designated representative, and to the agency.

§ 9.306 **Finality of decision.**

The Board's decision on appeal shall be final. There is no further right of appeal. A recommendation by the Board for corrective action is mandatory. The agency shall comply promptly with such a recommendation and shall report promptly to the Board that such action has been taken.

§ 9.307 **The Commissioners.**

In their discretion, the Commissioners may reopen and reconsider any previous decision when in their judgment such action appears warranted by the circumstances.

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

[F.R. Doc. 61-191; Filed, Jan. 10, 1961; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

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

SUBCHAPTER C—EXPORT PROGRAMS

[Rev. 1; Amdt. 3]

PART 484—FEED GRAINS

Subpart—Feed Grain Export Program Payment in Kind (GR-368) Terms and Conditions

The Terms and Conditions of Revision I of the Feed Grain Export Program Payment In Kind (GR-368) (24 F.R. 7092) are further amended as follows:

§ 484.116 **[Amendment]**

1. Section 484.116(a) is amended to read as follows:

(a) If export is by water, a non-negotiable copy or photostat of the on-board-ship bill of lading signed by an agent of the ocean carrier. The bill of lading must show the name of the vessel, the date and place of issuance, the weight of the feed grain, the number or description of the hold or tank in which the feed grain was stowed, the country to which the feed grain was shipped, and if exported under Public Law 480, 83rd Congress, the purchase authorization number. Where loss, destruction or damage to the feed grain occurs subsequent to loading aboard the ocean carrier but prior to issuance of the on-board-ship bill of lading, one copy of a loading tally sheet or acceptable similar document may be substituted for the ocean bill of lading.

2. Section 484.150 is amended to read as follows:

§ 484.150 **Eligible country.**

"Eligible Country" means any destination outside the continental limits of the United States, excluding Alaska, Canada, Hawaii or Puerto Rico, and also excluding any country or area for which an export license is required under regulations issued by the Bureau of Foreign Commerce, U.S. Department of Commerce unless a license for shipment or transshipment thereto has been obtained from such Bureau.

(Sec. 5, 62 Stat. 1072; 15 U.S.C. 714c. Interpret or apply sec. 407, 63 Stat. 1051, as amended; sec. 201(a), 70 Stat. 188; 7 U.S.C. 1427, 1851)

Issued this 5th day of January 1961.

WALTER C. BERGER,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 61-194; Filed, Jan. 10, 1961; 8:49 a.m.]

Title 7—AGRICULTURE

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

[Lemon Reg. 879, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

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 et seq.; 68 Stat. 906, 1047), 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 amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1) (i), (ii) of § 953.986 (Lemon Regulation 879, 25 F.R. 14015) are hereby amended to read as follows:

(i) District 1: 37,200 cartons;
(ii) District 2: 195,300 cartons.

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

Dated: January 5, 1961.

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

[F.R. Doc. 61-180; Filed, Jan. 10, 1961; 8:46 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 11]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Waiver of Requirements

There was published in the FEDERAL REGISTER on November 29, 1960 (25 F.R. 12208), a proposal to amend § 107.301-1, relating to the waiver of the requirement that each State charter shall contain the paragraph specified in that section. For clarifying purposes the proposed amendment has been repositioned and is herewith adopted as § 107.301-1a.

Interested persons were given an opportunity to present their comments, or suggestions pertaining thereto, to the Investment Division, Small Business Administration, Washington 25, D.C., within 15 days after the date of publication of the notice in the FEDERAL REGISTER. After consideration of all such relevant matter as was presented by interested persons regarding the proposed amendment, the amendment of the regulation as so proposed is hereby adopted with minor revisions.

Because of the necessity for promptly applying the proposed procedures to the program authorized under the Small Business Investment Act of 1958, as amended, the subject amendment shall become effective upon publication thereof in the FEDERAL REGISTER.

The Small Business Investment Company Regulation (23 F.R. 9383), as amended (25 F.R. 1397, 2354, 3316, 5374, 5478, 5825, 7276, 8068, 8855, and 10087), is hereby further amended by:

Adding the following new § 107.301-1a after § 107.301-1. New § 107.301-1a reads as follows:

§ 107.301-1a **Waiver of paragraph required by § 107.301-1.**

In the event SBA, for cause satisfactory to SBA, waives the inclusion in a Licensee's State charter of that portion of the general provision (set forth in the second sentence of § 107.301-1) which identifies the manner of operation, powers, responsibilities, and limitations of the Licensee by specific reference to the Act and regulations issued thereunder: The charter of such a Licensee, in lieu of such identification by reference, shall set forth specifically and in detail the manner of operation, powers, responsibilities, and limitations of the Licensee which are required of a Licensee as specified in and contemplated by the Act and regulations and to the extent and in a manner satisfactory to SBA. Further, any such Licensee shall, from time to time, amend its charter in order to conform its charter purpose, manner of operation, powers, responsibilities, and limitations with those contained in and contemplated by the Act and the regulations issued by SBA thereunder from time to time.

(Sec. 308, 72 Stat. 694; 15 U.S.C. 687)

Dated: January 5, 1961.

[SEAL] PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 61-182; Filed, Jan. 10, 1961; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[File No. 21-530]

PART 51—FLUOROCARBONS INDUSTRY

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of January 11, 1961.

Statement by the Commission. Trade practice rules for the Fluorocarbons Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which these trade practice rules are established is composed of persons, firms, corporations, or organizations engaged in the manufacture, fabrication, processing and sale, or in the sale and distribution, of finished or semifinished products which are composed in whole or substantial part of fluorocarbon resins, such as, but not limited to, gaskets, bearings, rods, tubes, hose, and machinery parts, as well as electric wire and cable, or other products coated with fluorocarbon resins.

Proceedings for the establishment of these rules were instituted upon application of the Fluorocarbons Division of the Society of the Plastics Industry. A general industry conference was held under Commission auspices in New York, New York, on December 4, 1959, at which proposals for rules were submitted for consideration of the Commission. Thereafter, proposed rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held in New York, N.Y., on September 15, 1960, and all matters there presented, or otherwise received in the proceeding, were considered by the Commission.

Thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved the rules as hereinafter set forth.

The rules, as approved, become operative thirty (30) days after the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

The unfair trade practices embraced in the rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

AUTHORITY: §§ 51.0 to 51.21 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 51.0 Definitions.

As used in this part the terms "industry member" and "industry products" shall have the following meaning:

(a) *Industry member.* Any person, firm, corporation or organization engaged in the manufacture, fabrication, processing and sale of industry products, as defined below, and also those engaged in the sale and distribution of such products although the same are manufactured, fabricated or processed by others.

(b) *Industry products.* Finished or semi-finished products composed in whole or substantial part of fluorocarbon resins, such as, but not limited to, gaskets, bearings, rods, tubes, hose, sheets, and machinery parts, as well as, electric wire and cable or other products coated with fluorocarbon resins.

§ 51.1 Misrepresentation and deception in general.

It is an unfair trade practice to use, or cause or promote the use of, any trade promotional literature, advertising matter, guarantee, warranty, mark, brand, label, trade name, picture, design or device, designation, or other type of oral or written representation, however disseminated or published, which directly or by implication, or through failure to disclose material information has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers with respect to the type, kind, grade, quality, quantity, size, weight, nature, substance, durability, serviceability, origin, preparation, production, manufacture, distribution, or customary and usual price, of any product of the industry, or which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any other material respect. [Rule 1]

§ 51.2 Misrepresentation as to character of business.

It is an unfair trade practice for any member of the industry to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising or otherwise, that he is a manufacturer of industry products, or that he is the owner or operator of a factory manufacturing them, when such is not the fact, or in any other manner to misrepresent the character, extent, volume, or type of his business. [Rule 2]

§ 51.3 Misrepresenting products as conforming to standard.

In connection with the sale or offering for sale of industry products, it is an unfair trade practice to represent, through advertising or otherwise, that such products conform to any standards recognized in or applicable to the industry when such is not the fact. [Rule 3]

§ 51.4 Misuse of terms "close-outs," "discontinued lines," "special bargains," etc.

It is an unfair trade practice to offer for sale, sell, advertise, describe, or otherwise represent regular lines of industry products as "close-outs," "discontinued lines," "special bargains," or by words or representations of similar import, when such are not true in fact; or to so offer for sale, sell, advertise, describe, or otherwise represent industry products where the capacity and tendency or effect thereof is to lead the purchaser or prospective purchaser to believe such products are being offered for sale or sold at greatly reduced prices, or at so-called "bargain" prices, when such is not the fact. [Rule 4]

§ 51.5 Substitution of products.

It is an unfair trade practice for an industry member to make an unauthorized substitution of products, where such substitution has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, by:

(a) Shipping or delivering industry products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery; or

(b) Falsely representing the reason for making a substitution. [Rule 5]

§ 51.6 Deceptive use of trade or corporate names, trade-marks, etc.

It is an unfair trade practice for any member of the industry to use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the character, name, nature, or origin of any product of the industry, or of any material used therein, or which is false or misleading in any material respect. [Rule 6]

§ 51.7 False invoicing.

Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, when having the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice. [Rule 7]

§ 51.8 Fictitious prices, price lists, etc.

The publishing or circulating by any member of the industry of false price quotations, price lists, terms or conditions of sale, or reports as to production or sales, when having the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, or the advertising, sale, or offering for sale of industry products at prices purporting to be reduced from what are in fact fictitious prices, or at purported reductions in prices when such purported reductions are in fact fictitious or are otherwise misleading or deceptive, is an unfair trade practice. [Rule 8]

§ 51.9 Guarantees, warranties, etc.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member:

(1) To represent that any industry product is guaranteed unless, in close conjunction with such representation, the identity of the guarantor, the extent and nature of the guarantee, and any material conditions or limitations relating to the liability of the guarantor under the guarantee, are adequately and nondeceptively disclosed; or

(2) To offer or use any guarantee respecting an industry product under which the guarantor fails to observe his obligations; or

(3) To offer or use any guarantee which is otherwise deceptive or unfair.

