

Proclamation 3688

WATER CONSERVATION MONTH

By the President of the United States of America

A Proclamation

Of all the natural resources with which our Nation has been so richly blessed, none is more important than water.

Both urban and rural citizens rely on our water resources to satisfy human needs, to maintain farm and industrial production, and to provide electric power. Our rivers, lakes, and similar bodies of water constitute a vital segment of our transportation and communication system, and provide recreational facilities that enhance our use of leisure time.

The good health of the people of this Nation is in no small measure dependent upon both the quantity and quality of our water.

But none of our resources has been more grossly abused by waste and pollution. Concern as to the quantity and quality of our supply of water is being expressed in all quarters of the Nation. The problem, in many places, is not a need to find new sources of water, but, instead, is a need to develop sound conservation practices and to make more effective use of water resources now available.

We must be farsighted and bold in managing and using our water. What must be done—and done as soon as possible—is to reverse the trends of waste and man-made pollution and contamination which have assumed such massive and lethal proportions as to threaten the health, economy, and natural beauty of the Nation.

The first session of the Eighty-ninth Congress made a number of significant contributions to the strengthening of the Federal Government's role in water resources management. Accordingly, it is particularly fitting that the Congress has enacted House Joint Resolution 671 of November 7, 1965, which calls upon the President to issue a proclamation designating the month of November 1965 as Water Conservation Month.

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate the month of November 1965 as Water Conservation Month, and I call upon citizens throughout the Nation to participate in observance of that month.

I direct the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the Secretary of the Army to cooperate with other national, State, and private agencies and organizations in suitable observances of Water Conservation Month, including public meetings, exhibits, and news-media features. I urge that these observances specially emphasize the need for immediate private and public participation in the nationwide effort to cleanse our rivers, lakes, estuaries, shore water, and water underground so that they may serve us and our children and our children's children better.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this tenth day of November in the year of our Lord nineteen hundred and sixty-five, and
[SEAL] of the Independence of the United States of America the one hundred and ninetieth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 65-12394; Filed, Nov. 15, 1965; 2:41 p.m.]

Proclamation 3689

INTERNATIONAL EXPOSITION OF 1968

By the President of the United States of America

A Proclamation

WHEREAS HEMISFAIR 1968, an international exposition with the theme, "The Confluence of Civilizations in the Americas," will be held in San Antonio, Texas, during the six months beginning April 6, 1968, and

WHEREAS this international exposition is designed to reaffirm common ties among the Americas as well as with the continents and countries from which our forefathers came; to increase mutual understanding; to strengthen the foundations of peace and to share our cultures, our knowledge and our skills for a more promising future, and

WHEREAS the exposition will provide a dramatic medium for the peoples of our hemisphere to exhibit the symbols of ancient cultures and contemporary life, and to demonstrate the relationships between their arts, religions, and social development; and

WHEREAS the exposition will encourage travel and stimulate technical, trade and cultural exchange between the Old and New Worlds, and

WHEREAS such an event is appropriate to commemorate the two hundred and fiftieth anniversary of the founding of the bilingual City of San Antonio, Texas, "The Gateway of Latin America," and

WHEREAS the Congress by an Act approved October 22, 1965 (Public Law No. 89-284) authorized and requested the President to issue a Proclamation calling upon the several States of the Union and foreign countries to take part in the exposition, and

WHEREAS the Governor of the State of Texas has agreed to serve as Commissioner General of the exposition and to invite the several States of the Union to participate therein:

NOW, THEREFORE, I, Lyndon B. Johnson, President of the United States of America, do hereby authorize and direct the Secretary of State to invite, on my behalf, such foreign countries as he may consider appropriate to participate in this international exposition.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

