-digit Standard Industrial Classifications conforming generally to Product Group 1 and the second table covers Standard Industrial Classifications conforming generally to Product Group No. 2. The BLS expert economist testifying with reference to this exhibit indicated that the data both on the first and second tables was fairly representative of wage movements in Product Group 1 and Product Group 2. Government Exhibit 8 includes the earnings of production workers rather than solely workers covered by the Walsh-Healey Public Contracts Act, but according to expert testimony the broader coverage does not significantly alter the results. Also, on a cent-by-cent basis there is some spread between the wage increases shown therein and those shown on Government Exhibit 5. However, that exhibit is only illustrative and at best a rough gauge of wage movements in the industry. Moreover, it is significant that the percentage of increase in the average hourly earnings shown in the tables of Government Exhibit 8, when applied to the prevailing minimum wages as of the survey period proposed in this decision for Product Groups 1 and 2, show a close correspondence to the wage increases proposed by the participating unions. The first table of Government Exhibit 8 shows a 9 percent wage increase. A 9 percent increase in the prevailing minimum wage proposed for Product Group 1 as of the survey date would result in an increase of about 12½ cents. The second table of Government Exhibit 8 shows about an 8 percent wage increase. An 8 percent wage increase in the prevailing minimum wage proposed for Product Group 2 as of the survey date would result in an increase of about 13 cents. In view of these circumstances and the fact that all evidence relating to the question of post-BLS survey increases show the existence of substantial increases, I conclude that the record supports a post-survey increase of 12 cents for Product Group 1 and of 13 cents for Product Group 2.

Accordingly, upon the findings and conclusions stated herein, pursuant to section 4 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38), notice is hereby given that I propose to amend 41 CFR Part 50-202 by deleting from § 50-202.44 the present wage determination for the cleaning and polishing preparations, insecticides and fungicides and miscellaneous chemicals branch of the chemical and related products industry contained in subparagraph (2) of paragraphs (a) and (b) respectively, and subparagraph (3) of paragraph (e), renumbering the subparagraphs affected by the deletion and by adding a new section to the part, designated § 50-202.62, containing this tentative decision.

1. As amended, 41 CFR 50-202.44 would read as follows:

§ 50-202.44 Chemical and related products industry.

(a) *Definition.* (1) The industrial and refined basic chemical products branch of the chemical and related products industry is defined as that industry which manufactures (including packaging) or furnishes any of the following products: Basic industrial inorganic chemicals; industrial organic chemicals; plastics materials; and compressed and liquefied gases.

(2) *The bone black, carbon black, and lamp black branch.* The bone black, carbon black, and lamp black branch of the chemical and related products industry is defined as that industry which manufactures (including packaging) or furnishes any of the following products: Bone black, carbon black, and lamp black.

(3) *Exclusions.* Expressly excluded from the scope of the definition of the chemical and related products industry are: Cyclic coal tar crudes; prepared photographic developers, fixers and toners; petroleum gases; synthetic rubber; synthetic fibers; explosives, ammunition, and fireworks; drugs and medicines; soap, glycerin, and synthetic organic detergents for household and institutional use; paints, varnishes, lacquers, japans, and enamels; floor and furniture wax and polish, waterproofing compounds, and paint and varnish removers; inorganic color pigments; whiting, putty, and wood fillers; gum and wood chemicals; fertilizers; vegetable and animal oils and fats; printing ink; essential oils; perfumes, cosmetics, and other toilet preparations; gelatin; and salt.

(b) *Minimum wages.* (1) The minimum wage for persons employed in the manufacture or furnishing of products of the industrial and refined basic chem-

ical products branch of the chemical and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.00 per hour arrived at either on a time or piece-rate basis in the States of Maryland, Virginia, North Carolina, South Carolina, Tennessee, Arkansas, Mississippi, Alabama, Georgia, Florida, and the District of Columbia, and the minimum wage shall be $1.15 per hour arrived at either on a time or piece-rate basis in the remaining States of the United States.

(2) The minimum wage for persons employed in the manufacture or furnishing of products of the bone black, carbon black, and lamp black branch of the chemical and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.40 an hour arrived at either on a time or piece-rate basis.

(c) *Tolerances.* (1) Where $1.15 or $1.40 per hour is the minimum wage, beginners as defined in this paragraph may be employed for 320 hours at a rate not more than 5 cents an hour below the applicable minimum wages. A beginner for the purpose of this section is a person who has less than 320 hours of experience in the industry. Any previous employment in the industry must be subtracted from the 320-hour period during which beginners may be employed at rates below the minimum.

(2) Where $1.00 per hour is the minimum wage, learners and apprentices may be employed at wages less than $1.00 per hour upon the same terms and conditions as are prescribed for the employment of learners and apprentices by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (29 CFR Parts 522 and 521, respectively), under section 14 of the Fair Labor Standards Act. The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of learners and apprentices in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

(d) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

(e) *Effective date.* (1) The determination for the industrial and refined basic chemicals branch of this industry in the States of Maryland, Virginia, South Carolina, North Carolina, Tennessee, Arkansas, Mississippi, Alabama, Georgia, Florida, and the District of Columbia shall be effective, and the minimum wage therein established shall apply, as to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on or after October 7, 1956.

(2) The determination for the industrial and refined basic chemicals branch of this industry in the remaining States of the United States and the determination for the bone black, carbon black, and lamp black branch of this industry shall be effective, and the minimum wages therein established shall apply, as to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on or after January 23, 1951.

2. The new § 50–202.62 would read as follows:

§ 50–202.62 Miscellaneous chemical products and preparations industry.

(a) *Definition.* The miscellaneous chemical products and preparations industry is defined as that industry which manufactures (including packaging) or furnishes the products in the following groups:

(1) *Product Group 1.* Specialty cleaning, polishing, and sanitation preparations (such as metal polishes, including automobile waxes; household, institutional and industrial plant insecticides, disinfectants and deordorants; and dry cleaning preparations); surface active agents, finishing agents, and sulfonated oils and assistants (such as wetting agents, emulsifiers, and penetrants); and agricultural chemicals (such as trace elements, soil conditioners, and ready-to-use agricultural pest control chemicals including insecticides, fungicides, and herbicides).

(2) *Products Group 2.* Adhesives, glues, mucilage, cements and sizes; gelatin (except desert preparations); household tints, dyes, and bleaches; bluings; writing inks; essential oils; industrial compounds (such as boiler and heat insulating compounds, metal, oil and water treating compounds, and waterproofing compounds, and chemical supplies for foundries); automotive chemicals (such as cooling system chemicals including antifreeze, synthetic base hydraulic fluids, and de-icing and defrosting compounds); and evaporated salt (except by-product salt).

(b) *Minimum wages*—(1) *Product Group 1.* The minimum wage for persons employed in the manufacture (including packaging) or furnishing of the products in Product Group 1 of the miscellaneous chemical products and preparations industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.42 per hour arrived at either on a time or piece-rate basis.

(2) *Product Group 2.* The minimum wage for persons employed in the manufacture (including packaging) or furnishing of the products of Product Group 2 of the miscellaneous chemical products and preparations industry under contracts subject to the Walsh-Healey Public Contracts Act shall be $1.80 per hour arrived at either on a time or piece-rate basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any other obligation for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within thirty days from the date of publication of this notice in the FEDERAL REGISTER, interested parties may submit written exceptions to the proposed action described above. Exceptions should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 8th day of August 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61–7705; Filed, Aug. 11, 1961; 8:48 a.m.]

[41 CFR Part 50–202]

MINIMUM WAGE DETERMINATIONS

Adjustment To Conform to Fair Labor Standards Amendments of 1961

Correction

In F.R. Doc. 61–7518, appearing at page 7110 of the issue for Tuesday, August 8, 1961, the month in the last paragraph should read "August" instead of "June".

Wage and Hour Division

[29 CFR Part 522]

EMPLOYMENT OF LEARNERS IN SPECIFIED INDUSTRIES

Notice of Proposed Rule Making

Pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1068, as amended; 29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and General Order No. 45–A (15 F.R. 3290) of the Secretary of Labor, the Administrator of the Wage and Hour and Public Contracts Divisions proposes to amend 29 CFR Part 522 to adapt the policies there expressed to the statutory changes made by the Fair Labor Standards Amendments of 1961 (Pub. Law 87–30).

The proposed amendments and statements explaining their nature and extent are published below. Interested persons may submit written data, views, and arguments regarding the proposed amendments to the administrator of the Wage and Hour and Public Contracts Divisions, United States Department of Labor, Washington 25, D.C., within fifteen days following the publication of this proposal in the FEDERAL REGISTER.

1. Paragraphs (a) and (c) of 29 CFR 522.23, dealing with the apparel industry, would be amended to substitute "three years" for the "two years" in connection with the previous experience of workers to be considered. As amended, § 522.23 would read as follows:

§ 522.23 Learner occupations and learning periods.

