

1963, 28 F.R. 3531, requiring a Farmington, Maine, manufacturer of woodenware products, to cease discriminating in price between competing purchasers of wooden skewers, clothespins, ice cream spoons and other wooden products sold by respondents in violation of section 2(a) of the Clayton Act.

The order on remand to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Forster Mfg. Co., Inc., a corporation, and its officers and the individual respondent Theodore R. Hodgkins, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale or distribution in commerce of woodenware products, do forthwith cease and desist from discriminating, directly or indirectly, in the price of such products of like grade and quality:

By selling such products to any purchaser at a price which is lower than the price charged any other purchaser at the same level of distribution, where such lower price undercuts the lowest price offered to that purchaser by any other seller having a substantially smaller annual volume of sales of woodenware products than respondents' annual volume of sales of those products.

As used herein, the term "woodenware products" means wooden skewers, clothespins, ice cream spoons, and other wooden products sold by respondents.

It is further ordered, That respondents Forster Mfg. Co., Inc., and Theodore R. Hodgkins, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist set forth herein.

Issued: July 23, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 65-12656; Filed, Nov. 24, 1965;
8:46 a.m.]

[Docket No. 7468]

PART 13—PROHIBITED TRADE PRACTICES

Western Radio Corp. et al.

Subpart—Advertising falsely or misleading: § 13.70 Fictitious or misleading guarantees; § 13.205 Scientific or other relevant facts; § 13.247 Statutes and regulations.

(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) [Modified cease and desist order, Western Radio Corporation, et al., Kearney, Nebr., Docket 7468, July 7, 1965]

In the Matter of Western Radio Corporation, a corporation, and Paul S. Beshore and W. P. Beshore, individually and as officers of said corporation

Order modifying cease and desist order of September 25, 1963, 28 F.R. 11453,

requiring manufacturers of portable radio transmitters in Kearney, Nebr., to cease falsely advertising the operational range of their products including radio transmitters, the conditions of licensing, and the terms of guarantee, in accordance with a final decree of the Court of Appeals, Seventh Circuit, of January 27, 1965, 339 F. 2d 937.

The modified order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Western Radio Corp., a corporation, and its officers, and Paul S. Beshore and W. P. Beshore, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their products, including radio transmitters, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

(a) That their transmitters with or without the use of additional equipment have a satisfactory operational range of any specified distance unless respondents are able to establish that their devices in fact have the operational ranges specified.

(b) That no license or permit is required for any operational use of their radio transmitters unless the specific conditions under which such license or permit would be required are conspicuously set forth in conjunction therewith.

(c) That any product is guaranteed unless the terms and conditions of such guarantee are clearly and conspicuously set forth, including the amount of any service or other charge which is imposed.

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

Issued: July 7, 1965.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 65-12657; Filed, Nov. 24, 1965;
8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Toy Catalog Advertising Payments

The Commission was again requested to express an opinion with respect to the legality of payments by toy manufacturers for advertising in toy catalogs published by a firm which, assertedly, (1) is strictly a publisher and has no connection whatever with any toy jobber or manufacturer, and (2) affirmatively offered the catalogs for sale to all jobbers.

With respect to this request, the Commission referred to a previous opinion

which was published in the FEDERAL REGISTER November 16, 1965, 30 F.R. 14317, under § 15.2, and again advised as follows:

Payments for advertising in a catalog published by a firm which is not owned or controlled by, or in any way directly or indirectly affiliated with, any customer of the advertiser or group or class of such customers do not violate section 2(d) of the Clayton Act where no discriminatory benefit is conferred by such payments on a particular customer, or class or group of customers, over competitors. The Commission notes your statement that your catalogs are available at low cost to all toy jobbers and are not designed to be usable only by particular jobbers, or classes or groups of jobbers; that you make every effort to distribute your catalogs as broadly as possible among toy jobbers; and that you do not limit distribution to any particular jobbers or group or class of jobbers. The Commission is of the opinion that if your catalogs, however titled, are available, in a practical business sense, to all of the jobber customers of a manufacturer, then no objection could be raised to payments by that manufacturer for advertising in the catalogs.