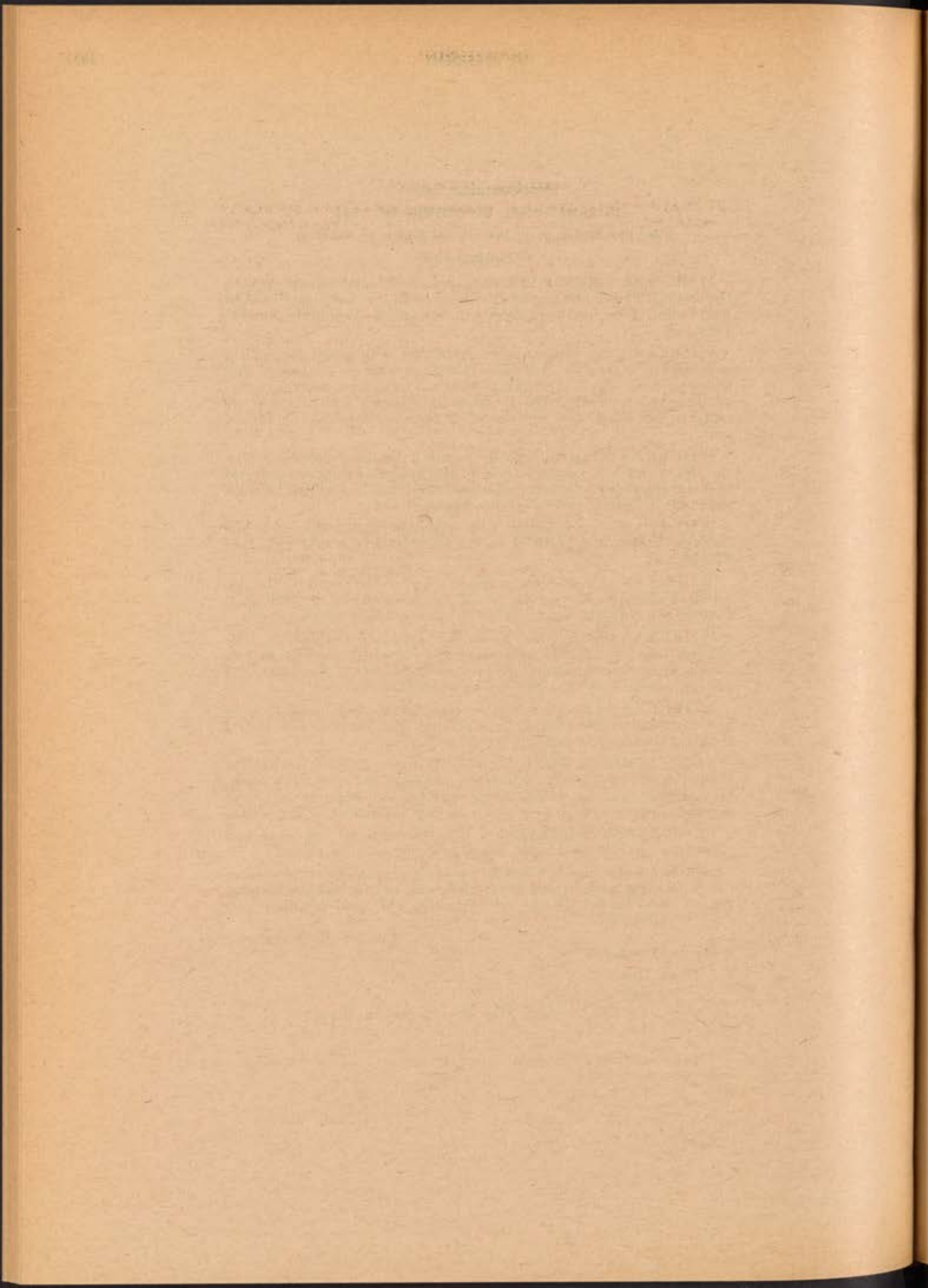
DONE AT the City of Washington this eleventh day of November in the year of our Lord, 1965, and of the independence of [SEAL] the United States of America, the one hundred and ninetieth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 65-12395; Filed, Nov. 15, 1965; 2:41 p.m.]



Executive Order 11257**DELEGATING TO THE CIVIL SERVICE COMMISSION CERTAIN AUTHORITY
RELATING TO SEVERANCE PAY UNDER THE FEDERAL EMPLOYEES
SALARY ACT OF 1965**

By virtue of the authority vested in me by Section 301 of title 3 of the United States Code and Sections 9(b)(8) and 9(c) of the Federal Employees Salary Act of 1965, and as President of the United States, it is ordered that Executive Order No. 11228 of June 14, 1965, entitled "Providing for the performance by the Civil Service Commission of certain functions vested in or subject to the approval of the President," be, and it is hereby, amended by inserting the following at the end of Section 1 thereof:

"(4) The authority vested in the President by Section 9(b)(8) of the Federal Employees Salary Act of 1965 (approved October 29, 1965) to prescribe rules and regulations excluding officers or employees from the application of Section 9 of that Act.