(a) Sewing machine operating, final pressing, hand-sewing, finishing operations involving hand-sewing, maximum learning period of 480 hours for any of these occupations; all other pressing and all other machine operating (except the "cutting room" operations of knife or die cutting, spreading and marking, wherever performed in the plant), a maximum learning period of 160 hours; but not more than a 320 hour learning period in such occupations where a maximum of 480 hours is authorized, if, within the previous three years, the worker has had

160 hours or more of experience in another of these occupations in any division of the industry.

* * * * *

(c) If, within the previous three years, a worker has been employed in any division of the apparel industry, or in the manufacturing of men's and boys' underwear from any woven fabric in establishments in the knitted wear industry, in any authorized learner occupation for less than the maximum learning period authorized for that occupation, the number of hours of previous employment should be deducted from the applicable learning period.

2. Paragraph (a) (1), of 29 CFR 522.24, dealing with the apparel industry, would be amended, paragraph (a) (2) thereof deleted, and paragraph (a) (3) renumbered and amended, and paragraphs (b) and (c) would be amended to increase the special minimum rates by fifteen cents per hour for the women's apparel division of the apparel industry and by twenty cents per hour for the divisions of the apparel industry, defined in paragraphs (b) and (c) of § 522.21, so as to read as follows:

§ 522.24 Special minimum rates.

(a) * * *

(1) Not less than $1.00 per hour for the first 320 hours and not less than $1.05 per hour for the next 160 hours.

(2) An experienced worker in any one of the occupations shown in § 522.23(a) for which a 480-hour learning period is authorized, who is being retrained in any other occupation shown in that paragraph having such a 480-hour maximum period, shall be paid at wage rates not less than $1.00 per hour for the first 160 hours and not less than $1.05 per hour for the next 160 hours.

(b) A learner employed in the occupation of final inspection of assembled garments shall be paid, during the authorized 160-hour learning period, not less than $1.05 per hour.

(c) A learner employed in any occupation, other than final inspection of assembled garments, for which a 160-hour learning period is authorized in § 522.23(a) shall be paid not less than $1.00 per hour.

3. Paragraphs (b) and (c) of 29 CFR 522.34, dealing with the knitted wear industry, would be amended to substitute "three years" for "two years" in connection with the previous experience of workers to be considered. As amended, paragraphs (b) and (c) of § 522.34 would read as follows:

§ 522.34 Learning periods.

* * * * *

(b) If a worker who is being trained in any authorized learner occupation has been employed in that same occupation in the knitted wear industry within the previous three years, the hours of such previous employment shall be deducted from the authorized learning period.

(c) If a worker is employed in the manufacture of men's and boys' underwear from any woven fabric in the occupations of machine stitcher or presser, all hours of employment within the previous three years as a machine stitcher or presser in the apparel industry shall be deducted from the authorized learning period in the event such worker is subsequently employed in the same occupation.

4. Paragraph (a) of 29 CFR 522.35 would be amended to increase the 90-cent special minimum rate prescribed therein to $1.05, and would read as follows:

§ 522.35 Special minimum rates.

(a) The special minimum rate which may be authorized in special certificates issued in the knitted wear industry shall be not less than $1.05 per hour.

5. Paragraphs (a) and (d) of 29 CFR 522.43, dealing with the hosiery industry, would be amended to increase by 15 cents, the special minimum rates prescribed therein, and to adjust the authorized learning periods. The codification note following § 522.43(d) would be deleted. The revised paragraphs (a) and (d) would read as follows:

§ 522.43 Learner occupations, learning periods and special minimum rates.

(a) A person who has had no previous experience in any of the following occupations in the hosiery industry may be employed as a learner in any one of the occupations for the maximum number of hours and at the special rates set out in subparagraphs (1) through (9) of this paragraph.

(1) In the seamless branch, knitting (transfer top only) and looping, for 960 hours, at not less than $1.00 per hour for the first 480 hours and $1.07½ for the remaining 480 hours.

(2) In the seamless branch, pairing (women's nylon) and mending (women's nylon), for 720 hours, at not less than $1.00 per hour for the first 360 hours and $1.07½ for the remaining 360 hours.

(3) In the seamless branch, topping, welting, and mending (other than women's nylon), for 480 hours, at not less than $1.00 per hour.

(4) In the seamless branch, boarding (women's nylon), folding (women's nylon and rayon) and pairing (other than women's nylon), for 360 hours, at not less than $1.00 per hour.

(5) In the seamless branch, knitting (except transfer top), seaming, examining and inspecting, folding (other than women's nylon and rayon), and boarding (other than women's nylon), for 240 hours, at not less than $1.00 per hour.

(6) In the full-fashioned branch, seaming (leg and foot), for 960 hours, at not less than $1.05 for the first 480 hours and $1.12½ for the remaining 480 hours.

(7) In the full-fashioned branch, pairing and mending, for 720 hours, at not less than $1.05 for the first 360 hours, and $1.12½ for the remaining 360 hours.

(8) In the full-fashioned branch, boarding and folding, for 360 hours, at not less than $1.05 per hour.

(9) In the full-fashioned branch, examining and inspecting, and seaming (sewing—other than leg and foot), for 240 hours, at not less than $1.05 per hour.

(10) For purposes of subparagraphs (2) and (7) of this paragraph, the occupation of mending is defined as the process of hand-mending hosiery, either in the greige or finished condition, excluding snagging or scratching performed as a full-time and continuous process, and excluding the operation of various types of mending machines, such as Vitos, Vanitas, Stelos or Marvel, except where the operation of such machines is incidental to the hand-mending operation and the use of such machinery is an adjunct to the hand-mending process. For purposes of subparagraphs (6) and (9) of this paragraph, the occupation of seaming (leg and foot) is defined as the joining of the sides of full-fashioned fabric from toe to the top of the welt, to form the hosiery.

* * * * *

(d) A worker who has had full training in any authorized learner occupation may be transferred to any other learner occupation for a period not to exceed one-half of the learning period authorized for the occupation at not less than $1.07½ an hour in the seamless branch and not less than $1.12½ an hour in the full-fashioned branch. A worker who has had partial training in any authorized learner occupation may be transferred to any other learner occupation for either: (1) A period not to exceed one-half of the learning period authorized for that occupation, at not less than $1.07½ an hour in the seamless branch and not less than $1.12½ an hour in the full-fashioned branch; or (2) the balance of the number of hours permitted as a learning period for the occupation to which he or she is being transferred, at the applicable special minimum rates set forth in paragraph (a) of this section: *Provided, however,* That (i) no worker may be employed as a learner at learner rates in more than two authorized occupations; (ii) no worker who has completed the authorized learning period in the occupation of pairing may be employed as a learner at learner rates in the occupations of folding or inspection; and (iii) no worker who has completed the authorized learning period may be employed as a learner at learner rates when transferring from the seamless branch of the hosiery industry to the full-fashioned or from the full-fashioned branch to the seamless, if the worker is employed in the same occupation as that in which he or she has been previously employed.

6. Section 522.50 of 29 CFR Part 522 would be amended, to express a general denial policy, §§ 522.52 through 522.56 would be revoked and the section headnote and introductory text of § 522.51 would be amended to delete reference to the revoked sections. The amended typographical units would read as follows:

§ 522.50 General denial policy.

All applications for the employment of learners in the shoe manufacturing industry, as defined in § 522.51 at wages lower than $1.15 shall be denied.

§ 522.51 **Applicability of § 522.50.**

For the purpose of § 522.50, the shoe manufacturing industry is defined as follows:

7. Paragraph (a) of 29 CFR 522.65 would be amended to increase the special minimum wages prescribed therein, and would read as follows:

§ 522.65 **Special minimum rates.**

(a) The special minimum rates which may be authorized in special certificates issued in the glove industry shall be not less than $1.00 per hour for the first 320 hours and not less than $1.10 per hour for the remaining 160 hours in the leather glove, woven or knit fabric glove, and knitted glove branches of the industry, and not less than $1.00 per hour for the first 320 hours and not less than $1.05 per hour for the remaining 160 hours in the work glove branch of the industry.

8. In order to increase the special minimum rates presently prescribed therein by 15 cents an hour and to provide special minimum rates for workers newly covered by the Fair Labor Standards Amendments of 1961, 29 CFR 522.74, dealing with the independent telephone industry, would be amended to read as follows:

§ 522.74 **Special minimum rates.**

(a) For exchanges with 750 or less stations (where the independently owned company has more than 750 stations in one or more exchanges and thus the switchboard operators employed therein are not within the section 13(a)(11) exemption) the special minimum hourly rates to be provided in a special certificate for learners shall be not less than 85 cents an hour for the first 240 hours, and not less than 95 cents an hour for the remaining 240 hours of the learning period.

(b) For exchanges with more than 750 but less than 3,000 stations the special minimum hourly rates to be provided in special certificates for learners shall be not less than $1.00 per hour for the first 240 hours, and not less than $1.10 an hour for the remaining 240 hours of the learning period.