To obviate any possible misunderstanding, the Commission corrected an erroneous statement in the requesting party's communication to the effect that the Commission's previous opinion had ruled that since the catalogs were available in a practical business sense to all jobber customers of the manufacturers the payments would not be objectionable. The Commission advised the requesting party that the opinion set forth above and all previous Commission opinions ruling on this precise question have clearly stated that the payments would not be objectionable if the catalogs were available in a practical business sense to all jobbers. The Commission made no finding in its previous opinions that the catalogs were in fact available to all jobbers since such information was not available to it. Instead, the previous opinions simply took the position that the payments would not be illegal if the catalogs were actually so available.

Dated: November 17, 1965.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 65-12672; Filed, Nov. 24, 1965;
8:48 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Foreign Origin Disclosure

§ 15.9 Foreign origin disclosure.

(a) The Federal Trade Commission has rendered an advisory opinion regarding the labeling of containers for knives which are imported from Japan and to be stamped "Made in Japan" by an importer using the word "manufacturing" in his trade name.

(b) The Commission's advice was that in the absence of any showing of material deception, a proceeding by it to require disclosure of Japanese origin of the knives on the containers would not appear to be warranted.

(c) The Commission said the same advice would apply if the name of the importer is printed on the container provided the "Made in Japan" legend on the knives is readily visible upon casual inspection by prospective purchasers prior to purchase. However, if the disclosure does not meet this condition, it will be necessary to make a clear and conspicuous disclosure of Japanese origin on the box in close proximity to the name and address of the importer.

(d) The Commission made the following comments with respect to use of the word "manufacturing" by an importer in his trade name but without in any way passing upon its propriety:

The general rule is that a company may not use this word in its trade name unless it in fact owns, operates or controls a factory where the merchandise is manufactured. The reason is that there is a preference for dealing directly with the manufacturer, such preference being due in part to a belief that lower prices and other advantages may be obtained.

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: November 24, 1965.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 65-12871; Filed, Nov. 24, 1965;
8:48 a.m.]

Proposed Rule Making

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1602]

EMPLOYER REPORTING REQUIREMENTS

Notice of Public Hearing Required by Section 709(c), Title VII, Civil Rights Act of 1964, and of Proposed Rule Making

A. *Notice of public hearing.* Pursuant to the requirements of section 709(c), Title VII, Civil Rights Act of 1964, notice is hereby given that the Equal Employment Opportunity Commission will conduct a public hearing on Thursday, December 16, 1965, at 10 a.m., e.s.t., in Room 1242, 1800 G Street NW., Washington, D.C., with respect to the proposed information report form which employers subject to Title VII will be required to file with the Commission or its delegate on or before March 31, 1966, and annually thereafter; and to proposed regulations relating to the making, keeping and preservation of employment or personnel records by employers subject to Title VII.

Interested persons are invited to participate in, and to present evidence, views and arguments with respect to the proposed form at the said hearing. Pertinent statements from interested persons not desiring to participate in the hearing may be submitted in writing to the Director, Office of Research and Reports, Equal Employment Opportunity Commission, Washington, D.C., 20506, at any time prior to 5:30 p.m., e.s.t., Friday, December 10, 1965.

A copy of the proposed employer information report form, tentatively entitled EEO-1,¹ is available for inspection at the Office of the Federal Register, National Archives Building, Washington, D.C. or at the Office of Research and Reports, Equal Employment Opportunity Commission, Washington, D.C., 20506.

