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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—FILLING COMPETITIVE POSITIONS

DELAYED FILING FOR EXAMINATIONS

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (3) of § 2.208 is amended as set out below.

§ 2.208 *Acceptance of applications after closing date*—(a) *Applicants in military or foreign service.* * * *

(3) Any United States citizen who could not file application for an examination, or appear for an assembled test, because of foreign service with a Federal agency or with an international organization in which the United States Government participates. ("Foreign service" means service in an area outside the United States proper but shall not include service in Alaska, Hawaii, the Panama Canal Zone, Puerto Rico, or the Virgin Islands.)

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] Wm. C. HULL,
Executive Assistant.

[F. R. Doc. 55-9299; Filed, Nov. 17, 1955; 8:51 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6378]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

L. & I. FISHKIN, INC., ET AL.

Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition: Wool Products Labeling Act.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1845 *Composition: Wool Products Labeling Act.* Subpart—*Offering unfair improper and deceptive inducements to purchase or deal*: § 13.1982 *Guarantee—statutory: Wool Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 45, 68-68c) [Cease and desist order, L. & I. Fishkin, Inc.,

et al., New York, N. Y., Docket 6378, November 5, 1955]

In the Matter of L. & I. Fishkin, Inc., a Corporation, and Louis Fishkin, Individually and as an Officer of Said Corporation, and Irving Fishkin, Individually

This proceeding was heard by Everett F. Haycraft, hearing examiner, upon the complaint of the Commission—which charged respondents with violating the Wool Products Labeling Act and the Federal Trade Commission Act through falsely labeling as "100 percent Wool" interlinings of children's coats and jackets, failing to label certain of such coats and jackets, and falsely guaranteeing that such wool products were not misbranded—and an agreement between the parties providing for the entry of a consent order in accordance with § 3.25 of the Commission's rules of practice.

Upon this basis, the hearing examiner made his initial decision and order to cease and desist, which by the Commission's order of November 4, 1955, became, on November 5, 1955, pursuant to § 3.21 of the rules of practice, the "Decision of the Commission"

The order to cease and desist is as follows:

It is ordered, That the respondent L. & I. Fishkin, Inc., a corporation, and respondent Louis Fishkin, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of children's coats and jackets or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool" or "reused wool," as those terms are defined in said act, do forthwith cease and desist from misbranding such products by

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or

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amount of the constituent fibers included therein;	
2. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:	
(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such	

fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products, of any non-fibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool products or of one or more persons engaged in introducing such wool products into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939 and

3. Furnishing false guaranties when there is reason to believe the wool products so guaranteed may be introduced, sold, transported or distributed in commerce:

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939, and

Provided further That nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the Rules and Regulations promulgated thereunder:

It is further ordered, That the complaint be, and the same hereby is, dismissed without prejudice as to the respondent Irving Fishkin, individually.

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

It is ordered, That the respondents L. & I. Fishkin, Inc., a corporation, and Louis Fishkin, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: November 4, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-9300; Filed, Nov. 17, 1955;
- 8:51 a. m.]

(5) Payments on Soil and Water Conservation loans to associations will be scheduled in annual installments.

(Sec. 6 (3), 50 Stat. 870, sec. 10 (a) (7), 63 Stat. 735; 16 U. S. C. 590w (3), 590s-3)

Dated: November 14, 1955.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F. R. Doc. 55-9264; Filed, Nov. 17, 1955;
8:45 a. m.]

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

Subchapter A—General Regulations and Policies

PART 400—RULES OF CONTRACT DISPUTES BOARD FOR COMMODITY CREDIT CORPORATION

JURISDICTION AND LEGAL ADVICE

Pursuant to the authority contained in Sections 4, 9, and 10 of the Commodity Credit Corporation Charter Act (P. L. 806, 80th Congress, 62 Stat. 1070, as amended) the rules of the Contract Disputes Board for Commodity Credit Corporation, as amended (Code of Federal Regulations, Title 6, Subchapter A of Chapter IV Part 400, 1954 Supp., January 1, 1955) are further amended as follows:

1. In § 400.1, paragraph (c) *Jurisdiction* is amended by deleting the following: "(including but not limited to Article 22 of PMA Form 100, Standard Contract Conditions, and raw material cost adjustment provisions)", and inserting in lieu thereof the following: "(including but not limited to Article 36, Form CSS-10, Uniform Contractual Provisions [Procurement], and Article 39, Form CSS-50, Uniform Contractual Provisions [Servicing]."

2. Section 400.1 (e) is amended to read as follows:

(e) *Legal advice from the Office of the General Counsel.* If any matter involves any doubtful questions of law, the Contract Disputes Board will obtain the advice of the Office of the General Counsel, Department of Agriculture, with respect thereto.

Adopted by the Contract Disputes Board for Commodity Credit Corporation at meeting held on November 3, 1955, at Washington, D. C.

(Sec. 4, 62 Stat. 1070; 15 U. S. C. 714b)

[SEAL] HARRY B. WIRIN,
Chairman, Contract Disputes Board for Commodity Credit Corporation.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

Attest:

EMIL F. DIETSCH,
Secretary, Contract Disputes Board for Commodity Credit Corporation.