(c) For exchanges of 3,000 stations or more the special minimum hourly rate to be provided in a special certificate for learners shall be not less than $1.05 an hour for the entire 240-hour learning period.

(d) The earnings of learners employed on a piece rate basis shall be based on those piece rates if in excess of the authorized special minimum rates, in accordance with § 522.6(j).

9. Paragraph (b) of 29 CFR 522.84, dealing with the cigar industry, would be amended by changing "two years" to "three years" as the period of previous experience of workers to be considered in applying the specified learning periods and by adding a new paragraph, designated paragraph (c), to provide that no worker shall be employed as a learner at special minimum rates in more than two of the learner occupations authorized by § 522.83. As amended, paragraphs (b) and (c) of § 522.84 would read as follows:

§ 522.84 **Learning periods.**

* * * * *

(b) If a worker who is being trained in any machine occupation has been employed in that same occupation within the previous three years, the hours of such employment shall be deducted from the maximum learning period. If a worker who is being trained in any hand occupation has been employed in that same occupation within the previous five years, the hours of such employment shall be deducted from the maximum learning period for that occupation.

(c) No worker shall be employed as a learner at special minimum rates in more than two of the learner occupations authorized by § 522.83.

10. Paragraph (a) of 29 CFR 522.85 would be amended to increase by 15 cents per hour the special minimum wages prescribed therein, and as amended would read as follows:

§ 522.85 **Special minimum rates.**

(a) The special minimum rates which may be authorized in special certificates issued in the cigar industry shall be not less than $1.00 per hour in the occupations of cigar machine operating and cigar packing; not less than $1.00 per hour for the first 480 hours and $1.07½ per hour for the second 480 hours in the occupations of hand rolling and hand bunch making; not less than $1.00 per hour for the first 320 hours and $1.07½ per hour for the second 320 hours in the occupation of hand making Italian stogies; and not less than $1.00 per hour in the occupations of hand stripping and machine stripping.

11. Amendments to 29 CFR 522.92 and 522.93, dealing with the luggage, small leather goods, and ladies' handbag industries, would be made to substitute "$1.15 per hour" for "$1.00 per hour". As amended, §§ 522.92 and 522.93 would read as follows:

§ 522.92 **Issuance of learner certificates.**

In the absence of extraordinary circumstances, applications for the employment of learners at wages lower than $1.15 per hour in these industries shall be denied.

§ 522.93 **Learner certificates in extraordinary circumstances.**

In those cases where extraordinary circumstances are shown to exist, learner certificates for the employment of learners at wages lower than $1.15 per hour shall be issued in accordance with the provisions of the general learner regulations (§§ 522.1 through 522.9) only after all interested parties have been given opportunity to present their views on the application pursuant to § 522.4.

12. An amendment to 29 CFR 522.102, dealing with the small electrical products industry, would be made to substitute "$1.15 per hour" for "$1.00 an hour", and would read as follows:

§ 522.102 **Issuance of learner certificates.**

In the absence of exceptional circumstances applications for the employment of learners at wages lower than $1.15 per hour in the small electrical products industry shall be denied.

13. 29 CFR 522.104, published in the FEDERAL REGISTER on February 3, 1961 (26 F.R. 1061), would be amended to substitute "$1.15 per hour" for "$1.00 an hour", and would read as follows:

§ 522.104 **General denial policy.**

All applications for the employment of learners at wages lower than $1.15 per hour in the men's and boys' clothing industry shall be denied. For the purpose of this section, the men's and boys' clothing industry is defined as the industry which manufactures men's, youths', and boys' suits, coats, and overcoats.

14. A new section, 29 CFR 522.25, would be added under the undesignated centerhead for the Apparel Industry declaring a general denial policy with respect to the rainwear, robes, and leather and sheep-lined divisions of that industry, and would read as follows:

§ 522.25 **General denial policy.**

All applications for the employment of learners at wages lower than $1.15 per hour in the rainwear, robes, and leather and sheep-lined clothing divisions of the apparel industry, as defined in paragraphs (d), (e), and (f) of § 522.21 shall be denied.

15. A new undesignated centerhead entitled "Office and Clerical Occupations in any Industry" and new section declaring a general denial policy relating the employment of learners in such occupations would be added to 29 CFR Part 522 and would read as follows:

OFFICE AND CLERICAL OCCUPATIONS IN ANY INDUSTRY

§ 522.105 **General denial policy.**

All applications for the employment of learners at wages lower than $1.15 per hour in office and clerical occupations in any industry shall be denied.

(Sec. 14, 52 Stat. 1068, as amended, sec. 14, Pub. Law 87-30; 29 U.S.C. 214)

Signed at Washington, D.C., this 9th day of August 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-7708; Filed, Aug. 11, 1961; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 95]

SAFEGUARDING OF RESTRICTED DATA

Notice of Proposed Rule Making

The Atomic Energy Commission proposes amendment to Atomic Energy Rules and Regulations Part 95—Safeguarding of Restricted Data (10 CFR Part 95).

The proposed Part 95, as amended, will revise certain requirements for the safeguarding and transmission of Secret and Confidential Restricted Data and will apply to all persons who receive such data under an Access Permit issued pursuant to the regulations of Part 25 "Permits for Access to Restricted Data" of this Chapter 10.

The changes vary in complexity and relate in general to the following matters: New terminology; new address for communications and reports; technical changes in right of access, termination thereof, and limitations thereon; clearance by other agencies under certain circumstances; marking of documents; provisions for accounting for Restricted Data upon expiration, suspension or revocation of an Access Permit; new reports, particularly year end reporting of use made of Access Permit and number of access authorizations received; and miscellaneous technical changes.

The proposed Part 95 as amended is printed in its entirety. Each paragraph in which a change appears or which is new is preceded by an asterisk (*).

The currently effective issue of this Part 95 which is to be superseded is identified as follows:

Sections 95.1–95.44 appear at 21 F.R. 718 Feb. 2, 1956;

Section 95.33(d) amended appears at 25 F.R. 3243 April 15, 1960.

Notice is hereby given that adoption of the following amended rules is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed rules should send them in triplicate to the Secretary, U.S. Atomic Energy Commission, Washington 25, D.C., within 30 days after the publication of this notice in the FEDERAL REGISTER.

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95.41 Continued applicability of the regulations in this part.
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GENERAL PROVISIONS

§ 95.1 Purpose.

*The regulations in this part establish requirements for the safeguarding of Secret and Confidential Restricted Data received or developed under an Access Permit. This part does not apply to Top Secret Restricted Data.

§ 95.2 Scope.

The regulations in this part apply to all persons who receive access to Restricted Data under an Access Permit issued pursuant to the regulations in Part 25 of this chapter.

§ 95.3 Definitions.

As used in this part,

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

*(b) "Commission", "USAEC", or "AEC" means the United States Atomic Energy Commission or its duly authorized representatives;

(c) "Document" means any piece of recorded information regardless of its physical form or characteristics;

*(d) "DOD" means the Department of Defense;

*(e) "L(X) access authorization" means a determination by the AEC that an individual is eligible for access to Confidential Restricted Data under an Access Permit;

*(f) "NASA" means the National Aeronautics and Space Administration;

(g) "Permittee" means the holder of an Access Permit issued pursuant to the regulations in Part 25 of this chapter;

(h) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing;

*(i) "Q(X) access authorization" means a determination by the AEC that an individual is eligible for access to Secret or Confidential Restricted Data under an Access Permit;

(j) "Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act;

(k) "Security area" means a physically defined space, access to which is subject to security restrictions and control; and

(l) "United States", when used in a geographical sense, includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

§ 95.4 Communications.

*All communications concerning the regulations in this part should be addressed to the U.S. Atomic Energy Commission at the Commission Operations Office (listed in Appendix "B" of Part 25 of this chapter) administering Access Permits for the geographical area.

§ 95.5 Submission of procedures by Access Permit holder.

*No Permittee shall have access to Restricted Data until he shall have submitted to the Commission a written statement of his procedures for the safeguarding of Restricted Data and for the security education of his employees and the Commission shall have determined and informed the Permittee that his procedures for the safeguarding of Restricted Data are in compliance with the regulations in this part and that his procedures for the security education of his employees are designed to assure that all his employees who will have access to Restricted Data are informed about and understand the regulations in this part.

§ 95.6 Specific waivers.

The Commission may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 95.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

PHYSICAL SECURITY

§ 95.21 Protection of Restricted Data in storage.

(a) Persons who possess Restricted Data pursuant to an Acess Permit shall store Secret and Confidential documents and material when not in use in accordance with one of the following methods:

(1) In a locked vault, safe or safe-type steel file cabinet having a 3-position dial-type combination lock; or

(2) In a dual key, Bank Safety Deposit Box; or

*(3) In a steel file cabinet secured by a steel lock bar and a 3-position dial-type changeable combination padlock; or

(4) In a locked steel file cabinet when located in a security area established under § 95.23 or when the cabinet or the place in with the cabinet is located is under Commission approved automatic alarm protection.