Description of the proposed employer information report form. Proposed Form EEO-1, "Equal Employment Opportunity Employer Information Report," is designed for joint use by the Equal Employment Opportunity Commission; the Office of Federal Contract Compliance, established to implement Executive Order 11246, September 24, 1965; and the Plans for Progress program. Employers subject to the reporting requirements of more than one of these organizations will satisfy the requirements of each by the filing of Form EEO-1. The report is to be filed annually on or before

March 31. The first report is due March 31, 1966.

Items 1 through 4 of the report consist of identification questions such as the name, address, identification number, reporting unit number, and major activity performed at the reporting unit, of each employer reporting unit (and the address and identification number of the employer's principal office or parent company, where applicable).

Items 5, 6, and 7 of the report contain employment statistics. Based on employment data to be gathered, at the employer's option, during any one payroll period in December, January, or February, these items will disclose the total number of employees, male and female, and the number of Negro, Oriental, American Indian, and Spanish American employees, male and female, in each of nine occupational categories: Officials and managers, professionals, technicians, sales workers, office and clerical, craftsmen, operatives, laborers and service workers. Similar breakdowns by sex or minority group are to be reported for apprentices and on-the-job trainees. Except for the payroll period to be used, these sections are identical with Part III of Standard Form 40 (revised) used by the former President's Committee on Equal Employment Opportunity.

Item 8 calls for the filing of the following information with respect to each participating trade organization, if any; employer participates or to which he contributes: (a) Name and location of joint apprenticeship committee, if any; (b) trade or craft; (c) name and location of participating trade organization, if any; (d) name and location of participating labor organization, if any; (e) Government agency with which the program is registered, if any.

Item 9 calls for the identification of each labor organization with which an employer has an arrangement under which he is required to accept, or customarily accepts, employees referred by the labor organization.

In Item 10, the employer would be required to state whether or not there are employee facilities at the reporting unit which are provided on a racially separate basis.

Item 11 contains space for explanatory remarks relating to the identification and other questions on the form.

Item 12, to be answered only by employers who are Government contractors reporting under Executive Order 11246, calls for information as to (a) whether the reporting unit is a prime contractor or first-tier subcontractor; (b) the inclusion of a nondiscrimination clause in subcontracts; and (c) the "predominant interest" Government agency with which the employer has Government contracts.

PROPOSED INSTRUCTIONS ACCOMPANYING FORM

FORM EEO-1—INSTRUCTIONS

1. *Who must file information reports.* The "Equal Employment Opportunity Employer Information Report," Form EEO-1, is a single report form to be used by employers subject to the jurisdiction of one or more of the following: (a) The Equal Employment Opportunity Commission, under Title VII of the Civil Rights Act of 1964; (b) the Office of Federal Contract Compliance of the United States Department of Labor, under Executive Order 11246, dated September 24, 1965; (c) the Plans for Progress program. This form replaces Standard Form 40 (revised February 1964) and Form EEO-10. A single employer might be covered by all three organizations (for example, a company with more than 100 employees which has a \$100,000 Government contract, and is a member of Plans for Progress); regardless of whether you are covered by one or more of these three programs, the filing of this report form as instructed below will satisfy the reporting requirements of all three. Examine carefully Section 2e of these instructions to determine whether you are covered by any of these programs and, if you are, which of the definitions of "employer" you meet. It should be noted that the existence of a State or local fair employment practice law covering the employer does not exempt the employer under Title VII from filing Form EEO-1 unless the reporting unit involved has, within the 12 months preceding the due date of this report, filed with the State or local fair employment practice agency a report containing employment data classified by minority group, sex and occupation that is substantially similar to this report.

Single establishment employers are required to file one report (in triplicate). Subject to the definitions and exceptions listed below, employers with more than one establishment are required to file this form (in triplicate) for each reporting unit and all employees of the company in the 50 States and the District of Columbia (including the principal office), as well as a consolidated report (in triplicate) covering all the reporting units of the company. Any inquiry regarding this reporting system, or your status thereunder, should be directed to Joint Reporting Committee, c/o EEOC, 1800 G Street NW., Washington, D.C., 20506.