NOVEMBER 14, 1955.

[F. R. Doc. 55-9297; Filed, Nov. 17, 1955;
8:50 a. m.]

PART 464—TOBACCO

SUBPART—1955 TOBACCO LOAN PROGRAM

Set forth below are schedules of advance rates, by grades, for the 1955 crop of types 21, 22, 23, 35, 36, and 37 tobacco, under the tobacco loan program formulated by Commodity Credit Corporation and Commodity Stabilization Service, published May 20, 1955 (20 F. R. 3525)

- Sec. 464.731 1955 crop; Virginia fire-cured tobacco, Type 21; advance schedule.
- 464.732 1955 crop; Tennessee and Kentucky fire-cured tobacco, Type 22; advance schedule.
- 464.733 1955 crop; Kentucky and Tennessee fire-cured tobacco, Type 23; advance schedule.
- 464.734 1955 crop; Dark air-cured tobacco, Types 35 and 36; advance schedule.
- 464.735 1955 crop; Virginia sun-cured tobacco, Type 37; advance schedule.

Authority: §§ 464.731 to 464.735 issued under sec. 4, 63 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1073, secs. 101, 401, 63 Stat. 1051, as amended, 1054, sec. 2, 59 Stat. 508; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421, 1312 note.

§ 464.731 1955 crop; Virginia fire-cured tobacco, type 21, advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Length 43	Length 45	Length 44	Grade	
A1F	51.12	52.12		T3F	33.12
A2F	49.12	50.12	49.12	T4F	35.12
A3F	49.12	47.12	47.12	T5F	31.12
A1D	51.12	52.12		T3D	33.12
A2D	49.12	50.12	49.12	T4D	35.12
A3D	49.12	47.12	47.12	T5D	31.12
				T6M	26.12
B1F	43.12	43.12	43.12	T4M	33.12
B2F	43.12	47.12	47.12	T5M	37.12
B3F	43.12	41.12	43.12	T6F	26.12
B4F	37.12	33.12	37.12	T4G	33.12
B5F	34.12	33.12	34.12	T5G	37.12
B1D	43.12	43.12	43.12		
B2D	43.12	47.12	47.12	N1L	37.12
B3D	43.12	41.12	43.12	N2L	34.12
B4D	37.12	33.12	37.12	N3L	31.12
B5D	34.12	33.12	34.12	N4L	29.12
B3M	37.12	33.12	37.12	N1F	24.12
B4M	33.12	33.12	33.12	N2F	33.12
B5M	32.12	33.12	32.12	N2R	35.12
B3G	37.12	33.12	37.12	N3F	33.12
B4G	33.12	37.12	33.12	N4F	29.12
B5G	32.12	33.12	32.12	N5F	24.12
				N1D	33.12
C1L	50.12	51.12	50.12	N2D	35.12
C2L	48.12	49.12	48.12	N3D	33.12
C3L	42.12	43.12	42.12	N4D	29.12
C4L	33.12	33.12	33.12	N5D	24.12
C5L	33.12	34.12	33.12	N3M	29.12
C1F	50.12	51.12	50.12	N4M	25.12
C2F	48.12	49.12	48.12	N5M	22.12

¹The Cooperative Associations through which price support is made available for Virginia fire-cured, type 21, and Virginia sun-cured, type 37, are authorized to deduct from the amount paid to growers 12 cents per hundred pounds to apply against overhead costs. Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), DAM (damaged), N2L, N2R, N2G, N-E, botched, nested, off-type, or decayed will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 10 percent below the regular grade advance rates for types 22, 23, 35, and 36, and 20 percent below the regular grade advance rates for types 21 and 37. Types 22 and 23, grades marked with the special factor "OS" and dark air-cured, type 35, grades marked with special factor "BL" in addition to the regular grade symbols shall have an advance rate 20 percent below the advance rate for the regular grades without such special factor.

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter D—Soil and Water Conservation Loans

[FHA Instruction 442.4]

PART 354—PROCESSING LOANS TO ASSOCIATIONS

SCHEDULING PAYMENTS ON SOIL AND WATER CONSERVATION LOANS

Section 354.8 (b) (5) in Title 6, Code of Federal Regulations (20 F. R. 7214), is hereby amended to read as follows:

§ 354.8 *Loan closing.* * * *

(b) *Preparation of promissory note.*
* * *

RULES AND REGULATIONS

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44	Grade	
C3F	42.12	43.12	42.12	X3G	29.12
C4F	38.12	39.12	38.12	X4G	25.12
C5F	33.12	34.12	33.12	X5G	20.12
C2D	35.12	36.12	35.12		
C3D	30.12	31.12	30.12	N1L	14.12
C4D	29.12	30.12	29.12	N1R	14.12
C5D	26.12	27.12	26.12	N1G	14.12
C3M	32.12	33.12	32.12		
C4M	30.12	31.12	30.12		
C5M	28.12	29.12	28.12		
C3G	30.12	31.12	30.12		
C4G	28.12	29.12	28.12		
C5G	23.12	24.12	23.12		