*(b) Changes of combination: Each permittee shall change the combinations on locks of his safekeeping equipment whenever such equipment is placed in use, whenever an individual knowing the combination no longer requires access to the repository as a result of change in duties or position in the Permittee's organization, or termination of employment with the Permittee, or whenever

the combination has been subjected to compromise, and in any event at least once a year. Permittees shall classify records of combinations no lower than the highest classification of the documents and material authorized for storage in the safekeeping equipment concerned.

*(c) The lock on safekeeping equipment of the type specified in paragraph (a)(4) of this section shall be replaced immediately whenever a key is lost.

§ 95.22 Protection while in use.

While in use, documents and material containing Restricted Data shall be under the direct control of an appropriately cleared individual and the Restricted Data shall be capable of being removed from sight immediately.

§ 95.23 Establishment of security areas.

(a) When, because of their nature or size, it is impracticable to safeguard documents and material containing Restricted Data in accordance with the provisions of §§ 95.21 and 95.22, a security area to protect such documents and material shall be established.

(b) The following controls shall apply to security areas:

*(1) Security areas shall be separated from adjacent areas by a physical barrier designed to prevent entrance into such areas, and access to the Restricted Data within the areas, by unauthorized individuals.

(2) During working hours admittance shall be controlled by an appropriately cleared individual posted at each unlocked entrance.

(3) During nonworking hours admittance shall be controlled by protective personnel on patrol, with protective personnel posted at unlocked entrances, or by such automatic alarm systems as the Commission may approve.

(4) Each individual authorized to enter a security area shall be issued a distinctive badge or pass when the number of employees assigned to the area exceeds thirty.

§ 95.24 Special kinds of classified material.

When the Restricted Data contained in material is not ascertainable by observation or examination at the place where the material is located and when the material is not readily removable because of size, weight, radioactivity, or similar factors, the Commission may authorize the permittee to provide such lesser protection than is otherwise required by §§ 95.21 to 95.23, inclusive, as the Commission determines to be commensurate with the difficulty of removing the material.

§ 95.25 Protective personnel.

Whenever protective personnel are required by § 95.23, such protective personnel shall:

*(a) Possess a "Q" or "L" security clearance or access authorization or "Q(X)" or "L(X)" access authorization if the Restricted Data being protected is classified Confidential or a "Q" security clearance or access authorization or "Q(X)" access authorization if the Restricted Data being protected is classified Secret.

(b) Be armed with side-arms of not less than .38 caliber.

§ 95.31 Access to Restricted Data.

*(a) Except as the Commission may authorize, no person subject to the regulations in this part who possesses Confidential Restricted Data shall permit any individual to have access to such information unless the individual who is to receive it has been granted a security clearance or an access authorization by AEC and obtains the information pursuant to an Access Permit or requires the information in the performance of his duties, or has been certified by the Department of Defense or National Aeronautics and Space Administration through the Commission to have access to the information.

*(b) Except as the Commission may authorize, no person subject to the regulations in this part who possesses Secret Restricted Data shall permit any individual to have access to such Restricted Data unless the individual has an appropriate Commission security clearance or access authorization or has been certified by DOD or NASA through the Commission and:

(1) the individual is authorized by his or another's Access Permit to receive Restricted Data in the categories involved and needs access to such Restricted Data in the course of his duties, or

(2) the individual needs such access in connection with his duties as a Commission employee or Commission contractor employee or as certified by DOD or NASA.

(c) Inquiries concerning the clearance status of individuals, the scope of Access Permits, or the nature of contracts should be addressed to the Commission Office administering the Access Permit or the contract.

§ 95.32 Classification and preparation of documents.

(a) *Classification.* Restricted Data originated by an Access Permit holder must be appropriately classified. OC DOC-54, "Classification Guide for Use in the Civilian Application Program," will be furnished each Permittee. In the event an Access Permit holder originates information within the definition of Restricted Data (Paragraph 95.3(j)) or information which he is not positive is not within that definition and OC DOC-54 does not provide positive classification guidance for such information he shall designate the information as Confidential, Restricted Data and request classification guidance from the USAEC through the Classification Officer at the Operations Office administering the Permit, who will refer the request to the Director, Division of Classification, U.S. Atomic Energy Commission, Washington 25, D.C., if he does not have authority to provide the guidance.

(b) *Classification consistent with content.* Each document containing Restricted Data shall be classified Secret or Confidential according to its own content.

*(c) *Document which custodian believes improperly classified or lacking appropriate classification markings.* If a person receives a document which in his opinion is not properly classified, or omits the appropriate classification markings, he shall communicate with the sender and suggest the classification which he believes to be appropriate. Pending final determination of proper classification, such documents shall be safeguarded with the highest classification in question.

(d) *Classification markings.* Unless otherwise authorized below, the assigned classification of a document shall be conspicuously marked or stamped at the top and bottom of each page and on the front cover, if any, and the document shall bear the following additional markings on the first page and on the front cover:

RESTRICTED DATA

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its transmittal or the disclosure of its contents in any manner to an unauthorized person is prohibited.

(e) *Documentation.* (1) All Secret documents shall bear on the first page a properly completed documentation stamp such as the following:

This document consists of ---- pages. Copy No. ------ of ------ Series ------.

(2) The series designation shall be a capital letter beginning with the letter "A" designating the original set of copies prepared. Each subsequent set of copies of the same documents shall be identified by the succeeding letter of the alphabet.

(f) *Letter of transmittal.* A letter transmitting Restricted Data shall be marked with a classification at least as high as its highest classified enclosure. When the contents of the letter of transmittal warrant lower classification or require no classification, a stamp or marking such as the following shall be used on the letter:

When separated from enclosures handle this document as ------------------------------.

*(g) *Permanently fastened documents.* Classified books or pamphlets the pages of which are permanently and securely fastened together shall be conspicuously marked or stamped with the assigned classification in letters at least one-fourth (¼) inch in height at the top and bottom on the outside front cover, on the title page, on the front page and on the inside and outside of the back cover. The additional markings referred to in paragraph (d) of this section shall be placed on the first page and on the front cover.

(h) *Physically connected documents.* The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. It shall bear only one over-all classification, although pages, paragraphs, sections, or components thereof may bear different classifications. Each document separated from the file or group shall be handled in accordance with its individual classification.

(i) *Attachment of security markings.* Documents which do not lend themselves to marking or stamping shall have securely affixed or attached a tag, sticker, or similar device bearing the appropriate security markings.

§ 95.33 External transmission of documents and material.

(a) *Restrictions.* *(1) Documents and material containing Restricted Data shall be transmitted only to persons who possess appropriate clearance or access authorization and are otherwise eligible for access under the requirements of § 95.31.

(2) In addition such documents and material shall be transmitted only to persons who possess facilities for their physical security consistent with this part. Any person subject to the regulation in this part who transmits such documents or material shall be deemed to have fulfilled his obligations under this subparagraph by securing a written certification from the prospective recipient that such recipient possesses facilities for its physical security consistent with this part.

(3) Documents and material containing Restricted Data shall not be exported from the United States without prior authorization of the Commission.

(b) *Preparation of documents.* Documents containing Restricted Data shall be prepared for transmission outside an individual installation in accordance with the following:

(1) They shall be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper shall be addressed in the ordinary manner and sealed with tape, the appropriate classification shall be placed on both sides of the envelope and the additional marking referred to in § 95.32 (d) shall be placed on the side bearing the address.

*(3) The outer envelope or wrapper shall be addressed in the ordinary manner. No classification, additional marking or other notation shall be affixed which indicates that the document enclosed therein contains classified information or Restricted Data.

(4) A receipt, which identifies the document, the date of transfer, the recipient and the person transferring the document shall accompany the document and shall be signed by the recipient and returned to the sender whenever the custody of a Secret document is transferred.

(c) *Preparation of material.* Material, other than documents, containing Restricted Data shall be prepared for shipment outside an individual installation in accordance with the following:

(1) The material shall be so packaged that the classified characteristics will not be revealed.

(2) A receipt which identifies the material, the date of shipment, the recipient, and the person transferring the material shall accompany the material and the recipient shall sign such receipt whenever the custody of Secret material is transferred.

(d) *Methods of transportation.* (1) Secret documents and material shall be transported only by one of the following methods:

(i) Registered mail.

(ii) Railway or air express in "Armed Guard Service" or "Armed Surveillance Service."

*(iii) Individuals possessing appropriate AEC security clearance or access authorization who have been given written authority by their employers.

(2) Confidential documents and material shall be transported by one of the methods set forth in subparagraph (1) of this paragraph or by one of the following methods:

(i) Certified or first-class mail, if approved by the Manager of Operations administering the Permit. Certified or first-class mail may not be used in any transmission of Confidential documents to Alaska, Hawaii, the Canal Zone, Puerto Rico, or any United States territory or possession.