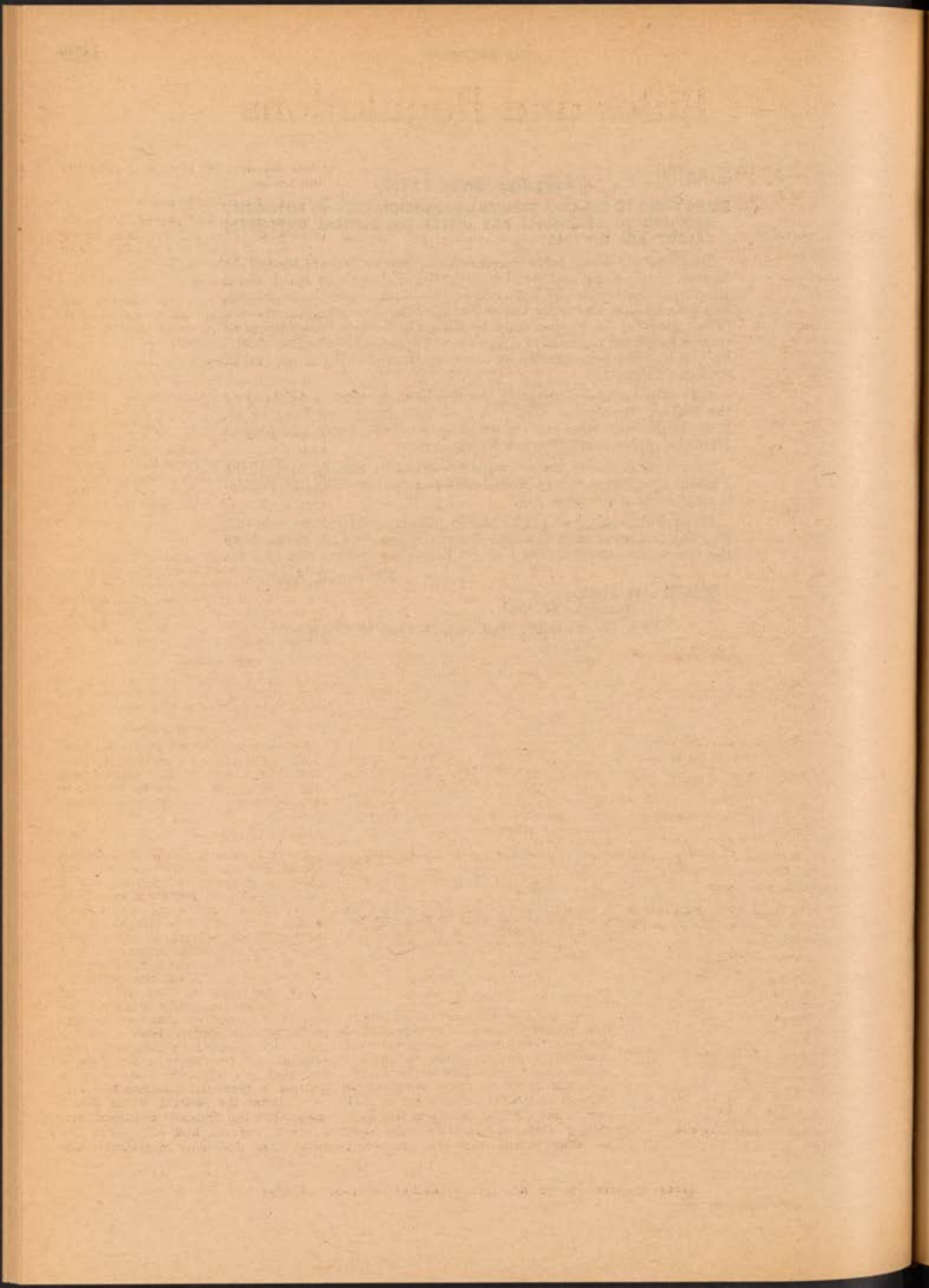
"(5) The authority vested in the President by Section 9(c) of the Federal Employees Salary Act of 1965 to prescribe rules and regulations governing severance pay."

Rules and regulations prescribed in pursuance of the amendments made by this order may be made effective on any date not earlier than the date of enactment of the Federal Employees Salary Act of 1965.

LYNDON B. JOHNSON

THE WHITE HOUSE,
November 13, 1965.

[F.R. Doc. 65-12427; Filed, Nov. 16, 1965; 10:37 a.m.]



Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3115 is amended to show that positions in the Office of Federal Contract Compliance, to which the contract compliance functions of the President's Committee on Equal Employment Opportunity were transferred by Executive Order 11246, are excepted under Schedule A. Effective on publication in the FEDERAL REGISTER, paragraph (c) of § 213.3115 is revoked and a new paragraph (f) is added as set out below.

§ 213.3115 Department of Labor.

(f) Office of Federal Contract Compliance. (1) All positions in the Office of Federal Contract Compliance established under Parts II, III, and IV of Executive Order No. 11246 of September 24, 1965.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] DAVID F. WILLIAMS,

Director,

Bureau of Management Services.

[F.R. Doc. 65-12342; Filed, Nov. 16, 1965; 8:50 a.m.]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 15—NONDISCRIMINATION

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

Subtitle A, Title 7 CFR, Part 15, is hereby amended by adding the following new Subpart C.

GENERAL INFORMATION

- Sec. 15.60 Scope of rules.
- 15.61 Records to be public.
- 15.62 Definitions.
- 15.63 Computation of time.
- 15.64 Parties.
- 15.65 Appearance.
- 15.66 Complainants not parties.
- 15.67 Intervener.
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FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

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- 15.141 Contents of decision.
- 15.142 Content of orders.
- 15.143 Decision where financial assistance affected.

AUTHORITY: The provisions of this Subpart C issued under sec. 602, 78 Stat. 252, sec. 15.9(d) of Subpart A to 7 CFR, Part 15, and laws referred to in the Appendix to Subpart A, Part 15, Title 7 CFR.

GENERAL INFORMATION

§ 15.60 Scope of rules.

The rules of practice and procedure in this subpart supplement §§ 15.9-15.10 of Subpart A of this part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Agriculture, pursuant to Title VI of the Civil Rights Act of 1964, section 602 (78 Stat. 252) and this part, Title 7, CFR, except these rules shall not apply to any stage of a proceeding

which has occurred prior to the effective date hereof.

§ 15.61 Records to be public.

All documents and papers filed in any proceeding under this part may be inspected and copied in the Office of the Department Hearing Clerk.

§ 15.62 Definitions.

All terms used in this subpart shall, unless the context otherwise requires, have the same meaning as defined in Subpart A of this part.

§ 15.63 Computation of time.

A period of time begins with the day following the act or event and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which case it shall be the following workday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 15.64 Parties.

The term "party" shall include an applicant or recipient with respect to whom the agency has issued a notice of hearing or opportunity to request a hearing in accordance with Subpart A of this part and § 15.81. The agency shall be deemed a party to all proceedings.

§ 15.65 Appearance.

Any party may appear in person or by counsel or authorized representative and participate fully in any proceeding.

§ 15.66 Complainants not parties.

A person submitting a complaint pursuant to § 15.6 is not a party to the proceedings governed by this subpart, but may petition, after proceedings have been commenced, to become an intervenor.