2. Definitions of general application

a. "Commission" refers to the Equal Employment Opportunity Commission established under Title VII of the Civil Rights Act of 1964.

b. "OFCC" refers to the Office of Federal Contract Compliance, United States Department of Labor, established to implement Executive Order 11246 (dated September 24, 1965).

c. "Plans for Progress" refers to an equal employment opportunity program voluntarily agreed to by employers who have become members of the program.

d. "Joint Reporting Committee" is a committee representing the Commission, OFCC, and Plans for Progress for the purpose of administering this report system.

e. "Employer" generally means

¹ Filed as part of the original document.

(1) any private individual or entity engaged in an industry affecting commerce who has had 100 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person (see secs. 701 and 702, Title VII, Civil Rights Act of 1964, for further pertinent definitions or exemptions); or

(2) any employer which is formally participating in the Plans for Progress program; or

(3) any person or entity subject to Executive Order 11246 who—

(a) Has 50 or more employees; and

(b) Is a prime contractor or first-tier subcontractor; and

(c) Whose contract, subcontract or purchase order amounts to \$50,000 or more (\$100,000 or more if solely for standard commercial supplies and raw materials).

NOTE: Notwithstanding subsection 3(b) above, any subcontractor, although below first-tier, which performs construction work at the site of construction, is an employer if it also meets the requirements of subsections 3(a) and 3(c). Special reporting rules for employers in the construction industry—whether subject to Title VII or Executive Order 11246—are set forth below in section 4(f) and should be carefully studied before filing the report form.

1. "Employee" means any individual on the payroll of an employer.

g. "Commerce" means trade, traffic, commerce, transportation, transmission or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

h. "Industry affecting commerce" means any activity, business or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Reporting and Disclosure Act of 1959.

i. "Labor organization" generally means an organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms and conditions of employment (see section 701 of Title VII for a more explicit definition).

j. "Employer identification number" is the 9-digit number which each legal entity (corporation, partnership, or sole proprietorship) has been assigned as its employer identification number on the basis of its application (Form SS-4) to Internal Revenue Service for an identification number, and is used on all the company's reports to the Social Security Administration and to the Internal Revenue Service. This number should also be used on all employer information reports and communications concerning these reports.

NOTE: Affiliates of employers, if separately incorporated, are considered as legal entities for purposes of filing these reports. As such, they are treated as distinct employers and are required to file separate reports if subject to the provisions and reporting requirements of Title VII, the Plans for Progress program, or of Executive Order 11246.

k. "Reporting unit" means a single establishment (location) of the employer, except as indicated in section 4 of these instructions.

1. "Reporting unit number" means the identification number assigned to each reporting unit of a multi-establishment employer participating in the Social Security Establishment Reporting Plan and is used in filing Quarterly Tax Reports with the Social Security Administration on Form 941. (In the event that a multi-establishment em-

ployer does not participate in this Establishment Reporting Plan, the payroll office or comptroller should assign an arbitrary reporting unit number of four or less numerical digits to each establishment of the employer. The appropriate number should then be used on each report submitted. Employers having only one place of business (single establishment firms) shall so specify in the spaces provided for reporting unit numbers.)

SPECIAL NOTE: The employer identification number and the reporting unit number together constitute the only means of matching current reports with reports of other years. In order to make meaningful year-to-year analyses of these reports, therefore, an employer identification number and a reporting unit number must be entered in items 1B, 1C, and 3B of Form EEO-1 and these numbers should in every possible case be consistent with previous reporting. In the case of single establishment firms, only the employer identification number is required. If for some reason identifying numbers must be changed, as a result of organization changes, mergers, etc., please note and briefly describe in item 11 the reasons for the change.

m. "Principal office of the company" means the central administrative office of the legal entity (corporation, partnership, or single proprietorship) regardless of affiliation, stock ownership, or control.

n. "Major activity" means the major product or group of products produced or handled, or services rendered by the reporting unit (e.g., manufacturing airplane parts, retail sales of office furniture) in terms of the activity at which the greatest number of all employees work.

o. "Last report submitted for this reporting unit" includes reports submitted on this form as well as reports on Standard Form 40 or Form EEO-10.