(ii) Railway or air express "Protective Signature Service;" railway express "Recorded Tally Service;" airlines "Protective Signature Service", when available; rail or motor vehicles in sealed car or sealed van service; or services providing equivalent protection.

(iii) Material in less than carload, truckload, or planeload lots, by regular commercial carrier when the container and its contents weigh more than 500 pounds and such container is locked and sealed.

(e) *Transmission by cryptographic means.* Cryptographic systems shall not be used for the transmission of Restricted Data unless approved by the Commission.

*(f) *Telephone conversations.* No discussion of classified information is permitted during a telephone conversation.

§ 95.34 Accountability for Secret documents.

Each permittee possessing documents containing Secret Restricted Data shall establish a document accountability procedure and shall maintain records to show the disposition of all such documents which have been in his custody at any time.

§ 95.35 Authority to reproduce.

Nothing in this part shall be deemed to prohibit any person possessing documents containing Restricted Data from reproducing any Confidential documents, or any Secret documents originated by him. He shall not reproduce any other documents containing Secret Restricted Data without prior authorization from the Commission or from the originator of the document.

§ 95.36 Changes in classification.

*Documents containing Restricted Data shall not be downgraded to a lower classification or declassified except as authorized by the Commission. Requests for downgrading or declassification shall be submitted to the AEC's Operations Office administering the Permit; the U.S. Atomic Energy Commission, Declassification Branch, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tennessee; or U.S. Atomic Energy Commission, Washington 25, D.C., Attention: Division of Classification. If the Commission approves a change of classification or declassification, the previous classification marking shall be cancelled and the following statement, properly completed, shall be placed on the first page of the document:

Classification cancelled (or changed to) ______________________ by authority of
(insert appropriate classification)
____
(person authorizing change in classification)
by ______________________
(signature of person making change and date thereof)

Any person making a change in classification or receiving notice of such a change shall forward notice of the change in classification to holders of all copies as shown on his records.

§ 95.37 Destruction of documents or material containing Restricted Data.

*(a) Documents containing Restricted Data may be destroyed only by shredding and burning, pulping, or by any other method that assures complete destruction of the information. If the document contains Secret Restricted Data, a permanent record of the subject, title, or report number of the document, its date of preparation, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the last custodian.

(b) Restricted Data contained in material, other than documents, may be destroyed only by a method that assures complete obliteration, removal, or destruction of the Restricted Data.

§ 95.38 Suspension or revocation of access authorization.

*In any case where the access authorization of an individual subject to the regulations in this part is suspended or revoked in accordance with the procedures set forth in Part 10 of this chapter, such individual shall, upon due notice from the Commission of such suspension or revocation and demand by the Commission, deliver to the Commission any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.39 Expiration, suspension or revocation of Access Permits.

*(a) Upon expiration of an Access Permit, the person to whom such Permit has been issued may, except as provided in paragraph (b) of this section (1) deliver all documents or materials in his possession containing Restricted Data to the Commission or to a person authorized to receive them and file with the Commission a certificate of non-possession of Restricted Data; (2) destroy them, and file with the Commission a certificate of non-possession; or (3) file with the Commission a certified inventory of Restricted Data attached to a request for approval of retention of such data. A person retaining Restricted Data must maintain an active Access

Permit unless otherwise authorized by the Commission.

(b) In any case where an Access Permit has expired or has been suspended or revoked and the Commission has determined that further possession by the former Access Permit holder of documents or materials containing Restricted Data would endanger the common defense and security, such former Access Permit holder shall upon due notice from the Commission of such expiration, suspension, or revocation and of such determination, deliver to the Commission any and all documents or materials in his possession containing Restricted Data for safekeeping and such further disposition as the Commission determines to be just and proper.

§ 95.40 Termination of employment or change of duties.

*(a) Each Permittee shall furnish promptly to the Commission written notification of the termination of employment of each individual who possesses an access authorization under his Permit or whose duties are changed so that access to Restricted Data is no longer needed. Upon such notification, the Commission may (1) terminate the individual's access authorization or (2) transfer the individual's access authorization to the new employer of the individual to allow continued access to Restricted Data where authorized pursuant to Commission regulations.

*(b) Permittees shall also report to the cognizant AEC Operations Office at the end of each calendar year the use made of the Permit and access authorizations during the year, the number of "Q(X)" and "L(X)" access authorizations received or terminated during the year and the number remaining active at the end of the year and such other information requested by the Commission for determination of the use and continuing need of the Access Permit Program.

§ 95.41 Continued applicability of the regulations in this part.

The expiration, suspension, revocation or other termination of a security clearance or access authorization or Access Permit shall not relieve any person from compliance with the regulations in this part.

§ 95.42 Reports.

*Each Permittee shall report promptly to the Commission office administering the Access Permit all losses of Restricted Data documents or material and to that Commission office and the nearest office of the Federal Bureau of Investigation any alleged or suspected violation of the Atomic Energy Act or the Espionage Act.

§ 95.43 Inspection.

The Commission may make such inspections of the premises, activities, records, and procedures of any person subject to the regulations in this part as the Commission deems necessary to effectuate the purposes of the Act.

§ 95.44 Violations.

*An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Any person who willfully violates, attempts to violate or conspires to violate any provision of the Act or any regulation or order issued thereunder, including the provisions of this part, may be guilty of a crime and upon conviction may be punished by fine or imprisonment, or both, as provided by law.

NOTE: The record keeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated at Germantown, Maryland, this 8th day of August 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,
Secretary.

[F.R. Doc. 61-7697; Filed, Aug. 11, 1961; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

TERMINATION OF THE FEDERAL TRUST RELATIONSHIP TO THE PROPERTY OF THE KLAMATH TRIBE OF INDIANS LOCATED IN THE STATE OF OREGON, AND OF FEDERAL SUPERVISION OVER THE AFFAIRS OF THE INDIVIDUAL MEMBERS THEREOF

By the Secretary of the Interior of the United States of America

A Proclamation

Pursuant to the authority vested in me by section 18(a) of the Act of August 13, 1954 (68 Stat. 718; 25 USC 564(q)), as amended, I, James K. Carr, Acting Secretary of the Interior, do hereby proclaim that:

1. The Federal restrictions on the property of the Klamath Indian Tribe of Oregon and individual members thereof having been removed, the Federal trust relationship to the affairs of the tribe and its members is terminated, effective August 13, 1961.

2. Hereafter, individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians and, except as otherwise provided in the Act of August 13, 1954, supra, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to members of the tribe, and the laws of the several states shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

3. Nothing in this proclamation shall affect the status of members of the Klamath Tribe as citizens of the United States.

In witness whereof, I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed, this 10th day of August 1961.

[SEAL] JAMES K. CARR,
Acting Secretary of the Interior.

[F.R. Doc. 61-7760; Filed, Aug. 11, 1961; 10:07 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

KANSAS AND OREGON

Designation of Areas for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2(a)), as amended, it has been determined that in the following counties in the States of Kansas and Oregon a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

KANSAS

Norton.

OREGON

Harney. Malheur.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1962, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 8th day of August 1961.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 61-7694; Filed, Aug. 11, 1961; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Dept. Order 182, Rev. 4]

SIGNING OF OFFICIAL PAPERS IN OFFICE OF THE TREASURY

Delegation of Authority

Pursuant to section 304 of the Revised Statutes, as amended (31 U.S.C. 144), and upon recommendation of the Treasurer of the United States, I hereby authorize the persons who occupy the positions identified below in the Office of the Treasurer of the United States to sign as Special Assistant Treasurer or under their official titles, when required by the Treasurer of the United States, checks, letters, telegrams, and other official documents in connection with the business of the Treasurer's Office:

The Deputy Treasurer.
The Assistant Deputy Treasurer.
The Technical Assistant to the Deputy Treasurer.
The Administrative Officer.
The Personnel Officer.
The Chief, General Accounts Division.
The Chief, Electronic Data Processing Division.
The Assistant Chief, Electronic Data Processing Division.
The Chief, Check Accounting Division.
The Assistant Chief, Check Accounting Division.
The Chief, Check Claims Division.
The Assistant Chief, Check Claims Division.
The Technical Assistant Chief, Check Claims Division.
The Chief, Legal Examining and Accounts Branch, Check Claims Division.
The Chief, Adjudication Branch, Check Claims Division.
The Assistant Chief, Adjudication Branch, Check Claims Division.
The Chief, Securities Division.
The Chief, Currency Redemption Division.
The Assistant Chief, Currency Redemption Division.
The Administrative Assistant, Currency Redemption Division.

This order supersedes all prior authorizations to employees of the Treasurer's Office to sign checks, letters, telegrams, and other official documents in connection with the business of the Treasurer's Office.

Dated: August 9, 1961.

[SEAL] W. T. HEFFELFINGER,
Fiscal Assistant Secretary.

[F.R. Doc. 61-7698; Filed, Aug. 11, 1961; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-163]

GENERAL DYNAMICS CORP.