NOTE: On April 26, 1960, the Commission adopted "Guides Against Deceptive Advertising of Guarantees" which are set forth as an appendix to these rules.[1]

(b) This section shall be applicable not only to guarantees but also to warranties, to purported guarantees and warranties, and to any promise or representation in the nature of a guarantee or warranty. [Rule 9]

§ 51.10 Prohibited forms of trade restraints (unlawful price fixing, etc.)[2]

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 10]

§ 51.11 Prohibited sales below cost.

(a) The practice of selling products of the industry at a price less than the cost thereof to the seller, with the purpose or intent, and where the effect is, or where there is a reasonable probability that the effect will be, to substantially injure, suppress or stifle competition or tend to create a monopoly, is an unfair trade practice.

(b) This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued with the wrongful intent or purpose referred to and where the effect is, or where there is reasonable probability that the effect will be, to substantially injure, suppress, or stifle competition or to create a monopoly. Among the situations in which the requisite purpose or intent would ordinarily be lacking are cases in which such sales were: (1) Of seasonal goods near the conclusion of the season; (2) of obsolescent goods; (3) made under judicial process; or (4) made in bona fide discontinuance of business in the goods concerned.

(c) As used in paragraphs (a) and (b) of this section, the term "cost" means the respective seller's cost and not an average cost in the industry whether such average cost be determined by an industry cost survey or some other method. It consists of the total outlay or expenditure by the seller in the acquisition, production, and distribution of the products involved, and comprises all elements of cost such as labor, material, depreciation, taxes (except taxes on net income and such other taxes as are not properly applicable to cost), and general overhead expenses, incurred by the seller in the acquisition, manufacture, processing, preparation for marketing, sale, and delivery of the products. Not to be included are dividends or interest on borrowed or invested capital, or nonoperating losses, such as fire losses and losses from the sale or exchange of capital assets. Operating cost should not be reduced by items of nonoperating income, such as income from investments, and gain on the sale of capital assets.

(d) Nothing in this section shall be construed as relieving an industry member from compliance with any of the requirements of the Robinson-Patman Act. [Rule 11]

§ 51.12 Prohibited discrimination.[3]

(a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate,

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[1] Copies available at the Federal Trade Commission.

[2] The inhibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

[3] As used in this section, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however:*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use;

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

NOTE: Cost justification under subparagraph (2) of this paragraph depends upon net savings in cost based on all facts relevant to the transactions under the terms of such subparagraph. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not necessarily follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to absolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) *Examples of prohibited price differential practices.* The following are examples of price differential practices to be considered as subject to the prohibitions of paragraph (a) of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by schools, colleges, universities, public libraries, churches, hospitals, or charitable institutions not operated for profit, as supplies for their own use, and when:

(1) The commerce requirements specified in paragraph (a) of this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injuring, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and

(3) The price differential is not justified by cost savings (see paragraph (a)(2) of this section; and

(4) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see paragraph (a)(4) of this section); and

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a)(5) of this section).

Example No. 1. At the end of a given period an industry member grants a discount to a customer equivalent to a fixed percentage of the total of the customer's purchases during such period and fails to grant a discount of the same percentage to other customers on their purchases during such period.

Example No. 2. An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether or not such discrimination is accomplished by misrepresentation as to the grade and quality of the products sold.

(c) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE 1. Industry members giving advertising allowances to competing customers must exercise precaution and diligence in seeing that all of such allowances are used in accordance with the terms of their offers.

NOTE 2. When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(e) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE: See subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section.

(f) *Clarification.* (1) The following is presented for the purpose of clarifying the requirements of paragraphs (d) and (e) of this section with respect to the supplying of marketing services, facilities or allowances by industry members to their customers, but it is not intended to imply by such presentation that other methods which assure of proportional equality of treatment of competing customers may not also be used.

(2) An industry member may simultaneously offer to each of his customers competing in the resale of his products the same kind of promotional service, facility or allowance of a cost value equal to a uniform percentage of the sales (or purchases) of the industry member's products by each customer during a specified and identical period of time: *Provided, however,* That when the service, facility or allowance offered is of a type which under reasonable terms and conditions is not usable or suitable to the facilities and business of all customers, and is offered to any one customer, the member offer each of those customers to whom the service, facility or allowance is not usable or suitable an alternative type of promotional service, facility or allowance which is of equivalent measurable cost, is

usable by the customer, and is suitable to his facilities and business, and promptly inform all competing customers of the kind and amount of services, facilities or allowances which he has offered to each and the respective terms and conditions under which such services, facilities or allowances are to be furnished by the industry member; *And provided, further,* That when the offer of any service, facility or allowance to any customer is conditioned on such customer supplying some reciprocal service, facility or payment, a reciprocal service, facility or payment be required in the offers to all other customers and there be an equality of ratio among all customers as to the measurable cost of that which is supplied by the industry member and the reciprocal service, facility or payment required of any customer. The industry member must take every reasonable precaution to see that services, facilities or allowances which he furnishes to customers are used in accord with the terms of his offer; and upon failure of the customer to perform any obligation on his part the industry member must cease supplying the customer any further service, facility or allowance.

(g) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of paragraphs (a) to (f) of this section. [Rule 12]

§ 51.13 Lifting of stocks.

It is an unfair trade practice for any member of the industry to purchase the stock of a distributor or dealer which has been supplied by a competitor or competitors when such practice is done as an inducement to the distributor or dealer to discontinue handling competitive products and to handle such member's products exclusively, and where the effect of such act or practice may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 13]

§ 51.14 Consignment distribution.

(a) It is an unfair trade practice for any member of the industry to employ the practice of shipping industry products on consignment without the express request or prior consent of the purchaser.

(b) It is an unfair trade practice for any member of the industry to employ the practice of shipping industry products on consignment or pretended consignment for the purpose and with the effect of artificially clogging or closing trade outlets and restricting competitors' use of said trade outlets in getting their products to purchasers through regular channels of distribution, thereby injuring, destroying, or preventing competition or tending to create a monopoly or unreasonably to restrain trade.

(c) Nothing in this section shall be construed to authorize any understanding or agreemnt, combination or conspiracy, or planned common course of action, by and between industry members, mutually to conform or restrict their practice of shipping goods on consignment with the intent or effect of lessening competition. [Rule 14]

§ 51.15 Defamation of competitors or false disparagement of their products.

The defamation of competitiors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of competitors' products in any respect, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

NOTE: Nothing in this section shall be construed as preventing the full, fair, and nondeceptive comparison, by demonstration or otherwise, of competitors' products with the products of another industry member before purchasers or prospective purchasers.

[Rule 15]

§ 51.16 Procurement of competitors' confidential information by unfair means and wrongful use thereof.

It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure competition or unreasonably restrain trade. [Rule 16]

§ 51.17 Enticing away employees of competitors.

It is an unfair trade practice for any member of the industry wilfully to entice away employees or sales representatives of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition: *Provided,* That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of competitors in good faith and not for the purpose of injuring, destroying, or preventing competition. [Rule 17]

§ 51.18 Exclusive deals.

It is an unfair trade practice for any member of the industry to lease, contract to sell or sell any industry product, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 18]

§ 51.19 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 19]

§ 51.20 Unlawful interference with competitors' purchases or sales.

It is an unfair trade practice for any member of the industry, by means of any monopolistic practices or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his materials and supplies from whomsoever he chooses, or to sell his product to whomsoever he chooses. [Rule 20]

§ 51.21 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in this part. [Rule 21]

Issued: January 6, 1961.

By direction of the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 61-111; Filed, Jan. 10, 1961; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55290]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

PART 11—PACKING AND STAMPING; MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

Recall of Merchandise Released From Customs Duty

Customs Form 4647, Notice That Goods Must Be Redelivered and Legally Marked or Exported or Destroyed Under Customs Supervision, covering cases of failure to comply with marking requirements to show country of origin, has now been revised to extend its application to the demand and notice to the importer required under the Customs Regulations pertaining to the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act. To provide for the extended use of this form, the Customs Regulations are amended as set forth below:

1. a. In Part 8, § 8.26(a) is amended by inserting "customs Form 4647," following "customs Form 3483," in the second sentence. The second sentence, as amended, will read as follows: "The demand for the return of the merchandise shall be by letter, or on customs Form 3483, customs Form 4647, or other appropriate form."

b. The third sentence of § 8.26(c) is amended to read as follows: "The collector may also demand the return to customs custody of any merchandise for the purpose of requiring it to be marked or labeled pursuant to the provisions of paragraph 367 or 368, section 304, Tariff Act of 1930, as amended, the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, or the Textile Fiber Products Identification Act."

(Secs. 499, 624, 46 Stat. 728, as amended, 759; 19 U.S.C. 1499, 1624)

2. In Part 11, §§ 11.12(d), 11.12a(d), and 11.12b(d) are amended by substituting "§ 8.26" for "§ 8.26(a)" where it appears therein.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

The use of revised customs Form 4647 shall be effected when the form is reprinted. In the meantime, existing forms for notification that goods must be returned to customs custody for compliance with the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, and the Textile Products Identification Act shall be used.

[SEAL] LAWTON W. KING,
Acting Commissioner of Customs.

Approved: January 4, 1961.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 61-192; Filed, Jan. 10, 1961; 8:49 a.m.]

[T.D. 55287]

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

Length of Time Records Must Be Retained by Public

Certain provisions of the Customs Regulations require the public to maintain records without specifying the period of time such records shall be retained. The following amendments are made to fix the period of time for the retention of such records.