§ 15.67 Intervener.

Any interested person or organization may file a petition to intervene which will include a statement of position and a statement of what petitioner expects to contribute to the hearing, and a copy of the petition will be served on all parties. Such petition should be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The hearing officer may grant the petition if he believes that such participation will not unduly delay a hearing and will contribute materially to the proceeding. An intervenor is not a party and may not introduce evidence at a hearing, or propound questions to a witness, unless the hearing officer determines that the proposed additional evidence is relevant and will clarify the facts. The intervenor may submit and

serve on all parties a brief in support or opposition to any brief of a party. All service and notice required by and upon a party shall apply to an intervenor.

§ 15.68 Ex parte communications.

(a) *General.* After proceedings have been commenced, any communication or discussion ex parte, as regards the merits of the proceeding or a factually related proceeding, between an employee of the Department involved in the decisional process and a person not employed by the Department, and any such communication or discussion between any employee of the Department, who is or has been engaged in any way in the investigation or prosecution of the proceeding or a factually related proceeding, and an employee of the Department who is involved or may be involved in the decisional process of a proceeding, except at a conference, hearing or review proceeding under these rules is improper and prohibited.

(b) *Request for information.* A request for information about the status of a proceeding without discussing issues or expressing points of view and inquiries with respect to procedural matters or an emergency request for an extension of time are not deemed ex parte communications. When practical all parties should be notified of any request for an extension of time. Communication between an applicant or recipient and the agency or the Secretary with respect to securing voluntary compliance with any requirement of Subpart A of this part is not prohibited.

(c) *Un-sponsored written material.* Letters expressing views or urging action and other un-sponsored written material regarding matters in issue in a proceeding will be placed in the correspondence section of the docket of the proceeding. Such are not deemed part of the evidence or record.

FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

§ 15.71 Form of documents to be filed.

All copies of documents filed in a proceeding shall be dated, signed in ink, shall show the address and position or title of the signatory, and shall show the docket number and title of the proceeding on the front page.

§ 15.72 Filing.

All documents relating to a proceeding under this subpart shall be filed in an original and two copies of such document with the Office of the Hearing Clerk at Room 112, Administration Building, Department of Agriculture, Washington, D.C., 20250, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time.

§ 15.73 Service.

Service shall be made by the Hearing Clerk by personal delivery of one copy to each person to be served or by mailing

by first-class mail, or air mail if more than 300 miles, properly addressed with postage prepaid. When a party or intervenor has appeared by attorney or representative, service upon such attorney or representative will be deemed proper service. The initial notice of hearing, opportunity to request a hearing, or notice setting a date for a hearing shall be by certified mail, return receipt requested.

§ 15.74 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice a hearing or notice of opportunity to request a hearing or notice setting a date for a hearing shall be the date of its delivery, or of its attempted delivery if delivery is refused.

INITIAL NOTICE AND RESPONSE

§ 15.81 How proceedings are commenced.

Proceedings are commenced by mailing a notice to an applicant or recipient of alleged noncompliance with the Act and the Secretary's regulations thereunder. The notice will be signed by the interested agency head or by the Secretary and shall be filed with the hearing clerk for proper service by the hearing clerk according to the rules of this subpart. The notice shall include either a notice of hearing or notice of opportunity to request a hearing as determined by the Secretary and shall comply with the requirements of § 15.9(a).

§ 15.82 Notice of hearing and response thereto.

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of a hearing on matters alleged in the notice. If the applicant or recipient does not desire a hearing, he should so state in writing, in which case the applicant or recipient shall have the right to submit written information and argument for the record, and the additional right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.83 Notice of opportunity to request a hearing and response thereto.

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of said notice within which the applicant or recipient may file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case, the applicant or recipient shall have the right to further participate in the proceeding. When the applicant or recipient elects to file a request for a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing.

Failure of the applicant or recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing, under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.84 Answer.

In any case covered by § 15.82 or § 15.83 the applicant or recipient shall file an answer. Said answer shall admit or deny each allegation of the notice, unless the applicant or recipient is without knowledge, in which case the answer shall so state, and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters intended to be offered as affirmative defenses must be stated as a separate part of the answer. The answer under § 15.82 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 15.83 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

§ 15.85 Amendment of notice or answer.

The notice of hearing or notice of opportunity to request a hearing may be amended once as a matter of course before an answer thereto is served, and each applicant or recipient may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the hearing officer. An applicant or recipient shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the hearing officer otherwise orders.

§ 15.86 Consolidated or joint hearings.

Two or more proceedings against the same respondent, or against different respondents in which the same or related facts are asserted to constitute non-compliance, may be consolidated for hearing or decision or both by the agency head, if he has the principal responsibility within the Department for the administration of all the laws extending the Federal financial assistance involved. If laws administered by more than one agency head are involved, such officials may by agreement order consolidation for hearing. The Secretary may order proceedings in the Department consolidated for hearing with proceedings in other Federal Departments or Agencies, by agreement with such other Departments or Agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or notice of opportunity to request a hearing shall be promptly served with notice of such consolidation.

HEARING OFFICER

§ 15.91 Who presides.

A hearing officer shall preside over all proceedings held under this part. The hearing officer shall be a hearing examiner qualified under section 11 of the Administrative Procedure Act (5 U.S.C. 1001 et seq.), and designated to hold hearings under the regulations in this subpart or any person authorized to hold a hearing and make a final decision. The hearing officer will serve until he has made an initial decision, certified the record to the Secretary, or made a final decision if so authorized.