Notice of Issuance of Utilization Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 2, set forth below, to License No. R-67. The amendment provides an additional authorization to General Dynamics Corporation to conduct experiments in its TRIGA Mark F reactor located at Torrey Pines Mesa, California, using certain thermoelectric devices containing special nuclear material as requested in the Corporation's applications for license amendment dated June 5, 1961, and June 30, 1961, and adds certain new conditions to the license. The Commission has found that operation of the reactor in accordance with the terms and conditions of the license, as amended, will not present any undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has reviewed the shutdown procedures submitted by the licensee on January 26, 1961. A condition has been added to the license requiring the licensee to comply with these procedures.

A condition has also been added to the license requiring the licensee to report deviations from predicted operating characteristics which might otherwise not be reported.

The Commission has further found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the proposed experiments does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the reactor.

In accordance with the Commission's "Rules of Practice" (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon

receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. Petitions for leave to intervene and requests for a formal hearing shall be filed by mailing a copy to the Office of the Secretary, Atomic Energy Commission, Washington 25, D.C., or by delivery of a copy in person to the Office of the Secretary, Germantown, Maryland, or the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. For further details see (1) the applications for license amendment dated June 5, 1961, and June 30, 1961, submitted by General Dynamics Corporation, and (2) a hazards analysis of the proposed experiments prepared by the Test & Power Reactor Safety Branch of the Division of Licensing and Regulation, both on file at the AEC's Public Document Room. A copy of item (2) above may be obtained at the AEC's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 7th day of August 1961.

For the Atomic Energy Commission.

M. B. Biles,
Chief, Test & Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R-67, Amdt. 2]

AMENDMENT TO UTILIZATION FACILITY LICENSE

License No. R-67, as amended, issued to General Dynamics Corporation, is hereby amended in the following respects:

1. In addition to the activities previously authorized by the Commission in License No. R-67, as amended, General Dynamics Corporation is authorized to conduct experiments in its TRIGA Mark F reactor located at Torrey Pines Mesa, California, using certain thermoelectric devices containing special nuclear material as described in its applications for license amendment dated June 5, 1961, and June 30, 1961. The conduct of the experiments shall be in accordance with the procedures and subject to the limitations contained in License No. R-67, as amended, and in the applications for license amendment dated June 5, 1961, and June 30, 1961 and to the additional conditions set forth below:

A. The experiments shall be terminated upon the detection of any indication of possible failure, or abnormal behavior, of any of the capsules or fuel elements, or of any unusual reactor behavior. In such instance, a written report describing the results of the experiments shall be promptly submitted to the Commission and the experiments shall not be resumed until so authorized in writing by the Commission.

B. Except when performing the experiments described in the applications for license amendment dated June 5, 1961, and June 30, 1961 at power levels up to a maximum of 1500 kilowatts (thermal) General Dynamics Corporation shall not operate the reactor at power levels in excess of 1000 kilowatts (thermal).

2. Paragraph 4. of License No. R-67, as amended, is hereby amended to add new conditions 4.K. and 4.L. as follows:

4.K. General Dynamics Corporation shall comply with the shutdown procedures and precautions described in its submittal dated January 26, 1961, and the following additional limitations:

(1) General Dynamics Corporation shall maintain nuclear control instrumentation in operation and shall assure that such instrumentation is attended and observed at all times during operations which could involve changes in core reactivity when the facility is shut down.

(2) General Dynamics Corporation shall conduct core loading changes and all other operations which could involve changes in core reactivity when the facility is shut down only under the direct and personal supervision of a technically qualified and designated supervisor.

4.L. General Dynamics Corporation shall promptly submit a written report to the Commission whenever, during operation of the reactor any of the operating conditions or characteristics of the reactor, which might affect nuclear safety, is observed to vary significantly from its predicted value.

This amendment is effective as of the date of issuance:

Date of issuance: August 7, 1961.

For the Atomic Energy Commission.

M. B. Biles,
Chief, Test & Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 61-7671; Filed, Aug. 11, 1961; 8:45 a.m.]

[Docket No. 50-182]

PURDUE UNIVERSITY

Notice of Issuance of Construction Permit

Please take notice that no request for a formal hearing having been filed following filing of notice of the proposed action with the Office of the Federal Register on July 19, 1961, the Atomic Energy Commission has issued Construction Permit No. CPRR-64 authorizing Purdue University to construct on its campus in West Lafayette, Indiana, a pool-type nuclear reactor designed to operate at a thermal power of one kilowatt. The permit is substantially as published in the FEDERAL REGISTER on July 20, 1961, 26 F.R. 6532.

Dated at Germantown, Md., this 7th day of August 1961.

For the Atomic Energy Commission.

Edson G. Case,
Chief, Research & Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 61-7672; Filed, Aug. 11, 1961; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 12895; Order No. E-17289]

UNITED STATES-SOUTH AMERICA ROUTE CASE

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of August 1961.

The Board has decided that it is appropriate at this time to institute a comprehensive review of the U.S. flag carrier route pattern between the United States and South America. The most recent extensive study of that route structure was undertaken in 1946, some 15 years ago. Since then considerable developments, hereinafter referred to, have taken place which affect these services and require the review here contemplated.

Three U.S. carriers are presently certificated to provide the major services to points in South America. Pan American World Airways, Inc. (Pan American), is authorized to provide service between San Francisco, Los Angeles, Houston, New Orleans, Washington, Philadelphia, and New York-Newark, on the one hand, and points on the north and east coasts of South America including Rio de Janeiro and Buenos Aires, on the other hand, via points in Central America and the Caribbean, on route 136. Pan American-Grace Airways, Inc. (Panagra) is authorized to provide service between Balboa, Guayaquil, Lima, Santiago and Buenos Aires, via intermediate points, primarily along the west coast of South America, on route 146. Braniff Airways, Inc. (Braniff) is authorized to provide service between Houston and Miami, on the one hand, and Havana, Balboa, Bogota, Guayaquil, Lima, Rio de Janeiro and Buenos Aires, on the other hand, via intermediate points, on route FAM-34.[1]

As previously indicated, the basic U.S. flag carrier route patterns between the United States and South America presently in effect were established some years ago in the Additional Service to Latin America Case, 6 C.A.B. 857 (1946). Matters involving service between the United States and South America were, however, further considered in the New York-Balboa Through Service Proceeding, Reopened, 18 C.A.B. 501 (1954), 20 C.A.B. 493 (1954), and certain through-service aircraft interchange agreements were approved as a result of the New York-Balboa case by Order E-9481, 21 C.A.B. 1005 (1955). Also, the certification of a Los Angeles/San Francisco-Guatemala City route, last considered in Order E-9514, August 3, 1955, permitted Pan American to operate between the west coast of the United States and points in South America.

Since the original establishment of the basic South America route structure, there have been basic changes in technology and patterns of service. Thus, in 1944, the range of aircraft was relatively limited and operational requirements, as well as economic considerations, required multiple stops on the long-haul service. Today, available aircraft can, and do, serve the most distant points on a nonstop basis. Of the relative attractiveness of nonstop to multistop service in comparable equipment

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[1] Delta Air Lines, Inc. (Delta), is authorized to serve Caracas and certain Caribbean points on its Caribbean route 114 from Houston and New Orleans; and Aerovias Sud Americana, Inc. (ASA), is authorized to provide cargo and mail service (on a nonsubsidy basis) between Florida points and points in Central and South America. The only South American points presently served by ASA are Quito and Guayaquil, Ecuador.

there can be no question; consequently, the changed technology which has made nonstop services operationally feasible warrants a careful review of the economics of such service in relation to the existing and future route structure. Similarly, changes have taken place in the competitive picture. Prior to the decision in the Latin America Case, supra, Pan American and Panagra operated in competition with three foreign air carriers. Today, 19 South American foreign air carriers are authorized to serve the United States-South America market. There has also been an increase in service within South America by local carriers. Not only do these services rendered by non-U.S. flag carriers dilute the potential economic support for the services of the U.S. carriers, but also they bring into question the need for point-to-point duplication of such services. In this connection, we cannot be unmindful of the fact that the U.S. flag carriers' operations are marginal economically.

Our concern with the current South America route pattern is not a recent one. As long ago as 1954, the Board publicly suggested that the available traffic in South America did not warrant continuation of three United States flag services.[2] In the Interim Opinion in the New York-Balboa case, supra, it was noted that Braniff was not an effective competitor for South American traffic and that the public interest of the United States would be served by the establishment of a single independent carrier operation between Houston and Miami, on the one hand, and the points served on the combined routes of Panagra and Braniff, on the other hand. The Board then also voiced its interest in making such a route available to northeastern United States traffic. The hope then was that the carriers concerned would voluntarily seek to resolve the problem along the lines suggested.[3] In this connection, we were fully cognizant of the recent institution of a suit by the Attorney General against Pan American, Panagra, and W. R. Grace and Company, which, on antitrust grounds, sought divestiture by Pan American and Grace of their interest in Panagra. However, the principals did not come forward with a proposal. Instead, the suit was permitted to proceed to trial and judgment, and it is currently pending possible review by the United States Supreme Court.[4]

Assuming that the District Court's judgment, at least insofar as it ordered divestiture by Pan American of its interest in Panagra, is sustained,[5] it is clear that the Board will, in the near future, be called upon to consider further the consequences of divestiture with respect to U.S. flag services in South America. And in order for the Board to be able promptly and effectively to take such further steps as might be required in the circumstances, it would be well for it to have considered carefully the overall need for U.S. flag services in South America in the light of a litigated record.