1. Section 10.111(b), Customs Regulations, is amended by adding the following sentence: "The proof of use shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry."

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

2. Section 10.113(b), Customs Regulations, is amended by adding the following sentence: "The proof of use shall be based on adequate and carefully kept records of the importer, which shall be open at all times to inspection by employees of the Customs Service and which shall be retained for a period of 3 years from the date of liquidation of the entry."

(Sec. 1, 73 Stat. 596; 19 U.S.C. 1201 (par. 1823))

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

Approved: December 29, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 61-178; Filed, Jan. 10, 1961; 8:46 a.m.]

[T.D. 55286]

PART 14—APPRAISEMENT

Action by Appraiser; Appearance of Importer

In order to insure uniformity of action in the appraisement of merchandise subject to a dumping finding in any instance in which dumping duties are reimbursed in whole or in part by the seller, § 14.9 is amended by deleting the citation of authority at the end thereof and by adding the following new paragraph (f):

(f) In calculating purchase price or exporter's sales price, as the case may be, there shall be deducted the amount of any special dumping duties which are, or will be, paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly.

(Secs. 201, 202, 203, 204, 208, 407, 42 Stat. 11, as amended, 12, 13, 14, 18, sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 160, 161, 162, 163, 167, 173, 1486)

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

Approved: December 30, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R Doc. 61-177; Filed, Jan. 10, 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 D—Food Additives Permitted in Food for Human Consumption

MODIFIED STARCH

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by Corn Industries Research Foundation, Inc., 1001 Connecticut Avenue NW., Washington 6, D.C., Corn Products Company, 717 Fifth Avenue, New York 22, New York, National Starch and Chemical Corporation, 1700 West Front Street, Plainfield, New Jersey, and American Maize-Products Company, 113th Street and Indianapolis Boulevard, Roby, Indiana, and other relevant material, has concluded that the following regulation should issue in conformity with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the food additive modified starch for use in food as a thickener, to improve texture and palatability, and to impart stability. Therefore, pursuant to the provisions of the 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), Part 121 of the food additive regulations (21 CFR Part 121) is amended by adding thereto the following new section:

§ 121.1031 Modified starch.

Modified starch may be safely used in foods as a thickener, to improve texture and palatability, and to impart stability, under the following prescribed conditions:

(a) Modified starch is a food starch which, in acordance with good manufacturing practice, has been structurally altered in part, in one of the following ways:

(1) By treatment with not more than 0.055 pound of chlorine, as sodium hypochlorite, per pound of dry starch.

(2) By treatment with not more than 0.3 percent of epichlorhydrin.

(3) By treatment with not more than 0.1 percent of phosphorus oxychloride.

(4) By treatment with sodium trimetaphosphate so as to contain no more than 0.04 percent phosphate, calculated as phosphorus.

(b) To assure safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, "modified starch."

(2) Information describing how the starch is modified.

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: January 5, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 61-188; Filed Jan. 10, 1961; 8:47 a.m.]

PART 121—FOOD ADDITIVES

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

PACKAGING STARCH

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by Corn Industries Research Foundation, Inc., 1001 Connecticut Avenue NW., Washington 6, D.C., and National Starch and Chemical Corporation, 1700 West Front Street, Plainfield, New Jersey, and other relevant material, has concluded that the following regulation should issue in conformity with section 409 of the Federal Food, Drug, and Cosmetic Act with respect to the food additive packaging starch for surface sizing and coating of paper and paperboard for use in food packaging. Therefore, pursuant to the provisions of the 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), Part 121 of the food additive regulations (21 CFR part 121) is amended by adding thereto the following new section:

§ 121.2506 **Packaging starch.**

Packaging starch may be safely used as a surface sizing or coating for paper or paperboard intended for food packaging, under the following prescribed conditions:

(a) Packaging starch is (1) modified starch or (2) a food starch which in accordance with good manufacturing practice has been structurally altered in part in one of the following ways:

(1) By treatment with not more than 3.0 percent of ethylene oxide.

(2) By treatment with not more than 3.0 percent of β-diethylamino-ethylchloride hydrochloride.

(b) To assure safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, "packaging starch."

(2) Information describing how the starch is modified.

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: January 5, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 61-189; Filed, Jan. 10, 1961; 8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6525]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

"Scientific" Organizations

On November 15, 1960, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) to prescribe a definition of the term "scientific", as used in section 501(c)(3) of the Internal Revenue Code of 1954, and to prescribe rules with respect to the taxation under section 511 of such Code of income derived from certain research, was published in the FEDERAL REGISTER (25 F.R. 10850). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as so published are hereby adopted, subject to the following change: Paragraph (d)(5) of § 1.501(c)(3)-1 is revised by adding a new subdivision at the end thereof.

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: January 5, 1961.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

PARAGRAPH 1. Paragraph (d) of § 1.501(c)(3)-1 is amended by adding the following new subparagraph at the end thereof:

§ 1.501(c)(3)-1 **Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.**

* * * * *

(d) *Exempt purposes.* * * *

(5) *Scientific defined.* (i) Since an organization may meet the requirements of section 501(c)(3) only if it serves a public rather than a private interest, a "scientific" organization must be organized and operated in the public interest (see subparagraph (1)(ii) of this paragraph). Therefore, the term "scientific", as used in section 501(c)(3), includes the carrying on of scientific research in the public interest. Research when taken alone is a word with various meanings; it is not synonymous with "scientific"; and the nature of particular research depends upon the purpose which it serves. For research to be "scientific", within the meaning of section 501(c)(3), it must be carried on in furtherance of a "scientific" purpose. The determination as to whether research is "scientific" does not depend on whether such research is classified as "fundamental" or "basic" as contrasted with "applied" or "practical". On the other hand, for purposes of the exclusion from unrelated business taxable income provided by section 512(b)(9), it is necessary to determine whether the organization is operated primarily for purposes of carrying on "fundamental", as contrasted with "applied", research.

(ii) Scientific research does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, as, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc.

(iii) Scientific research will be regarded as carried on in the public interest—

(*a*) If the results of such research (including any patents, copyrights, processes, or formulae resulting from such research) are made available to the public on a nondiscriminatory basis;

(*b*) If such research is performed for the United States, or any of its agencies or instrumentalities, or for a State or political subdivision thereof; or

(*c*) If such research is directed toward benefiting the public. The following are examples of scientific research which will be considered as directed toward benefiting the public, and, therefore, which will be regarded as carried on in the public interest: (*1*) Scientific research carried on for the purpose of aiding in the scientific education of college or university students; (*2*) scientific research carried on for the purpose of obtaining scientific information, which is published in a treatise, thesis, trade publication, or in any other form that is available to the interested public; (*3*) scientific research carried on for the purpose of discovering a cure for a disease; or (*4*) scientific research carried on for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area. Scientific research described in this subdivision (*c*) will be regarded as carried on in the public interest even though such research is performed pursuant to a contract or agreement under which the sponsor or sponsors of the research have the right to obtain ownership or control of any patents, copyrights, processes, or formulae resulting from such research.

(iv) An organization will not be regarded as organized and operated for the purpose of carrying on scientific research in the public interest and, consequently, will not qualify under section 501(c)(3) as a "scientific" organization, if—

(*a*) Such organization will perform research only for persons which are (directly or indirectly) its creators and which are not described in section 501 (c)(3), or

(*b*) Such organization retains (directly or indirectly) the ownership or control of more than an insubstantial portion of the patents, copyrights, processes, or formulae resulting from its research and does not make such patents, copyrights, processes, or formulae available to the public. For purposes of this subdivision, a patent, copyright, process, or formula shall be considered as made available to the public if such patent, copyright, process, or formula is made available to the public on a nondiscriminatory basis. In addition, although one person is granted the exclusive right to the use of a patent, copyright, process, or formula, such patent, copyright, process, or formula shall be considered as made available to the public if the granting of such exclusive right is the only practicable manner in which the patent, copyright, process, or formula can be utilized to benefit the public. In such a case, however, the research from which the patent, copyright, process, or formula resulted will be regarded as carried on in the public interest (within the meaning of subdivision (iii) of this subparagraph) only if it is carried on for a person described in subdivision (iii)(*b*) of this subparagraph or if it is scientific research described in subdivision (iii)(*c*) of this subparagraph.

(v) The fact that any organization (including a college, university, or hospital) carries on research which is not in furtherance of an exempt purpose described in section 501(c)(3) will not preclude such organization from meeting the requirements of section 501(c)(3) so long as the organization meets the organizational test and is not operated for the primary purpose of carrying on such research (see paragraph (e) of this section, relating to organizations carrying on a trade or business). See paragraph (a)(5) of § 1.513–1, with respect to research which constitutes an unrelated trade or business, and section 512(b) (7), (8), and (9), with respect to income derived from research which is excludable from the tax on unrelated business income.

(vi) The regulations in this subparagraph are applicable with respect to taxable years beginning after December 31, 1960.

PAR. 2. Paragraph (a) of § 1.513–1 is amended by adding the following new subparagraph at the end thereof:

§ 1.513–1 Definition of unrelated trade or business.

(a) *In general.* * * *

(5) If an organization receives a payment pursuant to a contract or agreement under which such organization is to perform research which constitutes an unrelated trade or business, the entire amount of such payment is income from an unrelated trade or business. See, however, section 512(b) (7), (8), and (9), relating to the exclusion from unrelated business taxable income of income derived from research for the United States, or any State, and of income derived from research performed for any person by a college, university, hospital, or organization operated primarily for the purpose of carrying on fundamental research the results of which are freely available to the general public.