§ 15.92 Designation of hearing officer.

Unless otherwise provided by an order of the Secretary at the time the notice of alleged noncompliance provided in § 15.81 is filed with the Office of the Hearing Clerk, the hearing shall be held before a hearing examiner, who shall be appointed by the Chief Hearing Examiner, Office of Hearing Examiners within five days after the filing of such notice. Unless otherwise provided, the hearing examiner shall certify the entire record with his recommended findings and proposed decision to the Secretary for final decision.

§ 15.93 Time and place of hearing.

When a notice of hearing is sent to an applicant or recipient, the time and place of hearing shall be fixed by the Secretary, and when the applicant or recipient requests a hearing, the time and place shall be set by the hearing officer and in either case in conformity with § 15.9(b). The complainant, if any, shall be advised of the time and place of the hearing.

§ 15.94 Disability of hearing officer.

In the case of death, illness, disqualification, or unavailability of the designated hearing officer, another hearing officer may be designated by the Secretary to take his place. If such death, illness, disqualification or unavailability occurs during the course of a hearing, the hearing will be either continued under a substitute hearing officer, or terminated and tried de novo in the discretion of the Secretary. In the absence of the designated hearing officer any hearing examiner may rule on motions and other interlocutory papers.

§ 15.95 Responsibilities and duties of hearing officer.

The hearing officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

- (a) Arrange and issue notice of the date, time and place of hearings, or, upon due notice to the parties, to change the date, time and place of hearings previously set.
- (b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and interveners to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of parties therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) In accordance with his authority issue an initial decision, or recommended findings and proposed decision, or final decision.

(k) Take any other action a hearing officer is authorized to take under these rules or Subpart A of this part.

MOTIONS

§ 15.101 Form and content.

(a) *General.* Motions shall state the relief sought and the authority relied upon. If made before or after the hearing, the motion shall be in writing and filed with the hearing clerk with a copy to all parties. If made at the hearing, they should be stated orally but the hearing officer may require that any motion be reduced to writing and filed and served on all parties in the same manner as a formal motion.

(b) *Extension of time or postponement.* A request for an extension of time should be filed and served on all parties and should set forth the reasons for the request and may be granted upon a showing of good cause. Answers to such requests are permitted, if made promptly.

§ 15.102 Responses to motions.

Within 8 days or such reasonable time as may be fixed by the hearing officer, or Secretary, if the motion is properly addressed to him, any party may file a response to the motion, unless the motion is made at a hearing in which case an immediate response may be required. The hearing officer may dispose of motions at a prehearing conference.

§ 15.103 Disposition of motions.

The hearing officer may not sustain or grant a motion prior to expiration of the time for filing responses thereto, but may overrule or deny such motion without waiting on a response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Oral motions may be ruled on immediately. Motions submitted to the hearing officer not disposed of in separate rulings or in his decision will be deemed denied. Oral argument shall not be held on written motions unless expressly ordered. Interlocutory appeals from rulings on motions shall be governed by § 15.123.

HEARING PROCEDURES

§ 15.110 Prehearing conferences.

(a) In any case in which it appears that such procedure will expedite the

proceeding, the hearing officer may, prior to the commencement of the hearing, request the parties to meet with him or to correspond with him regarding any of the following:

- (1) Simplification and clarification of the issues;
- (2) Necessity or desirability of amendments to the pleadings;
- (3) Stipulations, admissions of fact and of the contents and authenticity of documents;
- (4) Matters of which official notice will be taken;
- (5) Limitation of the number of experts or other witnesses;
- (6) Disposal of all motions; and
- (7) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) The hearing officer shall enter in the record a written summary of the results of the conference or correspondence with the parties.

§ 15.111 Purpose of hearing.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda or briefs, as determined by the hearing officer. Brief opening statements, which shall be limited to a statement of the party's position and what he intends to prove, may also be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Subpart A of this part. In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the hearing officer may enter an order so finding, and fixing the time for the submission of evidence by the Government for the record. Thereafter, the proceedings shall go to conclusion in accordance with Subpart A of this part and the rules of this subpart. An appeal from such order may be allowed in accordance with the rules for interlocutory appeal in § 15.123.

§ 15.112 Statement of position and brief.

The hearing officer may require all parties and any intervener to file a written statement of position or brief prior to the beginning of a hearing.

§ 15.113 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing, but the hearing officer, in his discretion, may require or permit that the testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the hearing officer, witnesses will not be per-

mitted to read prepared testimony into the record. Except as provided in §§ 15.115 and 15.116, witnesses shall be available at the hearing for cross-examination.

Proposed exhibits shall be exchanged either at a prehearing conference, or otherwise prior to the hearing. Proposed exhibits not so exchanged may be denied admission as evidence unless good cause is shown why they were not exchanged. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 15.115 Affidavits.

An affidavit, intended to be used as evidence without cross-examination of the affiant, will be filed and served on the parties at least 15 days prior to the hearing; and not less than seven days prior to hearing a party may file and serve written objections to any affidavit on the ground that he believes it necessary to test the truth of assertions therein by cross-examination. In such event, the affidavit objected to will not be received in evidence unless the affiant is made available for cross-examination at the hearing or otherwise as prescribed by the hearing officer. In absence of an objection being filed within the time specified, such affidavit will be received in evidence.