Since the selection of carrier issues will remain somewhat clouded until final resolution of the pending antitrust suit, it appears appropriate and in the interest of a sound and orderly disposition of this proceeding to consider separately the appropriate route structure prior to consideration of selection of carrier matters. We recognize that factual matters relative to public convenience and necessity issues may also have their carrier selection aspects; similarly, we are not unmindful of the fact that, while the prescribed route pattern can be established in substantial part without regard to carrier selection, some adjustment in route pattern may be found necessary at the time we decide the carrier selection issues. We anticipate, however, the full cooperation of all concerned to facilitate an appropriate separation of these issues.

The Board intends that the scope of the proceeding instituted herein include issues with respect to authorization of services to new points, the deletion of presently certificated points, and the consolidation of separate routes into single routes.[6] Caribbean points will be considered only to the extent that they are in issue as possible intermediate points on United States-South America routes, and the proceeding will not examine services wholly within the Caribbean area, or between points in the United States and the Caribbean.

In its study of the South American route pattern, the Board has tentatively concluded that an east coast route and a west coast route are required. The details of the routes are set forth in the attached analysis. In addition, and because we have found that considerable route modifications are necessary to meet present needs and problems, we have compiled and attached hereto data which we believe will facilitate hearing and decision. The attached materials should serve as the focal point for the trial of this case, and we direct that the presentation of participants in the proceeding, unless otherwise ordered by the Board upon good cause shown therefor, be pointed to showing why and in what manner the conclusions derived from the study should be modified. Such an approach can restrict the hearing to relevant and material facts and otherwise minimize procedural delay.

In this regard, it is our intention to notice officially all reports, tariffs and schedules required to be filed with the Board by all air carriers, and all public Board reports based on these data; all published or prepared CAB Origination-Destination Airlines Traffic Surveys; all air traffic data published by IATA, ICAO and INS; all airline schedules published in the monthly editions of the Official Airline Guide; and all information and data contained in published editions of the Statesman's Yearbook. These materials need not be specially compiled by the parties for the record in this proceeding. Moreover, the data and information contained in the attached appendices[7] are taken from these sources and therefore are generally subject to challenge only in regard to the inferences and conclusions the Board has tentatively drawn therefrom. Any parties or interested persons wishing to challenge the factual correctness of these appendices will be expected to do so by submitting specific rebuttal data at the time set for filing exhibits.

Accordingly, it is ordered, 1. That an investigation be and it hereby is instituted to determine whether the public convenience and necessity require and the Board should order the alteration, amendment, modification, suspension or cancellation in whole, or in part, of the certificates of Pan American World Airways, Inc., for route 136; of Pan American-Grace Airways, Inc., for route 140; of Braniff Airways, Inc.; for route FAM-34; and of Delta Air Lines, Inc., for route 114, insofar as air transportation between the United States and South America is concerned, and whether the public convenience and necessity require and the Board should modify the certificate or certificates of all or any one of the named carriers in order to implement the route pattern set forth in the attached study.[7]

2. That motions to modify the issues herein and to consolidate applications shall be filed within 20 days of the date of service of this order;

3. That this proceeding shall be set down for hearing before an Examiner of the Board at a time and place to be hereafter determined;

4. That this proceeding shall be conducted in two separate stages to be decided by the Board seriatim, the first dealing with the route pattern required by the public convenience and necessity, and the second dealing with the selection of a carrier or carriers to provide the required services;

5. That a copy of this order shall be served upon Pan American World Airways, Inc., Pan American-Grace Airways, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., the Department of State, the Department of Defense, and the Post-

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[2] Reopened New York-Balboa Through Service Case, 18 C.A.B. 501.

[3] The powers granted the Board in the Federal Aviation Act of 1958 and its predecessor, the Civil Aeronautics Act of 1938, do not include authority to compel merger, or to terminate the entire route of a carrier.

[4] The District Court for the Southern District of New York handed down a decision on May 8, 1961, U.S. v. Pan American World Airways, Inc., W. R. Grace and Company, and Pan American-Grace Airways, Inc., Civ. 90-259. Pan American filed a notice of appeal in the Supreme Court on May 11, 1961.

[5] The Attorney General had sought divestiture by both Grace and Pan American.

[6] Pending certificate applications involving service between the United States and South America will be considered for consolidation upon appropriate request submitted within 20 days of the date of service of this order. Applications not moved for consolidation will be subject to dismissal for lack of prosecution.

[7] Filed as part of original document.

master General who are hereby made parties to this proceeding;

6. That a copy of this order shall also be served upon Aerovias Sud Americana; and

7. That this order be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 61-7704; Filed, Aug. 11, 1961; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-13550, G-17513, G-18626, G-20512, RP61-5]

SOUTH GEORGIA NATURAL GAS CO.

Order Consolidating Proceedings, Fixing Date of Hearing, and Prescribing Procedure

AUGUST 7, 1961.

The proceedings in the above-captioned dockets involve increased rates and charges tendered for filing by South Georgia Natural Gas Company (South Georgia). In each of these proceedings the Commission has issued orders suspending the increased rates and charges aforesaid and provided for a hearing on the lawfulness of the tariffs as proposed to be amended by the changes filed in each docket.

The Commission finds: It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act and good cause exists to consolidate all of the above-designated proceedings for purpose of hearing and decision and that such hearing be held as hereinafter provided and ordered.

The Commission orders:

(A) The proceedings identified in the above caption of this order are consolidated for purposes of hearing and decision.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, particularly Sections 4 and 15 thereof, and the Commission's Rules of Practice and Procedure, a public hearing shall be held commencing on October 24, 1961, at 10:00 a.m., e.d.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 the proceedings herein consolidated.

(C) Respondent shall serve the exhibits and prepared testimony constituting its case-in-chief in these consolidated proceedings upon all parties and the Commission staff (six copies) on or before September 15, 1961.

(D) At the hearing hereinabove ordered South Georgia shall present its direct case in each of the above-designated proceedings and shall be cross-examined thereon as required by the Presiding Examiner in accordance with the Commission's rules of practice and procedure.

(E) Any party now permitted to intervene in any of the above dockets shall be deemed an intervener in this consolidated proceeding, subject to the same conditions heretofore stated in the orders permitting the respective interventions.

(F) Petitions to intervene in these consolidated proceedings may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 6, 1961.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-7682; Filed, Aug. 11, 1961; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

LICENSED BIOLOGICAL PRODUCTS

Notice is hereby given that pursuant to section 351 of the Public Health Service Act, as amended (42 U.S.C. 262), and regulations issued thereunder (42 CFR Part 73), the following establishment license and product license actions have been taken from April 16, 1961, to July 15, 1961, inclusive.

These lists are supplementary to the lists of licensed establishments and products in effect on April 15, 1961, published on July 1, 1961, in 26 F.R. 5961.

ESTABLISHMENT LICENSES ISSUED

Establishment	License No.	Date
Interstate Blood Bank, Inc., St. Louis, Mo	268	4-24-61
Eastern Blood Bank, Jersey City, N.J	336	4-24-61
Armour Pharmaceutical Co., Chicago, Ill	149	4-24-61
Wyeth Laboratories, Inc., Marietta, Pa	3	5-16-61
Essex County Blood Bank, Inc., East Orange, N.J	221	6- 6-61
Glaxo Laboratories Ltd., Greenford, Middlesex, England	337	6-20-61
Knickerbocker Biologicals, Inc., New York, N.Y	164	6-21-61

PRODUCT LICENSES ISSUED

Product	Establishment	License No.	Date
Anti-K Serum (Anti-Kell)	Community Blood Bank and Serum Service.	295	4-24-61
Anti-Kp^a Serum (Anti-Penney)	Knickerbocker Blood Bank, Inc	164	4-24-61
Citrated Whole Blood (Human)	Eastern Blood Bank	336	4-24-61
Anti-Hemophilus Influenzae Type b Serum	Hyland Laboratories	140	4-28-61
Poison Ivy Extract, Alum Precipitated	Barry Laboratories, Inc	119	5-16-61
Anti-Gr (V_w) Serum	Blood Grouping Laboratory of Boston, Inc.	159	5-4-61
Anti-s Serum	do		5-25-61
Tuberculin, Purified Protein Derivative	Glaxo Laboratories Ltd	337	6-20-61