[F.R. Doc. 61–195; Filed, Jan. 10, 1961; 8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 785—HOURS WORKED

The purpose of the revision is to improve the usefulness of the regulations in 29 CFR Part 785 by increasing the number of sections in relation to the number of typographical units and by adding citations to some recent court decisions that involve principles discussed in these regulations.

Now, therefore, pursuant to the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and General Order No. 45–A of the Secretary of Labor (15 F.R. 3290), 29 CFR Part 785 is hereby revised to read as follows:

AUTHORITY: §§ 785.1 to 785.51 issued under 52 Stat. 1060; 29 U.S.C. 201–219.

Subpart A—General Considerations

§ 785.1 Introductory statement.

The Fair Labor Standards Act (52 Stat. 1060, 29 U.S.C. 201 et seq.) requires that each employee, not specifically exempted, who is engaged in interstate commerce or in the production of goods for such commerce, receive the statutory minimum wage. It also provides that no such employee may be employed for more than 40 hours a week without receiving at least time and one-half of his regular rate of pay for the overtime hours. The amount of money an employee should receive cannot be determined without knowing the number of hours he has worked. This part discusses the principles involved in determining what constitutes working time. It also seeks to apply these principles to situations that frequently arise. It cannot include every possible situation. No inference should be drawn from the fact that a subject or an illustration is omitted. If doubt arises inquiries should be sent to the Administrator of the Wage and Hour and Public Contracts Divisions, United States Department of Labor, Washington 25, D.C., or to any Regional Office of the Divisions. A list of such offices is contained in § 785.51.

§ 785.2 Decisions on interpretations; use of interpretations.

The ultimate decisions on interpretations of the act are made by the courts. The Administrator must determine in the first instance the positions he will take in the enforcement of the act. The regulations in this part seek to inform the public of such positions. It should thus provide a "practical guide for employers and employees as to how the office representing the public interest in its enforcement will seek to apply it." (Skidmore v. Swift, 323 U.S. 134, 138 (1944))

§ 785.3 Period of effectiveness of interpretations.

These interpretations will remain in effect until they are rescinded, modified or withdrawn. This will be done when and if the Administrator concludes upon re-examination, or in the light of judicial decision, that a particular interpretation, ruling or enforcement policy is incorrect or unwarranted. All other rulings, interpretations or enforcement policies inconsistent with any portion of this part are superseded by it. The Portal-to-Portal Bulletin (Part 790 of this chapter) is still in effect except insofar as it may not be consistent with any portion hereof. The applicable statutory provisions are set forth in § 785.50.

§ 785.4 Application to Walsh-Healey Public Contracts Act.

The principles set forth in this part are are also followed by the Administrator of the Wage and Hour and Public Contracts Division in determining hours worked by employees performing work subject to the provisions of the Walsh-Healey Public Contracts Act.

Subpart B—Principles for Determination of Hours Worked

§ 785.5 General requirements of sections 6 and 7 of the Fair Labor Standards Act.

Section 6 requires the payment of the minimum wage by an employer to his employees who are subject to the act. Section 7 prohibits their employment for more than 40 hours without proper overtime compensation.

§ 785.6 Definition of "employ" and partial definition of "hours worked".

By statutory definition the term "employ" includes (section 3(g)) "to suffer or permit to work." The act, however, contains no definition of "work." Section 3(o) of the Fair Labor Standards Act contains a partial definition of "hours worked" in the form of a limited exception for clothes-changing and wash-up time.

§ 785.7 Judicial construction.

The United States Supreme Court originally stated that employees subject to the act must be paid for all time spent in "physical or mental exertion (whether burdensome or not) controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer or his business." (Tennessee Coal, Iron & Railroad Co. v. Muscoda Local No. 123, 321 U.S. 590 (1944)) Subsequently, the Court ruled that there need be no exertion at all and that all hours are hours worked which the employee is required to give his employer, that "an employer, if he chooses, may hire a man to do nothing, or to do nothing but wait for something to happen. Refraining from other activity often is a factor of instant readiness to serve, and idleness plays a part in all employments in a stand-by capacity. Readiness to serve may be hired, quite as much as service itself, and time spent lying in wait for threats to the safety of the employer's property may be treated by the parties as a benefit to the employer." (Armour & Co. v. Wantock, 323 U.S. 126 (1944); Skidmore v. Swift, 323 U.S. 134 (1944)) The workweek ordinarily includes "all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place." (Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680 (1946)) The Portal-to-Portal Act did not change the rule except to provide an exception for preliminary and postliminary activities. See § 785.34.

§ 785.8 Effect of custom, contract, or agreement.

The principles are applicable even though there may be a custom, contract, or agreement not to pay for the time so spent, with certain special statutory exceptions discussed in §§ 785.9 and 785.15.

§ 785.9 Statutory exceptions.

(a) The *Portal-to-Portal Act.* The Portal-to-Portal Act (secs. 1–13, 61 Stat. 84–89, 29 U.S.C. 251–262) eliminates from working time certain travel and walking time and other similar "preliminary" and "postliminary" activities performed "prior" or "subsequent" to the "workday" that are not made compensable by contract, custom, or practice. It should be noted that "preliminary" activities do not include "principal" activities. See §§ 790.6 to 790.8 of this chapter. Section 4 of the Portal-to-Portal Act does not affect the computation of hours worked within the "workday." "Workday," in general, means the period between "the time on any particular workday at which such employee commences [his] principal activity or activities" and "the time on any particular workday at which he ceases such principal activity or activities." The "workday" may thus be longer than the employee's scheduled shift, hours, tour of duty, or time on the production line. Also, its duration may vary from day to day depending upon when the employee commences or ceases his "principal" activities. With respect to time spent in any "preliminary" or "postliminary" activity compensable by contract, custom, or practice, the Portal-to-Portal Act requires that such time must also be counted for purposes of the Fair Labor Standards Act. There are, however, limitations on this requirement. The "preliminary" or "postliminary" activity in question must be engaged in during the portion of the day with respect to which it is made compensable by the contract, custom, or practice. Also, only the amount of time allowed by the contract or under the custom or practice is required to be counted. If, for example, the time allowed is 15 minutes but the activity takes 25 minutes, the time to be added to other working time would be limited to 15 minutes. (Galvin v. National Biscuit Co., 82 F. Supp. 535 (S.D.N.Y. 1949) appeal dismissed, 177 F. 2d 963 (C.A. 2, 1949))

(b) *Section 3(o) of the Fair Labor Standards Act.* Section 3(o) excludes certain time spent at the beginning or at the end of the workday in washing up or changing clothes, if these activities are excluded from measured working time by the provisions of, or by custom or practice under, a bona fide collective bargaining agreement applicable to the particular employee.

Subpart C—Application of Principles

§ 785.10 Scope of subpart.

This subpart applies the principles to the problems which arise frequently.

EMPLOYEES "SUFFERED OR PERMITTED" TO WORK

§ 785.11 General.

Work not requested but suffered or permitted is work time. For example, an employee may voluntarily continue to work at the end of the shift. He may be a pieceworker, he may desire to finish an assigned task or he may wish to correct errors, paste work tickets, prepare time reports or other records. The reason is immaterial. The employer knows or has reason to believe that he is continuing to work and the time is working time. (Handler v. Thrasher, 191, F. 2d 120 (C.A. 10, 1951); Republican Publishing Co. v. American Newspaper Guild, 172 F. 2d 943 (C.A. 1, 1949; Kappler v. Republic Pictures Corp., 59 F. Supp. 112 (S.D. Iowa 1945), aff'd 151 F. 2d 543 (C.A. 8, 1945); 327 U.S. 757 (1946); Hogue v. National Automotive Parts Ass'n, 87 F. Supp. 816 (E.D. Mich. 1949); Barker v. Georgia Power & Light Co., 2 W.H. Cases 486; 5 CCH Labor Cases, para. 61,095 (M.D. Ga. 1942); Steger v. Beard & Stone Electric Co., Inc., 1 W.H. Cases 593; 4 Labor Cases 60,643 (N.D. Texas 1941))

§ 785.12 **Work performed away from the premises or job site.**

The rule is also applicable to work performed away from the premises or the job site, or even at home. If the employer knows or has reason to believe that the work is being performed, he must count the time as hours worked.

§ 785.13 **Duty of management.**

In all such cases it is the duty of the management to exercise its control and see that the work is not performed if it does not want it to be performed. It cannot sit back and accept the benefits without compensating for them. The mere promulgation of a rule against such work is not enough. Management has the power to enforce the rule and must make every effort to do so.

WAITING TIME

§ 785.14 **General.**

Whether waiting time is time worked under the act depends upon particular circumstances. The determination involves "scrutiny and construction of the agreements between particular parties, appraisal of their practical construction of the working agreement by conduct, consideration of the nature of the service, and its relation to the waiting time, and all of the circumstances. Facts may show that the employee was engaged to wait, or they may show that he waited to be engaged." (Skidmore v. Swift, 323 U.S. 134 (1944)) Such questions "must be determined in accordance with common sense and the general concept of work or employment." (Central Mo. Tel. Co. v. Conwell, 170 F. 2d 641 (C.A. 8, 1948))

§ 785.15 **On duty.**

A stenographer who reads a book while waiting for dictation, a messenger who works a crossword puzzle while awaiting assignments, fireman who plays checkers while waiting for alarms and a factory worker who talks to his fellow employees while waiting for machinery to be repaired are all working during their periods of inactivity. The rule also applies to employees who work away from the plant. For example, a repair man is working while he waits for his employer's customer to get the premises in readiness. The time is worktime even though the employee is allowed to leave the premises or the job site during such periods of inactivity. The periods during which these occur are unpredictable. They are usually of short duration. In either event the employee is unable to use the time effectively for his own purposes. It belongs to and is controlled by the employer. In all of these cases waiting is an integral part of the job. The employee is engaged to wait. (See: Skidmore v. Swift, 323 U.S. 134, 137 (1944); Wright v. Carrigg, 275 F. 2d 448, 14 W.H. Cases (C.A. 4, 1960); Mitchell v. Wigger, 39 Labor Cases, para. 66,278, 14 W.H. Cases 534 (D.N.M. 1960); Mitchell v. Nicholson, 179 F. Supp. 292, 14 W.H. Cases 487 (W.D.N.C. 1959))

§ 785.16 **Off duty.**

(a) *General.* Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own purposes are not hours worked. He is not completely relieved from duty and cannot use the time effectively for his own purposes unless he is definitely told in advance that he may leave the job and that he will not have to commence work until a definitely specified hour has arrived. Whether the time is long enough to enable him to use the time effectively for his own purposes depends upon all of the facts and circumstances of the case .