§ 15.116 Depositions.

Upon such terms as may be just, the hearing officer, in his discretion, may authorize the testimony of any witness to be taken by deposition.

§ 15.117 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded, and technical rules of evidence shall not apply but rules or principles designed to assure the most credible evidence available and to subject testimony to test by cross-examination shall apply.

§ 15.118 Cross-examination.

Cross-examination will be limited to the scope of direct examination and matters at issue in the hearing.

§ 15.119 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon. The ruling of the hearing officer will be part of the record. Argument in support of the objection will not be part of the record.

§ 15.120 Exceptions to rulings of hearing officer unnecessary.

Exceptions to rulings of the hearing officer are unnecessary. It is sufficient that a party, at the time the ruling of the hearing officer is sought, makes known the action which he desires the hearing officer to take, or his objection to an action taken, and his grounds therefor.

§ 15.121 Official notice.

A public document, or part thereof, such as an official report decision, opin-

ion, or published scientific or economic statistical data issued by any branch of the Federal or a State Government which has been shown to be reasonably available to the public, may be offered for official notice and accepted in the record without further proof of authenticity. Where official notice is to be taken, any party, on timely request, shall have an opportunity to show the contrary.

§ 15.122 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing officer rejecting or excluding proposed oral testimony shall consist of a statement for the record of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as an offer of proof.

§ 15.123 Appeals from ruling of hearing officer.

A ruling of the hearing officer may not be appealed to the Secretary prior to consideration of the entire proceeding by the hearing officer except with the consent of the hearing officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Secretary within such period as the hearing officer directs. Oral argument will be heard in the discretion of the Secretary.

THE RECORD

§ 15.131 Official transcript.

The hearing clerk will designate the official reporter for all hearings. The official transcript of testimony taken, together with any affidavits, exhibits, depositions, briefs, or memoranda of law shall be filed with the hearing clerk. Transcripts of testimony in hearings will be supplied by the official reporter to the parties and to the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the hearing officer may authorize corrections to the transcript which involve matters of substance.

§ 15.132 Record for decision.

The transcript of testimony, exhibits, affidavits, depositions, briefs, memoranda of law, and all pleadings, motions, papers, and requests filed in the proceeding, except the correspondence section of the docket, including rulings, and any recommended findings and proposed decision, or initial decision shall constitute the exclusive record for final decision.

POSTHEARING PROCEDURES

§ 15.135 Posthearing briefs.

The hearing officer shall fix a reasonable time for filing posthearing briefs, which may contain proposed findings of

fact and conclusions of law, and, if permitted, reply briefs. Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon. Briefs shall be filed in the Office of the Hearing Clerk with a copy to all parties.

§ 15.136 Decisions and notices.

When the time for submission of post-hearing briefs has expired the hearing officer shall either make an initial decision or final decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision and a copy of such initial, or final decision or certification shall be mailed to the applicant or recipient and other parties by the hearing clerk.

§ 15.137 Exceptions to initial or proposed decision.

Within 30 days of the mailing of such notice of initial or recommended findings and proposed decision, the applicant or recipient and other parties may file with the hearing clerk for consideration by the Secretary exceptions to the initial or recommended findings and proposed decision, with reasons therefor. Each party will be given reasonable opportunity to file briefs or other written statements of contentions in which the party may request that the decision be modified, reversed, affirmed or adopted.

§ 15.138 Review of initial decision.

In the absence of exceptions to an initial decision, the Secretary may on his own motion within 45 days after an initial decision serve upon the parties a notice that he will review the decision and will give the parties reasonable opportunity to file briefs or other written statements of contentions. At the expiration of said time for filing briefs, the Secretary will review the initial decision and issue a final decision thereon. In the absence of either exceptions to an initial decision or a notice or review, the initial decision shall constitute the final decision of the Secretary.

§ 15.139 Oral argument.

If any party desires to argue orally before the Secretary on the review of recommended findings and proposed decision, or an initial decision, he shall so state at the time he files his exceptions or brief. The Secretary may grant such request in his discretion. If granted, he will serve notice of oral argument on all parties and will set forth the order of presentation and the amount of time allotted, and the time and place of argument.

§ 15.140 Service of decisions.

All final decisions shall be promptly served on all parties and the complainant.

§ 15.141 Contents of decision.

Each decision of a hearing officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements

imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

§ 15.142 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and the regulations in this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

§ 15.143 Decision where financial assistance affected.

The Secretary shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under the regulations in this part or the Act.

Effective date. This subpart shall become effective upon publication in the FEDERAL REGISTER.

Dated: November 12, 1965.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 65-12313; Filed, Nov. 16, 1965;
8:48 a.m.]

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

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—United States Standards for Grades of Okra for Processing¹

On May 14, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 6658) regarding the issuance of U.S. Standards for Grades of Okra for Processing. (7 CFR, §§ 51.3635-51.3652).

Statement of considerations leading to the issuance of the grade standards. Following publication of the proposed standards, copies were circulated to in-

¹ Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

dividual companies and organizations believed to be interested in the standards. Only a few comments were received, and none of these objected to the proposal.