ESTABLISHMENT LICENSES REVOKED WITHOUT PREJUDICE

Establishment	License No.	Date
Community Blood Service, Inc., St. Louis, Mo	268	4-24-61
Armour Pharmaceutical Co., Division of Armour and Company of Chicago, Ill., Kankakee, Ill	149	4-24-61
Wyeth Laboratories, Inc., Marietta, Pa	144	5-16-61
Essex County Blood Bank, Inc., Newark N.J	221	6-6-61
Knickerbocker Laboratories, Inc., Philadelphia, Pa	324	6-23-61
Knickerbocker Blood Bank, Inc., New York, N.Y	164	6-23-61

PRODUCT LICENSES REVOKED WITHOUT PREJUDICE

Product	Establishment	License No.	Date
Measles Immune Serum (Human)	Philadelphia Serum Exchange	139	4-5-61
Mumps Immune Serum (Human)	do		
Scarlet Fever Immune Serum (Human)	do		
Mumps Skin Test Antigen	do		
Measles Immune Serum (Human)	Milwaukee Blood Center, Inc	187	4-28-61
Mumps Immune Serum (Human)	do		
Normal Human Serum	do		
Pertussis Immune Serum (Human)	do		
Poliomyelitis Immune Serum (Human)	do		
Scarlet Fever Immune Serum (Human)	do		
Anti-A,B Blood Grouping Serum	Jacksonville Blood Bank, Inc	181	5-29-61
Citrated Whole Blood (Human)	Knickerbocker Laboratories, Inc	324	6-23-61

[SEAL] RODERICK MURRAY,
Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, Department of Health, Education, and Welfare.

Approved:
J. STEWART HUNTER,
Assistant to the Surgeon General for Information, Public Health Service, Department of Health, Education, and Welfare.

[F.R. Doc. 61-7703; Filed, Aug. 11, 1961; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice No. 532]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 9, 1961.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63535. By order of August 7, 1961, The Transfer Board approved the transfer to Thomas W. Kidd, Jr., Inc., Point Road, Portsmouth, Rhode Island, of the operating rights authorized to Thomas W. Kidd, Jr., 144 Williston Street, Fall River, Mass., in Certificate No. MC 101527, issued August 5, 1941, authorizing the transportation of *such road-building commodities and excavated materials* as are transported in dump trucks and can be unloaded by dumping, and *road-building machinery* and *equipment*, in dump trucks, over irregular routes, between points in Bristol County, Mass., on the one hand, and, on the other, points in Bristol, Newport, and Providence Counties, R.I.

No. MC-FC 64203. By order of August 3, 1961, The Transfer Board approved the transfer to Downtown Movers, Inc., Brooklyn, N.Y., of Certificate No. MC 94926, issued April 3, 1941, to George H. Hocking, Yonkers, N.Y., authorizing the transportation of: Household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, over irregular routes, between points in Westchester County, N.Y., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Connecticut, Massachusetts, and Rhode Island. David Brodsky, 1776 Broadway, New York, N.Y., attorney for Transferee. William D. Traub, 350-5th Ave., New York, N.Y., attorney for Transferor.

No. MC-FC 64350. By order of August 4, 1961, The Transfer Board approved the transfer to C. Lee Williams, doing business as Lee Williams Truck Service, Liberal, Kans., of Certificate No. MC 97830 Sub 2, issued May 10, 1955, to Harold Palmer, doing business as Palmer Truck Line, Tyrone, Texas; authorizing the transportation of: Commodities similar to those covered in the Mercer Description between points in Kansas, Oklahoma, and a specified portion of Texas. Dan Felts, P.O. Box 1117, Austin, Texas, attorney for applicants.

No. MC-FC 64364. By order of August 3, 1961, The Transfer Board approved the transfer to C. F. Schwartz, Inc., Dover, Del., of Certificates Nos. MC 11168, MC 11168 Sub 3, and MC 11168 Sub 6, issued March 20, 1942, April 21, 1950, and January 19, 1956, to Clarence F. Schwartz doing business as C. F. Schwartz, Dover, Del., authorizing the transportation, over irregular routes, of general commodities, excluding household goods and commodities in bulk, from Baltimore, Md., and Philadelphia, Pa., to Dover, Wyoming, and Georgetown, Del.; and from points in Pennsylvania, Maryland, and the District of Columbia within 90 miles of Wyoming, Del., to Wyoming, Del.; household goods, between points in Delaware, on the one hand, and, on the other, points in New York, New Jersey, Maryland, Pennsylvania, Virginia, and the District of Columbia; canned goods, applebutter, ketchup and pickles, in containers, from points in Kent County, Del., to specified points in Virginia, Maryland, New York, New Jersey, Pennsylvania, and the District of Columbia; lumber and shingles, from Elizabeth City, N.C., and Suffolk and Norfolk, Va., to Dover, Del.; coal, from specified points in Pennsylvania to points within 8 miles of Dover, Del., including Dover; and from Renova, Pa., to Dover, Pa.; tomato plants from specified points in Georgia to specified points in Delaware; agricultural commodities, from points in Kent and Sussex Counties, Del., and Allen, Md., to Baltimore, Md., Newark, N.J., Philadelphia, Pa., New York, N.Y., and Washington, D.C.; empty cartons from Delair, N.J., to Wyoming and Houston, Del.; concrete pipe, from Dover, Del., and Norfolk, Va., to specified counties in Virginia, Maryland and Delaware; concrete pipe and machinery and equipment used or useful in the manufacture of concrete pipe, between Dover, Del., and Norfolk, Va.; vinegar, from Biglersville, Pa., to Wyoming, Del.; insecticides and spray materials, from Philadelphia, Pa., and Baltimore, Md., to points in Kent and Sussex Counties, Del.; agricultural commodities, from points in Kent and Sussex Counties, Del., to Baltimore, Md., Philadelphia, Pa., and points in the District of Columbia; grain, from points in Kent County, Del., to Philadelphia, Pa., Ellicott City, and Baltimore, Md.; canned goods, from Frederica, Del., to Philadelphia, Pa., Baltimore, Perryville, and Aberdeen, Md., and points in the District of Columbia; lumber and fertilizer, from Baltimore, Md., to points in New Castle County, Del., except Wilmington, Del.; and radio cabinets, from Middletown, Del., to Philadelphia, Pa. Clarence F. Schwartz, MR 13, Dover, Delaware, representative for applicants.

No. MC-FC 64375. By order of August 7, 1961, The Transfer Board approved the transfer to La Greta Lowman Reely, doing business as Reely's Storage and Freight Terminal, Missoula, Mont., of Certificates Nos. MC 102649 and MC 102649 Sub 3, as amended, respectively, issued June 5, 1942, and May 21, 1945, to G. Evan Reely, doing business as Reely's Storage and Freight Terminal, authorizing the transportation of household goods, over irregular routes, between points in Montana, between points in Montana, on the one hand, and, on the other, points in Idaho, Oregon, Washington, California, and Nevada, and between points in Montana on and west of U.S. Highway 89, on the one hand, and, on the other, points in Wyoming, Colorado, Utah, Arizona, and North Dakota. Walter D. Matson, 1625 K Street NW., Washington 6, D.C., applicants' attorney.

No. MC-FC 64388. By order of August 4, 1961, The Transfer Board approved the transfer to John William Eldred, doing business as Conrad Transfer & Storage Company, 547 North 13th Street, Terre Haute, Ind., of Permit No. MC 109470, issued August 24, 1948, to Joseph A. Conrad, doing business as Conrad Transfer Company, 547 North 13th Street, Terre Haute, Ind., authorizing the transportation of such merchandise, as is dealt in by mail-order houses and their stores, over irregular routes, between Terre Haute, Ind., on the one hand, and, on the other, points in Illinois and Indiana within 50 miles of Terre Haute, Ind.

No. MC-FC 64428. By order of August 7, 1961, The Transfer Board approved the transfer to The A-Z Trucking Co., a Corporation, New Haven, Conn., of Certificate No. MC 109899 Sub 1, issued December 29, 1952, to Albert Zampiello doing business as A Z Trucking Company, East Haven, Conn., authorizing the transportation, over irregular routes of paper, paper articles, and wooden boxes, from New Haven, Conn., to points in New York and Massachussetts; electric fixtures, from New Haven, Conn., to points in Connecticut, New Jersey, and Massachusetts; wooden boxes, from points in Massachusetts to New Haven, Conn.; new furniture and materials and supplies used in the manufacture of new furniture,, between New Haven, Conn., on the one hand, and, on the other, points in Massachusetts, New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia; and household goods, as defined by the Commission, between New Haven, Conn., and points within 20 miles thereof, on the one hand, and, on the other, points in Vermont, New Hampshire, Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Connecticut, and the District of Columbia. Reubin Kaminsky, 410 Asylum Street, Hartford, Conn., attorney for applicants.

[SEAL] HAROLD D. MCCOY, *Secretary*.

[F.R. Doc. 61-7695; Filed, Aug. 11, 1961; 8:47 a.m.]

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