3. Definitions applicable only to Government contractors subject to Executive Order 11246.

a. "Order" means Executive Order 11246, dated September 24, 1965.

b. "Contract" means any Government contract or any Federally assisted construction contract.

c. "Prime contractor" means any employer having a Government contract or any Federally assisted construction contract.

d. "First-tier subcontractor" means any employer having a contract with a prime contractor calling for supplies or services required for the performance of a Government contract or Federally assisted construction contract.

NOTE: A first-tier subcontractor who is also subject to these reporting requirements as a prime contractor shall be considered a prime contractor for the purposes of filing this report.

e. "Contracting agency" means any department (including the Departments of the Army, Navy, and Air Force), agency and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which enters into contracts.

f. "Administering agency" means any department (including the Departments of the Army, Navy, and Air Force), agency and establishment in the Executive Branch of the Government, including any wholly owned Government corporation, which administers a program involving Federally assisted construction contracts.

g. "Predominant Interest Agency" is a designation given to the contracting or administering agency which has primary responsibility for the administration of the employer's obligations under the Order, despite the fact that the employer may hold contracts with, or have the assistance of, other Government agencies. The Predominant Interest Agency for a prime contractor

will be, unless the employer is otherwise notified by the OFCC, the contracting or administering agency having, or assisting with, the largest aggregate dollar value of prime contracts with the employer as a whole at the time of the filing of the latest information reports for the employer. The Predominant Interest Agency for a first-tier subcontractor will be, unless the employer is otherwise notified by the OFCC, the same Predominant Interest Agency as is designated for its Predominant Interest Prime Contractor.

h. "Predominant Interest Prime Contractor" is an employer which must be designated by each first-tier subcontractor which does not hold prime contracts. The Predominant Interest Prime Contractor for any such first-tier subcontractor is the prime contractor with which the first-tier subcontractor, as an employer as a whole, has the largest aggregate value of subcontracts or purchase orders for the performance of work under Government contracts or Federally assisted construction contracts. However, there will be a Predominant Interest Prime Contractor on each construction site covered by the Executive Order, and for each subcontractor at the site, the Predominant Interest Prime Contractor will be the prime contractor at the site.

i. "Standard commercial supplies" means an article (1) which in the normal course of business is customarily maintained in stock by a manufacturer or any dealer, distributor, or other commercial dealer for the marketing of such article; or (2) which is manufactured and sold by two or more persons for general commercial or industrial use or which is identical in every material respect with an article so manufactured and sold.

4. How to prepare information reports.

This employer information report form has been developed to provide information of employment patterns and policies within detailed geographical areas and industry groups, as well as within a particular firm. Since wide variations in industry needs, available manpower and labor markets may occur from one area to another, reports by establishment or reporting unit provide the only practical means of obtaining this information. For purposes of facilitating preparation of reports, special provisions are made for the combination of certain small establishments into consolidated reports.

a. Program under which report is filed. In the upper left-hand corner of page 1 of the form, the employer should select and mark the appropriate box indicating the program under which he is filing this report. Only one such box should be marked. All members of Plans for Progress should mark that box. All Government contractors and subcontractors, other than those belonging to Plans for Progress, who meet the reporting requirements listed in section 2(e) of these instructions, should mark the box "Office of Federal Contract Compliance." All other employers should mark the box "Equal Employment Opportunity Commission."

b. Identification items. In completing items 1 through 4 of the form, consult the definitions sections included above.

c. Reporting unit. As indicated in section 2 of these instructions, a reporting unit means a single establishment (location) of the employer, except to the extent indicated below. A report should be prepared for each reporting unit as follows:

(1) The principal office of the employer shall always be reported as a separate reporting unit regardless of the number of employees and major activity involved.