(b) *Truck drivers; specific examples.* A truck driver who has to wait at or near the job site for goods to be loaded is working during the loading period. If the driver reaches his destination and while awaiting the return trip is required to take care of his employer's property, he is also working while waiting. In both cases the employee is engaged to wait. Waiting is an integral part of the job. On the other hand, for example, if the truck driver is sent from Washington, D.C., to New York City, leaving at 6 a.m. and arriving at 12 noon, and is completely and specifically relieved from all duty until 6 p.m. when he again goes on duty for the return trip, the idle time is not working time. He is waiting to be engaged. (Skidmore v. Swift, 323 U.S. 134, 137 (1944); Walling v. Dunbar Transfer & Storage, 3 W.H. Cases 284; 7 Labor Cases para. 61,565 (W.D. Tenn. 1943); Gifford v. Chapman, 6 W.H. Cases 806; 12 Labor Cases para. 63,661 (W.D. Okla. 1947); Thompson v. Daugherty, 40 Supp. 279 (D. Md. 1941))

§ 785.17 **On-call time.**

An employee who is required to remain on call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes is working while "on call." An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is not working while on call. (Armour & Co. v. Wantock, 323 U.S. 126 (1944); Handler v. Thrasher, 191 F. 2d 120 (C.A. 10, 1951); Walling v. Bank of Waynesboro, Georgia, 61 F. Supp. 384 (S.D. Ga. 1945))

REST AND MEAL PERIODS

§ 785.18 **Rest.**

Rest periods of short duration, running from 5 minutes to about 20 minutes, are common in industry. They promote the efficiency of the employee and are customarily paid for as working time. They must be counted as hours worked. Compensable time of rest periods may not be offset against other working time such as compensable waiting time or on-call time. (Mitchell v. Greinetz, 235 F. 2d 621, 13 W.H. Cases 3 (C.A. 10, 1956); Ballard v. Consolidated Steel Corp., Ltd., 61 F. Supp. 996 (S.D. Cal. 1945))

§ 785.19 **Meal.**

(a) *Bona fide meal periods.* Bona fide meal periods are not worktime. Bona fide meal periods do not include coffee breaks or time for snacks. These are rest periods. The employee must be completely relieved from duty for the purposes of eating regular meals. Ordinarily 30 minutes or more is long enough for a bona fide meal period. A shorter period may be long enough under special conditions. The employee is not relieved if he is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his desk or a factory worker who is required to be at his machine is working while eating. (Culkin v. Glenn L. Martin, Nebraska Co. 97 F. Supp. 661 (D. Neb. 1951), aff'd 197 F. 2d 981 (C.A. 8, 1952), cert. denied 344 U.S. 866 (1952) rehearing denied 344 U.S. 888 (1952); Thompson v. Stock & Sons, Inc., 93 F. Supp. 213 (E.D. Mich. 1950), aff'd 194 F. 2d 493 (C.A. 6, 1952); Biggs v. Joshua Hendy Corp., 183 F. 2d 515 (C.A. 9, 1950), 187 F. 2d 447 (C.A. 9, 1951); Walling v. Dunbar Transfer and Storage Co., 3 W.H. Cases 284; 7 Labor Cases para 61,565 (W.D. Tenn. 1943); Lofton v. Seneca Coal and Coke Co., 2 W.H. Cases 669; 6 Labor Cases para. 61,271 (N.D. Okla. 1942); aff'd 136 F. 2d 359 (C.A. 10, 1943); cert. denied 320 U.S. 772 (1943); Mitchell v. Tampa Cigar Co., 36 Labor Cases para. 65,198, 14 W.H. Cases 38 (S.D. Fla. 1959); Douglass v. Hurwitz Co., 145 F. Supp. 29, 13 W.H. Cases (E.D. Pa. 1956))

(b) *Where no permission to leave premises.* It is not necessary that an employee be permitted to leave the premises if he is otherwise completely freed from duties during the meal period.

SLEEPING TIME AND CERTAIN OTHER ACTIVITIES

§ 785.20 **General.**

Under certain conditions an employee is considered to be working even though some of his time is spent in sleeping or in certain other activities.

§ 785.21 **Less than 24-hour duty.**

An employee who is required to be on duty for less than 24 hours is working even though he is permitted to sleep or engage in other personal activities when not busy. A telephone operator, for example, who is required to be on duty for specified hours is working even though she is permitted to sleep when not busy answering calls. It makes no difference that she is furnished facilities for sleeping. Her time is given to her employer. She is required to be on duty and the time is worktime. (Central Mo. Telephone Co. v. Conwell, 170 F. 2d 641 (C.A. 8, 1948); Strand v. Garden Valley Telephone Co., 51 F. Supp. 898 (D. Minn. 1943); Whitsitt v. Enid Ice & Fuel Co., 2 W.H. Cases 584; 6 Labor Cases para. 61,226 (W.D. Okla. 1942))

§ 785.22 Duty of 24 hours or more.

(a) *General.* Where an employee is required to be on duty for 24 hours or more, the employer and the employee may agree to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than 8 hours from hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. If sleeping period is of more than 8 hours, only 8 hours will be credited. Where no expressed or implied agreement to the contrary is present, the 8 hours of sleeping time and lunch periods constitute hours worked. (Armour v. Wantock, 323 U.S. 126 (1944); Skidmore v. Swift, 323 U.S. 134 (1944); General Electric Co. v. Porter, 208 F. 2d 805 (C.A. 9, 1953), cert. denied, 347 U.S. 951, 975 (1954); Bowers v. Remington Rand, 64 F. Supp. 620 (S.D. Ill. 1946), aff'd 159 F. 2d 114 (C.A. 7, 1946) cert. denied 330 U.S. 843 (1947); Bell v. Porter, 159 F. 2d 117 (C.A. 7, 1946) cert. denied 330 U.S. 813 (1947); Bridgeman v. Ford, Bacon & Davis, 161 F. 2d 962 (C.A. 8, 1947); Rokey v. Day & Zimmerman, 157 F. 2d 736 (C.A. 8, 1946); McLaughlin v. Todd & Brown, Inc., 7 W.H. Cases 1014; 15 Labor Cases para. 64,606 (N.D. Ind. 1948); Campbell v. Jones & Laughlin, 70 F. Supp. 996 (W.D. Pa. 1947))

(b) *Interruptions of sleep.* If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Divisions have adopted the rule that if the employee cannot get at least 5 hours' sleep during the scheduled period the entire time is working time. (See Eustice v. Federal Cartridge Corp., 66 F. Supp. 55 (D. Minn. 1946))

§ 785.23 Employees residing on employer's premises or working at home.

An employee who resides on his employer's premises on a permanent basis or for extended periods of time is not considered as working all the time he is on the premises. Ordinarily, he may engage in normal private pursuits and thus have enough time for eating, sleeping, entertaining, and other periods of complete freedom from all duties when he may leave the premises for purposes of his own. It is of course difficult to determine the exact hours worked under these circumstances and any reasonable agreement of the parties which takes into consideration all of the pertinent facts will be accepted. This rule would apply, for example, to the pumper of a stripper well who resides on the premises of his employer and also to a telephone operator who has the switchboard in her own home. (Skelly Oil Co. v. Jackson, 194 Okla. 183, 148 P. 2d 182 (Okla. Sup. Ct. 1944; Thompson v. Loring Oil Co., 50 F. Supp. 213 (W.D. La. 1943))

PREPARATORY AND CONCLUDING ACTIVITIES

§ 785.24 Principles noted in Portal-to-Portal Bulletin.

In November 1947, the Administrator issued the Portal-to-Portal Bulletin (Part 790 of this chapter). In dealing with this subject, § 790.8 (b) and (c) of this chapter said:

(b) The term "principal activities" includes all activities which are an integral part of a principal activity. Two examples of what is meant by an integral part of a principal activity are found in the report of the Judiciary Committee of the Senate on the Portal-to-Portal bill. They are the following:

(1) In connection with the operation of a lathe, an employee will frequently, at the commencement of his workday, oil, grease, or clean his machine, or install a new cutting tool. Such activities are an integral part of the principal activity, and are included within such term.

(2) In the case of a garment worker in a textile mill, who is required to report 30 minutes before other employees report to commence their principal activities, and who during such 30 minutes distributes clothing or parts of clothing at the workbenches of other employees and gets machines in readiness for operation by other employees, such activities are among the principal activities of such employee.

Such preparatory activities, which the Administrator has always regarded as work and as compensable under the Fair Labor Standards Act, remain so under the Portal Act, regardless of contrary custom or contract.

(c) Among the activities included as an integral part of a principal activity are those closely related activities which are indispensible to its performance. If an employee in a chemical plant, for example, cannot perform his principal activities without putting on certain clothes, changing clothes on the employer's premises at the beginning and end of the workday would be an integral part of the employee's principal activity. On the other hand, if changing clothes is merely a convenience to the employee and not directly related to his principal activities, it would be considered as a "preliminary" or "postliminary" activity rather than a principal part of the activity. However, activities such as checking in and out and waiting in line to do so would not ordinarily be regarded as integral parts of the principal activity or activities.