Two changes were recommended and have been made. The definition of "well trimmed" has been changed to require that the stem be cut off at a point not more than one-fourth inch below the cap scar, instead of one-half inch below the scar as first proposed. This change was made because some contracts for purchasing okra are based upon field trimming to one-fourth inch of stem or less, and this same degree of trimming is required by the standards for processed okra.

Changing of the definition of well trimmed would affect the application of the standards only in cases in which the term "well trimmed" was specified in connection with U.S. No. 1 Grade. Otherwise, the No. 1 Grade requirement would be "fairly well trimmed."

Also a provision has been added to the U.S. No. 1 Grade which would permit the inclusion of poorly trimmed okra in that grade if so specified and agreed to by the contracting parties.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following U.S. Standards for Grades of Okra for Processing are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

GENERAL	
Sec.	
51.3635	Application.
GRADES	
51.3636	U.S. No. 1.
51.3637	U.S. No. 2.
CULLS	
51.3638	Culls.
SIZE CLASSIFICATIONS	
51.3639	Size classifications.
DEFINITIONS	
51.3640	Similar varietal characteristics.
51.3641	Fresh.
51.3642	Tender.
51.3643	Fairly well colored.
51.3644	Fairly well formed.
51.3645	Worm hole.
51.3646	Damage.
51.3647	Fairly well trimmed.
51.3648	Well trimmed.
51.3649	Pale green.
51.3650	Moderately misshapen.
51.3651	Poorly trimmed.
51.3652	Length.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

GENERAL

§ 51.3635 Application.

These standards are intended to apply only to seed pods of the okra plant (*Hibiscus esculentus*) delivered to a freezing or canning plant for processing purposes. They may be used as a basis for grading the quality of lots of okra for the purpose of more equitable pricing. It is assumed that a schedule of prices will be established to be paid by the pound for

each quality and size of okra to be purchased by the processor. The percentage of each quality and size okra in the lot may be approximately determined by analyzing a representative sample or samples drawn from the lot. The price of the load can be calculated from the number of pounds and the established price of each quality and size.

GRADES

§ 51.3636 U.S. No. 1.

"U.S. No. 1" consists of pods of okra of similar varietal characteristics which are fresh, tender, fairly well colored, fairly well formed, free from decay and worm holes, and free from damage caused by scars, bruises, cuts, punctures, insects, discoloration, dirt or other foreign material or other means. Pods in this grade are at least fairly well trimmed, unless specified as well trimmed or poorly trimmed. (See Size, § 51.3639.)

§ 51.3637 U.S. No. 2.

"U.S. No. 2" consists of pods of okra which meet the requirements of U.S. No. 1 grade except those for color, shape and trim. Okra in this grade may be pale green in color, moderately misshapen and poorly trimmed. (See Size, § 51.3639.)

CULLS

§ 51.3638 Culls.

"Culls" consists of pods of okra which fail to meet the requirements of either of the foregoing grades, and any extraneous material in the lot.

SIZE CLASSIFICATIONS

§ 51.3639 Size classifications.

Okra may be classified as to size in connection with the grade into two or more groups on the basis of specified lengths in inches, or on the basis of the following size classifications:

- "Very small" includes pods of okra less than 1¾ inches in length.
- "Small" ("baby") includes pods of okra not less than 1¾ inches or more than 3½ inches in length.
- "Medium" includes pods of okra more than 3½ inches in length and, unless otherwise specified, not more than 5 inches in length.
- "Large," unless otherwise specified, includes pods of okra more than 5 inches in length.

DEFINITIONS

§ 51.3640 Similar varietal characteristics.

"Similar varietal characteristics" means that the pod is of the same type and closely similar in appearance to the rest of the pods in the lot.

§ 51.3641 Fresh.

"Fresh" means that the pod is not appreciably wilted or flabby.

§ 51.3642 Tender.

"Tender" means that the pod is succulent and reasonably free from fiber. The tip will break fairly easily and cleanly when bent back, and flesh of the

central portion of the pod can be cut crosswise with a sharp knife using very little pressure.

§ 51.3643 Fairly well colored.

"Fairly well colored" means that the pod of a green variety has a good green color or is at least light green with no yellowish cast.

§ 51.3644 Fairly well formed.

"Fairly well formed" means that the pod is not more than slightly curved, crooked or otherwise not more than slightly deformed.

§ 51.3645 Worm hole.

"Worm hole" means a hole caused by an insect penetrating the wall of the pod.

§ 51.3646 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects which materially detracts from the edible or processing quality of the pod. The following specific defects shall be considered as damage:

(a) Scars or bruises which will materially detract from the appearance of the pod after processing;

(b) Cuts or punctures which penetrate the wall of the pod.

(c) Insects when the insect is present inside the pod, or when the action of insects has distinctly affected the appearance of the pod;

(d) Discoloration which will materially detract from the appearance of the pod after processing; and,

(e) Dirt or other foreign material which is so firmly attached to the pod that it cannot be removed by the usual processing plant washing.

§ 51.3647 Fairly well trimmed.

"Fairly well trimmed" means that the stem has been broken or cut off at a point not more than three-fourths inch below the cap scar at the base of the pod, and that the open seed cavities have not been exposed by excessively high trimming.

§ 51.3648 Well trimmed.

"Well trimmed" means that the stem has been neatly cut off at a point not more than one-fourth inch below the cap scar at the base of the pod, and that the open seed cavities have not been exposed by excessively high trimming.

§ 51.3649 Pale green.