(2) Each establishment (manufacturing, service, retail, etc.) with 50 or more employees shall be reported as a separate reporting unit.

(3) Establishments having fewer than 50 employees may be reported either by indi-

visual establishment or may be combined into separate state-wide units consisting only of those establishments having the same major activity. Thus, all establishments with a particular major activity, e.g., retail, sales, service, with less than 50 employees within a single state may comprise one reporting unit. In instances where two or more activities are performed in the same establishment, the employer should designate the major activity. Once having made such designation, for these combined establishments with a consistent identification of the designated major activity.

(4) In all instances where the employer has elected to file combined reports for establishments with fewer than 50 employees, the name of each establishment, its location, and number of employees should be listed and attached to the report.

(5) Where the reporting unit consists of more than one establishment, it should be understood that there may be a subsequent request for data on an establishment basis.

(6) If an employer is engaged in activities for which the above-described reporting unit criteria may not be readily adaptable (e.g., operation of interstate railroads), special reporting procedures may be required. In such cases, the employer should so advise by submitting a specific proposal for an alternative reporting system prior to the date on which the reports are due. The proposal should be directed to the Joint Reporting Committee, c/o Equal Employment Opportunity Commission, 1800 G Street NW., Washington, D.C., 20506.

d. *Consolidated reports.* In addition to the report covering its principal office and other reporting units as described, every multi-establishment employer must file a consolidated report covering all of its reporting units. The report form will identify the consolidated report as such in item 3(A) of the form and by the inclusion in items 5 and 6 of consolidated totals derived from the data appearing on the forms covering the separate reporting units.

e. *Employees to be reported.* Items 5 and 6 of each report form must include ALL employees in that reporting unit employed during any one payroll period in the December, January or February preceding the due date of the annual report.

f. *Special rule for employers in the contract construction industry.* Any employer which performs construction work at the site of construction, whether required to file this report under Executive Order 11246 or Title VII, should include in items 5 and 6 (employment statistics) only his permanent employees. Thus, employees at a construction site whose employment relationship is expected to terminate with the end of the employer's work at the site should not be reported in items 5 and 6. However, both permanent and temporary employees must be included in determining under section 2e, of these instructions whether the employer must file this report; and if required to file the report, the employer must provide the information in items 8 and 9 (apprenticeship and referral arrangements) with respect to all employees, permanent and temporary.

g. *Minority group identification.* Items 5 and 6 provide for reporting American Indians, Orientals, and Spanish Americans where any of these groups is sufficiently large to constitute an identifiable factor in the local labor market. For purposes of this report, the term Spanish Americans means those of Latin American, Puerto Rican or Spanish origin, and it is to be noted that the following States are among those having large concentrations of Spanish Americans: Arizona, California, Colorado, Florida, New Jersey, New Mexico, New York, and Texas.

Employers may acquire information necessary for items 5 and 6 either by visual sur-

veys of the work force, or from post-employment records as to the identity of employees. Eliciting information as to the racial or ethnic identity of an employee by direct inquiry is not encouraged. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging.

Antidiscrimination laws of a number of States and localities prohibit an employer from gathering preemployment information regarding the race, creed, color, or national origin of an applicant. However, enforcement authorities in all such States and localities have advised that their laws do not preclude employers from gathering such information subsequent to employment for the purpose of Government surveys.

h. *Items to be completed.* Each item of the information report shall be completed unless otherwise instructed. If an item does not apply, mark "N/A" for not applicable.

i. *Reports to be signed.* Each information report (EEO-1) shall be signed and dated by an authorized representative of the employer.

5. *Description of job categories.*

Officials and managers.—Occupations requiring administrative personnel who set broad policies, exercise over-all responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers and superintendents, salaried foremen who are members of management, purchasing agents and buyers, and kindred workers.