§ 785.25 Illustrative U.S. Supreme Court decisions.

These principles have guided the Administrator in the enforcement of the act. Two cases decided by the U.S. Supreme Court further illustrate the types of activities which are considered an integral part of the employees' jobs. In one, employees changed their clothes and took showers in a battery plant where the manufacturing process involved the extensive use of caustic and toxic materials. (Steiner v. Mitchell, 350 U.S. 247 (1956)) In another case knifemen in a meatpacking plant sharpened their knives before and after their scheduled workday. (Mitchell v. King Packing Co., 350 U.S. 260 (1950)) In both cases the Supreme Court held that these activities are an integral and indispensable part of the employees' principal activities.

§ 785.26 Section 3(o) of the Fair Labor Standards Act.

Section 3(o) of the act provides an exception to the general rule for employees under collective bargaining agreements. This section provides for the exclusion of time spent in changing clothes or washing at the beginning or end of the workday, if the time is excluded by the express terms of or by a custom or practice under a bona fide collective bargaining agreement applicable to the particular employee.

LECTURES, MEETINGS AND TRAINING PROGRAMS

§ 785.27 General.

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if the following four criteria are met:

(a) Attendance is outside of the employee's regular working hours;

(b) attendance is in fact voluntary;

(c) the course, lecture, or meeting is not directly related to the employee's job; and

(d) the employee does not perform any productive work during such attendance.

§ 785.28 Involuntary attendance.

Attendance is not voluntary, of course, if it is required by the employer. It is not voluntary in fact if the employee is given to understand or led to believe that his present working conditions or the continuance of his employment would be adversely affected by nonattendance.

§ 785.29 Training directly related to employee's job.

The training is directly related to the employee's job if it is designed to make the employee handle his job more effectively as distinguished from training him for another job. For example, a stenographer who is given a course in stenography is engaged in an activity to make her a better stenographer. Time spent in such a course given by the employer or under his auspices is hours worked. However, if the stenographer takes a course in bookkeeping, it may not be directly related to her job. Thus, the time she spends voluntarily in taking such a bookkeeping course, outside of regular working hours, need not be counted as working time.

§ 785.30 Independent training.

Of course, if an employee on his own initiative attends an independent school, college or independent trade school after hours, the time is not hours worked for his employer even if the courses are related to his job.

§ 785.31 Special situations.

There are some special situations where the time spent in attending lectures, training sessions and courses of instruction is not regarded as hours worked. For example, an employer may establish for the benefit of his employees a program of instruction which corresponds to courses offered by independent bona fide institutions of learning. Voluntary attendance by an employee at such courses outside of working hours would not be hours worked even if they are directly related to his job, or paid for by the employer.

§ 785.32 Apprenticeship training.

As an enforcement policy, time spent in an organized program of related, supplemental instruction by employees working under bona fide apprenticeship programs may be excluded from working time if the following criteria are met:

(a) The apprentice is employed under a written apprenticeship agreement or program which substantially meets the fundamental standards of the Bureau of Apprenticeship and Training of the U.S. Department of Labor; and

(b) Such time does not involve productive work or performance of the apprentice's regular duties. If the above criteria are met the time spent in such related supplemental training shall not be counted as hours worked unless the written agreement specifically provides that it is hours worked. The mere payment or agreement to pay for time spent in related instruction does not constitute an agreement that such time is hours worked.

TRAVEL TIME

§ 785.33 General.

The principles which apply in determining whether or not time spent in travel is working time depend upon the kind of travel involved. The subject is discussed in §§ 785.35 to 785.41, which are preceded by a brief discussion in § 785.34 of the Portal-to-Portal Act as it applies to travel time.

§ 785.34 Effect of section 4 of the Portal-to-Portal Act.

The Portal Act provides in section 4(a) that except as provided in subsection (b) no employer shall be liable for the failure to pay the minimum wage or overtime compensation for time spent in "walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities." Subsection (b) provides that the employer shall not be relieved from liability if the activity is compensable by express contract or by custom or practice not inconsistent with an express contract Thus travel time at the commencement or cessation of the workday which was originally considered as working time under the Fair Labor Standards Act (such as underground travel in mines or walking from time dock to work-bench need not be counted as working time unless it is compensable by contract, custom or practice. If compensable by express contract or by custom or practice not inconsistent with an express contract, such travel time must be counted in computing hours worked. However, ordinary travel from home to work (see § 785.35) need not be counted as hours worked even if the employer agrees to pay for it. (See Tennessee Coal, Iron & RR. Co. v. Muscoda Local, 321 U.S. 590 (1946); Anderson v. Mt. Clemens Pottery Co., 328 U.S. 690 (1946); Walling v. Anaconda Copper Mining Co., 66 F. Supp. 913 (D. Mont. (1946))

§ 785.35 Home to work; ordinary situation.

An employee who travels from home before his regular workday and returns to his home at the end of the workday is engaged in ordinary home to work travel which is a normal incident of employment. This is true whether he works at a fixed location or at different job sites. Normal travel from home to work is not worktime.

§ 785.36 Home to work in emergency situations.

There may be instances when travel from home to work is worktime. For example, if an employee who has gone home after completing his day's work is subsequently called out at night to travel a substantial distance to perform an emergency job for one of his employer's customers, all time spent on such travel is working time. The Divisions are taking no position on whether travel to the job and back home by an employee who receives an emergency call outside of his regular hours to report back to his regular place of business to do a job is working time.

§ 785.37 Home to work on special one-day assignment in another city.

A problem arises when an employee who regularly works at a fixed location in one city is given a special 1-day work assignment in another city. For example, an employee who works in Washington, D.C., with regular working hours from 9 a.m. to 5 p.m., may be given a special assignment in New York City, with instructions to leave Washington at 8 a.m. He arrives in New York at 12 noon, ready for work. The special assignment is completed at 3 p.m., and the employee arrives back in Washington at 7 p.m. Such travel cannot be regarded as ordinary home-to-work travel occasioned merely by the fact of employment. It was performed for the employer's benefit and at his special request to meet the needs of the particular and unusual assignment. It would thus qualify as an integral part of the "principal" activity which the employeee was hired to perform on the workday in question; it is like travel involved in an emergency call (described in § 785.36), or like travel that is all in the day's work (see § 785.38). All the time involved, however, need not be counted. Since, except for the special assignment, the employee would have had to report to his regular work site, the travel between his home and the railroad depot may be deducted, it being in the "home-to-work" category. Also, of course, the usual meal time would be deductible.

§ 785.38 Travel that is all in the day's work.

Time spent by an employee in travel as part of his principal activity, such as travel from job site to job site during the workday, must be counted as hours worked. Where an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the day's work, and must be counted as hours worked regardless of contract, custom, or practice. If an employee normally finishes his work on the premises at 5 p.m. and is sent to another job which he finishes at 8 p.m. and is required to return to his employer's premises arriving at 9 p.m., all of the time is working time. However, if the employee goes home instead of returning to his employer's premises, the travel after 8 p.m. is home-to-work travel and is not hours worked. (Walling v. Mid-Continent Pipe Line Co., 143 F. 2d 308 (C.A. 10, 1944))

§ 785.39 Travel away from home community.

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on nonworking days. Thus, if an employee regularly works from 9 a.m. to 5 p.m. from Monday through Friday the travel time during these hours is worktime on Saturday and Sunday as well as on the other days. Regular meal period time is not counted. As an enforcement policy the Divisions will not consider as worktime that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

§ 785.40 When private automobile is used in travel away from home community.

If an employee is offered public transportation but requests permission to drive his car instead, the employer may count as hours worked either the time spent driving the car or the time he would have had to count as hours worked during working hours if the employee had used the public conveyance.

§ 785.41 Work performed while traveling.

Any work which an employee is required to perform while traveling must of course be counted as hours worked. An employee who drives a truck, bus, automobile, boat or airplane, or an employee who is required to ride therein as an assistant or helper, is working while riding, except during bona fide meal periods or when he is permitted to sleep in adequate facilities furnished by the employer.

ADJUSTING GRIEVANCES, MEDICAL ATTENTION, CIVIC AND CHARITABLE WORK, AND SUGGESTION SYSTEMS

§ 785.42 Adjusting grievances.

Time spent in adjusting grievances between an employer and employees during the time the employees are required to be on the premises is hours worked, but in the event a bona fide union is involved the counting of such time will, as a matter of enforcement policy, be left to the process of collective bargaining or to the custom or practice under the collective bargaining agreement.

§ 785.43 Medical attention.

Time spent by an employee in waiting for and receiving medical attention on the premises or at the direction of the employer during the employee's normal working hours on days when he is working constitutes hours worked.

§ 785.44 Civic and charitable work.

Time spent in work for public or charitable purposes at the employer's request, or under his direction or control, or while the employee is required to be on the premises, is working time. However, time spent voluntarily in such activities outside of the employee's normal working hours is not hours worked.

§ 785.45 Suggestion systems.

Generally, time spent by employees outside of their regular working hours in developing suggestions under a general suggestion system is not working time, but if employees are permitted to work on suggestions during regular working hours the time spent must be counted as hours worked. Where an employee is assigned to work on the development of a suggestion, the time is considered hours worked.

Subpart D—Recording Working Time

§ 785.46 Applicable regulations governing keeping of records.

Section 11(c) of the act authorizes the Secretary to promulgate regulations requiring the keeping of records of hours worked, wages paid and other conditions of employment. These regulations are published in Part 516 of this chapter. Copies of the regulations may be obtained on request.

§ 785.47 Where records show insubstantial or insignificant periods of time.