"Pale green" means that the pod of a green variety has a tinge of green predominating over most or all of its surface, and not more than one-tenth of its surface shows a yellowish cast.

§ 51.3650 Moderately misshapen.

"Moderately misshapen" means that the pod is not badly curved, crooked or otherwise badly misshapen.

§ 51.3651 Poorly trimmed.

"Poorly trimmed" means that the stem has been broken or cut off at a point more than three-fourths inch below the cap scar at the base of the pod, or that the open seed cavities have been exposed by excessively high trimming.

§ 51.3652 Length.

"Length" means the dimension of the pod measured from the cap scar at the base to the tip end of the pod.

The U.S. Standards for Grades of Okra for Processing contained in this subpart shall become effective December 15, 1965.

Dated: November 10, 1965.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 65-12307; Filed, Nov. 16, 1965;
8:48 a.m.]

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Fees for Grading Service

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 53.29(a) prescribing fees in connection with the performance of Federal meat grading services are hereby amended by changing the phrase "\$7.40 per hour" to "\$7.80 per hour."

The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be to the cost of the services, such as Federal meat grading services, rendered under its provisions. The Federal Employees Salary Act of 1965 (Public Law 89-301) has required increases in the salaries paid to Federal employees engaged in the performance of Federal meat grading services. It has been determined that in order to cover the increased costs of the services due to these salary changes, the hourly fee charges in connection with the performance of the services must be increased as soon as practicable as provided for herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Consumer and Marketing Service. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found that notice and other public procedure with respect to this amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after its publication in the FEDERAL REGISTER.

This amendment shall become effective November 21, 1965, with respect to all Federal meat grading services rendered on and after that date, including service under weekly grading contracts whether heretofore or hereafter made.

(Secs. 303, 205, 60 Stat. 1067, 1090, 7 U.S.C. 1622, 1624)

Done at Washington, D.C., this 12th day of November, 1965.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 65-12334; Filed, Nov. 16, 1965;
8:50 a.m.]

Chapter II—Consumer and Marketing Service (School Lunch Program), Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act Fiscal Year 1966

Pursuant to section 4 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1966, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama.....	\$4,500,411	\$4,378,464	\$121,947
Alaska.....	135,212	135,212	
Arizona.....	1,184,177	1,129,660	54,517
Arkansas.....	2,535,005	2,486,954	48,051
California.....	5,765,232	5,765,232	
Colorado.....	1,350,247	1,250,845	99,402
Connecticut.....	1,209,423	1,209,423	
Delaware.....	296,377	292,999	3,378
District of Columbia.....	172,513	172,513	
Florida.....	5,266,592	5,144,061	122,531
Georgia.....	6,026,441	6,026,441	
Guam.....	90,067	90,065	2
Hawaii.....	916,532	858,437	58,095
Idaho.....	679,176	667,605	11,571
Illinois.....	4,191,536	4,191,536	
Indiana.....	3,146,479	3,146,479	
Iowa.....	2,662,000	2,332,530	329,470
Kansas.....	1,711,403	1,711,403	
Kentucky.....	4,458,204	4,458,204	
Louisiana.....	6,266,186	6,266,186	
Maine.....	735,891	646,731	89,160
Maryland.....	1,843,760	1,771,831	71,929
Massachusetts.....	3,003,507	3,003,507	
Michigan.....	3,456,573	3,064,019	392,554
Minnesota.....	3,226,383	2,796,900	429,483
Mississippi.....	3,953,833	3,953,833	
Missouri.....	3,210,814	3,210,814	
Montana.....	437,661	406,054	31,607
Nebraska.....	1,052,692	881,732	170,960
Nevada.....	119,554	115,442	4,112
New Hampshire.....	383,423	383,423	
New Jersey.....	1,804,795	1,555,949	248,846
New Mexico.....	1,004,790	1,004,790	
New York.....	8,683,063	8,683,063	
North Carolina.....	6,839,873	6,839,873	
North Dakota.....	704,672	621,306	83,366
Ohio.....	5,549,681	4,929,052	620,629
Oklahoma.....	1,978,902	1,978,902	
Oregon.....	1,277,750	1,277,750	
Pennsylvania.....	5,673,447	4,939,613	733,834
Puerto Rico.....	3,613,983	3,613,983	
Rhode Island.....	252,701	252,701	
South Carolina.....	4,094,540	4,043,457	51,083
South Dakota.....	570,153	570,153	
Tennessee.....	4,333,080	4,240,365	92,715
Texas.....	6,407,923	6,223,909	184,014
Utah.....	1,074,059	1,069,706	4,353
Vermont.....	244,858	244,858	
Virginia.....	3,965,481	3,885,038	80,443
Virgin Islands.....	102,995	102,995	
Washington.....	1,788,195	1,732,795	55,400
West Virginia.....	1,719,356	1,679,673	39,683
Wisconsin.....	2,607,766	2,061,800	545,966
Wyoming.....	215,483	215,483	
American Samoa.....	25,000	25,000	
Total.....	138,590,000	133,659,805	4,930,195

(Secs. 2-12, 60 Stat. 230-233, as amended,
76 Stat. 944; 42 U.S.C. 1751-1760)

Dated: November 12, 1965.

S. R. SMITH,
Administrator,
Consumer and Marketing Service.

[F.R. Doc. 65-12335; Filed, Nov. 16, 1965;
8:50 a.m.]