Professional.—Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, personnel and labor relations workers, physical scientists, physicians, social scientists, teachers, and kindred workers.

Technicians.—Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about two years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: draftsmen, engineering aides, junior engineers, mathematical aids, nurses, photographers, radio operators, scientific assistants, surveyors, technical illustrators, technicians (medical, dental, electronic, physical sciences), and kindred workers.

Sales.—Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and salesmen, insurance agents and brokers, real estate agents and brokers, stock and bond salesmen, demonstrators, salesmen and sales clerks, and kindred workers.

Office and clerical.—Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, cashiers, collectors (bills and accounts), messengers and office boys, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, and kindred workers.

Craftsmen (skilled).—Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid foremen and leadmen who are not members of management, mechanics and repairmen,

skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, and kindred workers.

Operatives (semiskilled).—Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, bricklayers, carpenters, electricians, machinists, mechanics, plumbers, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, deliverymen and routemen, dressmakers and seamstresses (except factory), dyers, fur-nacemen, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motormen, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, stationary firemen, truck and tractor drivers, weavers (textile), welders, and flame-cutters, and kindred workers.

Laborers (unskilled).—Workers in manual occupations which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and groundskeepers, longshoremen and stevedores, lumbermen, ratmen and wood choppers, laborers performing lifting, digging, mixing, loading, and pulling operations, and kindred workers.

Service workers.—Workers in both protective and nonprotective service occupations. Includes: attendants (hospital and other institution, professional and personal service), barbers, charwomen and cleaners, cooks (except household), counter and fountain workers, elevator operators, firemen and fire protection, guards, watchmen and doorkeepers, stewards, janitors, policemen and detectives, porters, waiters and waitresses, and kindred workers.

Apprentices.—Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprenticeship, regardless of whether the program is registered with a Federal or State agency.

On-the-job trainees:

Production (includes persons engaged in formal training for craftsmen—when not trained under apprentice programs—operative, laborer and service occupations).

White collar (includes persons engaged in formal training, for official, managerial, professional, technical, sales, office and clerical occupations).

6. *When and where to file information reports.*

Each employer should submit reports annually by March 31 using manpower figures from any one payroll period during the preceding December, January or February, using the same month each year.

If the employer submits reproduced copies of this form, the size should not be materially changed in reproduction. Employers may submit their reports as data processing print-outs, provided the same information is given in the same sequence as it appears in this form.

The headquarters of the employer should collect all reports for the employer's reporting units and submit these and its consolidated report all at the same time.

The completed report, prepared in triplicate, and including the consolidated report of all the employer's reporting units in triplicate should be forwarded in one mailing to the Joint Reporting Committee, c/o Equal Employment Opportunity Commission, 1800 G Street NW., Washington, D.C., 20506.

An employer reporting under Executive Order 11246 should be prepared to furnish additional information reports to the OFCC or Plans for Progress or a contracting or administering agency at times other than those prescribed above. Any contractor or subcontractor not required by these instructions to submit this form may be so required upon the request of the Director of OFCC.

7. Responsibilities of prime contractors.

a. Prime contractors having one or more contracts subject to these reporting requirements shall obtain all necessary supplies of report forms and instructions from their contracting or administering agencies.

b. At the time of an award of a first-tier subcontract subject to these reporting requirements, the prime contractor shall inform the subcontractor of its responsibility to submit information reports in accordance with these instructions.

c. A prime contractor who has been designated as a "Predominant Interest Prime Contractor" by a first-tier subcontractor shall also insure that such subcontractor is reminded to file annual reports due on March 31 and furnish a supply of forms for this purpose.

d. If the prime contractor fails to receive notification of the submission of current reports as may have been requested from any subcontractor subject to these reporting requirements, this shall be reported immediately to the contracting officer of the Predominant Interest Agency and to the OFCC with a statement as to the efforts made to obtain this information and the results.