In recording working time under the act, insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes, may be disregarded. The courts have held that such trifles are de minimis. (Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680 (1946)). This rule applies only where ther are uncertain and indefinite periods of time involved of a few seconds or minutes duration, and where the failure to count such time is due to considerations justified by industrial realities. An employer may not arbitrarily fail to count as hours worked any part, however small, of the employee's fixed or regular working time or practically ascertainable periods of time he is regularly required to spend on duties assigned to him. See Glenn L. Martin Nebraska Co. v. Culkin, 197 F. 2d 981, 987 (C.A. 8, 1952), cert. denied, 344 U.S. 866 (1952), rehearing denied, 344 U.S. 888 (1952), holding that working time amounting to $1 of additional compensation a week is "not a trivial matter to a workingman," and was not de minimis; Addison v. Huron Stevedoring Corp., 204 F. 2d 88, 95 (C.A. 2, 1953), cert. denied 346 U.S. 877, holding that "To disregard workweeks for which less than a dollar is due will produce capricious and unfair results." Hawkins v. E. I. du Pont de Nemours & Co., 12 W. H. Cases 448, 27 Labor Cases, para. 69, 094 (E. D. Va., 1955), holding that 10 minutes a day is not de minimis.

§ 785.48 Use of time clocks.

(a) *Differences between clock records and actual hours worked.* Time clocks are not required. In those cases where time clocks are used, employees who voluntarily come in before their regular starting time or remain after their closing time, do not have to be paid for such periods provided, of course, that they do not engage in any work. Their early or late clock punching may be disregarded. Minor differences between the clock records and actual hours worked cannot ordinarily be avoided, but major discrepancies should be discouraged since they raise a doubt as to the accuracy of the records of the hours actually worked.

(b) *"Rounding" practices.* It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.

Subpart E—Miscellaneous Provisions

§ 785.49 Applicable provisions of the Fair Labor Standards Act.

(a) *Section 6(a).* Section 6(a) of this act provides that "Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates (1) not less than $1 an hour; * * *".

(b) *Section 7(a).* Section 7(a) of this act provides that "Except as otherwise provided in this section no employer shall employ any of his employees who is engaged in commerce or in the production of goods for commerce for a workweek longer than 40 hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

(c) *Section 3(g).* Section 3(g) of this act provides that: "'Employ' includes to suffer or permit to work."

(d) *Section 3(o).* Section 3(o) of this act provides that: "Hours worked—in determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from the measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employees."

§ 785.50 Section 4 of the Portal-to-Portal Act.

Section 4 of this act provides that:

(a) Except as provided in paragraph (b), of this section, no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Davis-Bacon Act, on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after May 14, 1947:

(1) Walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and

(2) Activities which are preliminary to or postliminary to said principal activity or activities, which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities.

(b) Notwithstanding the provisions of paragraph (a) of this section which relieve an employer from liability and punishment with respect to an activity the employer shall not be so relieved if such activity is compensable by either:

(1) An express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) A custom or practice in effect, at the time of such activity, at the establishment or other place where such employee is employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

(c) For the purposes of paragraph (b) of this section, an activity shall be considered as compensable, under such contract provision or such custom or practice only when it is engaged in during the portion of the day with respect to which it is so made compensable.

(d) In the application of the minimum wage and overtime compensation provisions of the Fair Labor Standards Act of 1938, as amended, of the Walsh-Healey Act, or of the Davis-Bacon Act, in determining the time for which an employer employs an employee with respect to walking, riding, traveling, or other preliminary or postliminary activities described in paragraph (a) of this section, there shall be counted all that time, but only that time, during which the employee engages in any such activity which is compensable within the meaning of paragraphs (b) and (c) of this section.

§ 785.51 Location of offices of the Wage and Hour and Public Contracts Divisions.

Offices of the Wage and Hour and Public Contracts Divisions are located in:

Region I—(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Regional Office: Boston, Mass.

Region II—(New Jersey, New York)

Regional Office: New York, N.Y.

Region III—(Delaware, Maryland, Pennsylvania)

Regional Office: Chambersburg, Pa.

Region IV—(Alabama, Florida, Georgia, Mississippi, South Carolina)

Regional Office: Birmingham, Ala.

Region V—(Michigan, Ohio)

Regional Office: Cleveland, Ohio.

Region VI—(Illinois, Indiana, Minnesota, Wisconsin)

Regional Office: Chicago, Ill.

Region VII—(Colorado, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Wyoming)

Regional Office: Kansas City, Mo.

Region VIII—(Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Regional Office: Dallas, Texas

Region IX—(Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington)

Regional Office: San Francisco, Calif.

Region X—(Kentucky, Tennessee, Virginia, West Virginia)

Regional Office: Nashville, Tenn.

Cooperating State Agency—(North Carolina)

North Carolina Department of Labor: Raleigh, N.C.

Territorial—Puerto Rico: San Juan

This revision shall become effective immediately upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 3d day of January 1961.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 61-131; Filed, Jan. 10, 1961; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 963]

[Docket No. AO-309-A2]

MILK IN GREAT BASIN MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area, which was issued December 21, 1960 (25 F.R. 13787), is hereby extended to January 27, 1961.

Dated: January 6, 1961.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 61-181; Filed, Jan. 10, 1961; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition has been filed by Germantown Manufacturing Company, 5100 Lancaster Avenue, Philadelphia 31, Pennsylvania, proposing the issuance of a regulation to permit the safe use of sorbitol as a sweetening agent in the manufacture of artificially sweetened frozen desserts.

Dated: January 3, 1961.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 61-190; Filed, Jan. 10, 1961; 8:48 a.m.]

Notices

FEDERAL AVIATION AGENCY

[OE Docket No. 60-KC-2]

CONSTRUCTION OF RADIO ANTENNA STRUCTURES

Notice of No Airspace Objection

The Federal Aviation Agency has circularized the following proposal to the aviation industry for comment and has conducted an aeronautical study to consider its effect upon the utilization of airspace:

The Emergency Radio Communications Ass'n, Inc., Moline, Illinois, proposes to erect two radio antenna structures to be located near Moline, Illinois, at latitude 41°26′11.5″ North, longitude 90°30′48″ West. The overall height of the structures would be 80 feet above ground (730 feet MSL).

Aeronautical objections were received, as a result of the circularization, based on the fact that the proposed structures would be within the traffic pattern of aircraft operating at the Quad City Airport. However, the aeronautical study by the Agency revealed that the proposed structures would have no adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, it is the finding of the Federal Aviation Agency that no objection from an airspace utilization standpoint be interposed by the Agency to this proposal, provided that each structure will be marked and lighted in accordance with presently applicable standards.

This finding will be effective upon the date of its publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on January 5, 1961.

JAMES T. PYLE,
Acting Administrator.

JANUARY 5, 1961.

[F.R. Doc. 61-170; Filed, Jan. 10, 1961; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI61-308 etc.]

CABOT CORP. (GLC) ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1] and Allowing Increased Rates To Become Effective Subject to Refund

DECEMBER 30, 1960.

Cabot Corporation (GLC), Docket No. RI61-308; Texaco Inc., Docket No. RI61-309; Placid Oil Company (Operator) et al., Docket No. RI61-176; Graham-Michaelis Drilling Company, Docket No. RI61-310; Gulf Oil Corporation, Docket No. RI61-311.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date [1] unless suspended	Date suspended until—	Cents per Mcf [2]		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI61-308	Cabot Corporation (GLC) Union Bldg., Charleston, W. Va.	2	12	Hope Natural Gas Co. (Kanawha County, W. Va.).	$36,448	12-1-60	1-1-61	1-2-61	25.08	[3] 30.52	G-11626
		1	5	Hope Natural Gas Co. (Calhoun County, W. Va.).	37,240	12-1-60	1-1-61	1-2-61	20.0	23.04	------------
RI61-309	Texaco Inc. P.O. Box 2332, Houston, Tex.	9	14	Northern Natural Gas Co. (West Panhandle Field, Carson County, Tex.).	342	12-1-60	1-1-61	6-1-61	[4] 11.3057	11.553	RI60-446
RI61-176	Placid Oil Co., (Operator), et al. 418 Marke St., Shreveport, La.	30	--------	H. L. Hunt, et al. (North Lansing Field, Harrison County, Tex.).	----------	11-30-60	12-31-60	4-1-61	[5] 14.5	------------	------------
RI61-310	Graham-Michaelis Drilling Co., c/o Collins, Hughes, Martin, Pringle & Schell, 500 Petroleum Bldg., Wichita 2, Kans.	46	2	Northern Natural Gas Co. (McKinney Field, Clark County, Kans.).	600	12-2-60	1-2-61	6-2-61	12.5	14.0	------------
RI61-311	Gulf Oil Corporation, P.O. Drawer 2100, Houston 1, Tex.	130	14	Natural Gas P/L Co. of America (Boonesville Bend & Kenrich Conglomerate Fields, Jack and Wise Counties, Tex.).	45,295	11-29-60	1-2-61	6-2-61	[6] 13.0	14.0	------------

[1] The stated effective dates are the first day after the required 30-days statutory notice or, if later, the date proposed by Respondents.
[2] Rates under reveiw in Docket No. RI61-308 at 15.325 psia; all others at 14.65 psia.
[3] Includes increment for gathering and delivery.
[4] Also subject to proceedings in Docket No. G-20433.
[5] Rate Schedule No. 30 supersedes Rate Schedule No. 16 which is suspended until April 1, 1961, in Docket No. RI61-176. No increase over the superseded rate is provided herein.
[6] Subject to Btu and delivery pressure adjustments.