B. *Notice of proposed rule making.* Pursuant to the authority vested in it by section 709, 78 Stat. 625, the Equal Employment Opportunity Commission proposes that Title 29, Chapter XIV, of the Code of Federal Regulations be amended by designating §§ 1602.2 through 1602.6 as "Subpart A—Procedure" and by adding thereafter the following:

Subpart B—Employer Information Report

- Sec.
1602.7 Requirement for filing of report.
1602.8 Penalty for making of willfully false statements on report.
1602.9 Commission's remedy for employer's failure to file report.
1602.10 Employer's exemption from reporting requirements.
1602.11 Additional reporting requirements.

Subpart C—Record-Keeping By Employers

- 1602.12 Records to be made or kept.
1602.13 Records as to racial or ethnic identity of employees.
1602.14 Preservation of records made or kept.

Subpart B—Employer Information Report

- § 1602.7 Requirement for filing of report.

On or before March 31, 1966, and annually thereafter, every employer subject to Title VII of the Civil Rights Act shall file with the Commission or its delegate executed copies of the information report form described above. The definitions, instructions, and requirements contained in the form, known as Form EEO-1, and in the Instructions attached thereto are specifically incorporated herein and shall have the same force and effect as the other sections of this part.

§ 1602.8 Penalty for making of willfully false statements on report.

The making of willfully false statements on Form EEO-1 is a violation of the United States Code, Title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

§ 1602.9 Commission's remedy for employer's failure to file report.

Any employer failing or refusing to file this Form EEO-1 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission.

§ 1602.10 Employer's exemption from reporting requirements.

If an employer is engaged in activities for which the reporting unit criteria described in section 4(c) of the Instructions are not readily adaptable, special reporting procedures may be required. In such case, the employer should so advise by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due. If it is claimed the preparation or filing of the report would create undue hardship, the employer may apply to the Commission for an exemption from the requirements set forth in this part.

§ 1602.11 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Employer Information Report on Form EEO-1, about the employment practices of individual employers or groups of employers whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII and as otherwise prescribed by law.

Subpart C—Record-Keeping by Employers

§ 1602.12 Records to be made or kept.

The Commission has not adopted any requirement, generally applicable to employers, that records be made or kept. It reserves the right to impose record-keeping requirements upon individual employers or groups of employers subject to its jurisdiction whenever, in its judgment, such records (a) are necessary for the effective operation of the Form EEO-1 reporting system or of any special or supplemental reporting system as described above; or (b) are further required to accomplish the purposes of Title VII. Such record-keeping requirements will be adopted in accordance with the procedures referred to in section 709(c), and as otherwise prescribed by law.

§ 1602.13 Records as to racial or ethnic identity of employees.

Employers may acquire the information necessary for completion of Items 5

and 6 of Form EEO-1 either by visual surveys of the work force, or at their option, by the maintenance of post-employment records as to the identity of employees where the same is permitted by State law. In the latter case, however, the Commission recommends the maintenance of a permanent record as to the racial or ethnic identity of an individual for purpose of completing the report form only where the employer keeps such records separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g. as part of an automatic data processing system in the payroll department.

§ 1602.14 Preservation of records made or kept.

Unless the employer is subject to a State or local fair employment practice law or regulation governing the preservation of records and containing requirements inconsistent with those stated in this part, any personnel or employment record made or kept by an employer (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of one year from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of one year from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Attorney General, against an employer under Title VII, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel records relevant to the charge", for example, would include personnel or employment records relating to the charging party and to all other employees holding positions similar to that held or sought by the charging party; and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the charging party applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which a charging party may bring an action in a United States District Court or, where an action is brought against an employer either by a charging party or by the Attorney General, the date on which such litigation is terminated.

FRANKLIN D. ROOSEVELT, Jr.,
Chairman.

NOVEMBER 23, 1965.

[F.R. Doc. 65-12737; Filed, Nov. 24, 1965; 9:35 a.m.]