The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Supplement Nos. 12 and 5 to Cabot Corporation (GLC)'s FPC Gas Rate Schedule Nos. 2 and 1, respectively, shall be effective as of January 2, 1961: *Provided, however,* That within 20 days from the date of the issuance of this order,

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

Cabot Corporation (GLC) shall file under Docket No. RI61-308 with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking shall be signed by a responsible officer of the corporation accompanied by proper authorization from the Board of Directors and by a certificate showing service of copies upon all purchasers under the rate schedule involved. Unless Cabot Corporation (GLC) is advised to the contrary within 15 days after the filing of such agreement and undertaking, its agreement and undertaking shall be deemed to have been accepted.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 17, 1961.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-172; Filed, Jan. 10, 1961; 8:45 a.m.]

[Docket No. G-9716 etc.]

SINCLAIR OIL & GAS CO.

Order Amending Order Permitting Increased Rates To Remain in Effect and Severing and Terminating Proceedings

NOVEMBER 18, 1960.

Sinclair Oil & Gas Company, Docket Nos. G-9716, G-9717, G-9718, G-10011, G-10293, G-12117.

Sinclair Oil & Gas Company (Sinclair) on August 29, 1960, filed a motion to amend the Commission's order issued April 14, 1960, permitting termination of the above-captioned proceedings to also provide that the increased rates contained in Sinclair's FPC Gas Rate Schedule Nos. 79, 80 and 81 be permitted to continue in effect without refund obligation.

By orders of the Commission issued November 30, 1955, the increased rates contained in Sinclair's FPC Gas Rate Schedule Nos. 79, 80 and 81, and in Supplement No. 1 to Sinclair's FPC Gas Rate Schedule Nos. 79, 80 and 81, respectively, were suspended in Docket Nos. G-9716, G-9717, and G-9718, respectively. The above-mentioned rate schedules and the supplements thereto were made effective subject to refund on May 2, 1956. However, in its motion to terminate the proceedings in Docket Nos. G-9716, G-9717 and G-9718, Sinclair did not include the above-mentioned rate schedules but only the supplements to those rate schedules. Sinclair's motion to amend the order of April 14, 1960, seeks to correct this omission.

The Commission finds: It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act that the order issued April 14, 1960, herein should be amended as hereinafter provided and ordered.

The Commission orders:

(A) Paragraph (2) of the Commission's findings in the order issued April 14, 1960, in the above-captioned proceedings is hereby amended to read:

(2) Good cause exists for terminating the proceedings in Docket Nos. G-9716, G-9717, G-9718, G-10011, G-10293 and G-12117, for discharging any refund obligations therein, and for permitting the rates proposed in Sinclair's FPC Gas Rate Schedules Nos. 79, 80 and 81, Supplement No. 1 to Sinclair's FPC Gas Rate Schedule No. 79, No. 1 to Schedule No. 80, No. 1 to Schedule No. 81, No. 7 to Schedule No. 9, No. 3 to Schedule Nos. 15, 16 and 17 and No. 1 to Schedule No. 109 to continue in effect without refund obligation.

(B) Paragraph (C) of the ordering clauses in the Commission's order issued April 14, 1960 in the above-captioned proceedings is hereby amended to read:

(C) Sinclair's FPC Gas Rate Schedule Nos. 79, 80 and 81, Supplement No. 1 to Sinclair's FPC Gas Rate Schedule No. 79, No. 1 to Schedule No. 80, No. 1 to Schedule No. 81, No. 7 to Schedule No. 9, No. 3 to Schedule Nos. 15, 16, and 17, and No. 1 to Schedule No. 109 are permitted to continue in effect without refund obligation.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-175; Filed, Jan. 10, 1961; 8:48 a.m.]

[Docket Nos. RI61-303—RI61-306]

BBM DRILLING CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 30, 1960.

BBM Drilling Company, et al., Docket No. RI61-303; BBM Drilling Company (Operator), et al., Docket No. RI61-304; Tekoil Corporation, Docket No. RI61-305; Martin, Williams & Judson, et al., Docket No. RI61-306.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date [1] unless suspended	Date suspended until—	Cents per Mcf [2]		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI61-303	BBM Drilling Co., et al. 683 San Jacinto Building, Houston 2, Tex.	2	7	El Paso Natural Gas Co. (Spraberry Field, Reagan, Upton and Midland Counties, Tex.).	$292	12-2-60	1-2-61	6-2-61	10.096	11.1056	....
		2	8		644	12-2-60	1-2-61	6-2-61	10.096	11.1056	....
RI61-303	BBM Drilling Co. et al.	3	5	El Paso Natural Gas Co., (Spraberry Field, Reagan County, Tex.).	292	12-2-60	1-2-61	6-2-61	10.096	11.1056	....
RI61-304	BBM Drilling Co. (Operator) et al.	4	11	El Paso Natural Gas Co. (Spraberry Field, Midland County, Tex.).	810	12-2-60	1-2-61	6-2-61	10.096	11.1056	....
		6	4		3,092	12-2-60	1-2-61	6-2-61	10.096	11.1056	....
RI61-305	Tekoil Corporation 1515 Classen Boulevard, Oklahoma City, Okla.	3	1	Kansas-Nebraska Natural Gas Co., Inc. (Camfick Field, Texas County, Okla.).	255	12-2-60	1-2-61	6-2-61	16.0	16.8	....
RI61-306	Martin, Williams & Judson et al., 413 First National Bank Building, Midland, Tex.	2	1	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.).	1,532	12-2-60	1-2-61	6-2-61	11.1485	17.2295	....

[1] Stated effective dates are the first day after the required 30-day statutory notice.
[2] Rates in the proceeding in Docket RI61-307 at 15.025 psia; all others at 14.65 psia.

The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 17, 1961.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 61-171; Filed, Jan. 10, 1961; 8:45 a.m.]

[Docket Nos. RI61-312—RI61-315]

FOSTER PETROLEUM CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

DECEMBER 30, 1960.

Foster Petroleum Corporation, Docket No. RI61-312; Samedan Oil Corporation (Operator), et al., Docket No. RI61-313; Phillips Petroleum Company, Docket No. RI61-314; Shallow Oil Company, Inc. (Operator), et al., Docket No. RI61-315.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date [1] unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI61-312...	Foster Petroleum Corp., Bartlesville, Okla.	13	4	Colorado Interstate Gas Co. (Greenwood Field, Morton Co., Kansas).	$142	12- 5-60	1- 5-61	6- 5-61	15.0	[2] 16.0	....
RI61-313...	Samedan Oil Corp. (Operator), et al. c/o Jerome M. Alper, Esq., 1725 Eye St. NW., Washington 6, D.C.	4	3	United Gas Pipe Line Co. (Midland-Esterwood Field, Acadia Parish, La.).	26,361	12- 2-60	1- 2-61	6- 2-61	20.25	[3] 22.25	....
RI61-313...	Samedan Oil Corp. (Operator), et al.	6	1	United Fuel Gas Co. (Chalkley Field, Cameron Parish, La.).	494	12- 5-60	1- 5-61	6- 5-61	19.5	[3] 19.9	....
RI61-314...	Phillips Petroleum Co., Bartlesville, Okla.	257	7	Natural Gas Pipe Line Co. of America (Hugoton Field, Texas Co., Okla.).	258	12-15-60	1-23-61	6-23-61	16.8	[2] 17.0	....
		298	7		321	12-15-60	1-23-61	6-23-61	16.8	[2] 17.0	....
RI61-315...	Shallow Oil Co., Inc. (Operator), et al., 1203 Beck Bldg., Shreveport, La.	3	3	United Gas Pipe Line Co. (East Gibson Field, Terrebonne Parish, La.).	5,400	12- 5-60	1- 5-61	6- 5-61	20.25	[3] 22.25	....

[1] The proposed effective dates are the first days after the required thirty days notice or, if later, the date requested by Respondent.
[2] The pressure base is 14.65 psia.
[3] The pressure base is 15.025 psia.

The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 17, 1961.

By the Commission.

[SEAL] MICHAEL J. FARRELL, *Acting Secretary.*

[F.R. Doc. 61-173; Filed, Jan. 10, 1961; 8:45 a.m.]

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

[Docket Nos. RP61-8, RP61-9]

NATURAL GAS PIPELINE COMPANY OF AMERICA AND PEOPLES GULF COAST NATURAL GAS PIPELINE CO.

Order Granting Special Permission To File Substitute Tariff, Suspending Proposed Gas Tariff and Terminating Proceeding

NOVEMBER 23, 1960.

On October 24, 1960, Natural Gas Pipeline Company of America (Natural Gas) tendered for filing a single FPC Gas Tariff, designated Second Revised Volumes Nos. 1 and 2, to supersede First Revised Volumes Nos. 1 and 2 of its tariff and also Original Volumes Nos. 1 and 2 of the FPC Gas Tariff of Peoples Gulf Coast Natural Gas Pipeline Company (Peoples Gulf). By order issued September 30, 1960, in the above-entitled proceedings, certain revised tariff sheets to Volumes No. 1 of the presently effective tariffs of both Natural Gas and Peoples Gulf were suspended until March 1, 1961, and thereafter until such time as they are made effective in the manner prescribed by the Natural Gas Act. In view of the suspended status of these revised tariff sheets, Natural Gas requests that special permission be granted pursuant to § 154.66 of the Commission's regulations under the Natural Gas Act to permit its proposed Second Revised Volume No. 1 to be substituted for its revised tariff sheets and those of Peoples Gulf which are now under suspension. As to the tendered Second Revised Volume No. 2 of the Natural Gas' FPC Gas Tariff, the rate schedules contained in this tendered revision are the same as those now in effect in the Volumes No. 2 of the Gas Tariff's of both Natural Gas and Peoples Gulf.

The tendered filing in question is occasioned by the recent merger of Peoples Gulf into Natural Gas, in accordance with the granted by the Commission in