§ 464.732 1955 crop; Tennessee and Kentucky fire-cured tobacco, Type 22; advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Lengths 46 and 45	Length 44	Grade	
A1F	59	48	T3F	33
A2F	55	48	T4F	28
A3F	45	42	T5F	22
A1D	59	48	T3D	33
A2D	55	48	T4D	28
A3D	45	42	T5D	21
B1F	50	46	T3M	31
B2F	47	44	T4M	24
B3F	43	41	T5M	18
B4F	39	37	T3G	29
B5F	31	29	T4G	23
B3FV	41	38	T5G	16
B4FV	36	34	X1L	38
B5FV	29	27	X2L	35
B1D	51	47	X3L	31
B2D	48	45	X4L	26
B3D	46	43	X5L	20
B4D	40	38	X1F	33
B5D	30	27	X2F	35
B3M	41	38	X3F	31
B4M	36	33	X4F	26
B5M	26	22	X5F	20
B3G	42	39	X3FV	28
B4G	36	33	X4FV	23
B5G	26	22	X5FV	17
C1L	49	46	X1D	38
C2L	45	42	X2D	35
C3L	43	40	X3D	28
C4L	38	36	X4D	22
C5L	30	28	X5D	13
C1F	49	46	X3M	25
C2F	45	42	X4M	17
C3F	43	40	X5M	12
C4F	38	36	X3G	25
C5F	30	28	X4G	16
C3FV	39	36	X5G	11
C4FV	34	32	N1L	11
C5FV	28	26	N1R	10
C2D	43	40	N1G	9
C3D	40	37		
C4D	34	31		
C5D	26	23		
C3M	38	35		
C4M	32	30		
C5M	26	22		
C3G	36	33		
C4G	29	25		
C5G	21	17		

§ 464.733 1955 crop; Kentucky and Tennessee fire-cured tobacco, Type 23; advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Lengths 46 and 45	Length 44	Grade	
A1F	58	47	T3F	32
A2F	54	47	T4F	27
A3F	44	41	T5F	21
A1D	58	47	T3D	32
A2D	54	47	T4D	27
A3D	44	41	T5D	20
B1F	49	45	T3M	30
B2F	46	43	T4M	23
B3F	42	40	T5M	17
B4F	38	36	T3G	28
B5F	31	29	T4G	22
B3FV	40	37	T5G	15

[Dollars per hundred pounds, farm sales weight]

Grade	Lengths 46 and 45	Length 44	Grade	
B4FV	35	33	X1L	37
B5FV	29	27	X2L	34
B1D	50	46	X3L	30
B2D	47	44	X4L	25
B3D	45	42	X5L	20
B4D	39	37	X1F	37
B5D	30	27	X2F	34
B3M	40	37	X3F	30
B4M	35	32	X4F	25
B5M	26	22	X5F	20
B3G	41	38	X3FV	27
B4G	35	32	X4FV	22
B5G	26	22	X5FV	17
C1L	48	45	X1D	37
C2L	44	41	X2D	34
C3L	42	39	X3D	31
C4L	37	35	X4D	27
C5L	30	28	X5D	21
C1F	48	45	X3M	24
C2F	44	41	X4M	18
C3F	42	39	X5M	12
C4F	37	35	X3G	24
C5F	30	28	X4G	16
C3FV	33	30	X5G	11
C4FV	33	31	N1L	11
C5FV	28	26	N1R	10
C2D	42	39	N1G	9
C3D	39	36		
C4D	33	30		
C5D	26	24		
C3M	37	34		
C4M	32	30		
C5M	26	22		
C3G	35	31		
C4G	29	25		
C5G	21	17		

§ 464.734 1955 crop; Dark air-cured tobacco, Types 35 and 36; advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Lengths 46 and 45	Length 44	Grade	
A1F	50	44	T3F	33
A2F	46	44	T4F	28
A3F	42	40	T5F	21
A1R	50	44	T3R	33
A2R	46	44	T4R	28
A3R	42	40	T5R	21
B1F	49	47	T3D	33
B2F	45	43	T4D	28
B3F	44	42	T5D	21
B4F	41	39	T3M	32
B5F	34	32	T4M	27
B3FV	41	39	T5M	20
B4FV	39	37	T3G	32
B5FV	34	32	T4G	27
B1R	49	47	T5G	20
B2R	45	43	X1L	38
B3R	44	42	X2L	35
B4R	41	39	X3L	31
B5R	34	32	X4L	27
B1D	49	47	X5L	21
B2D	45	43	X1F	33
B3D	42	40	X2F	35
B4D	40	38	X3F	31
B5D	33	31	X4F	27
B3M	40	38	X5F	21
B4M	37	35	X3FV	28
B5M	30	28	X4FV	23
B3G	40	38	X5FV	18
B4G	37	35	X1R	38
B5G	30	27	X2R	34
C1L	45	43	X3R	30
C2L	43	41	X4R	25
C3L	42	40	X5R	18
C4L	39	37	X3D	30
C5L	30	28	X4D	25
C1F	45	43	X5D	15
C2F	43	41	X3M	29
C3F	42	40	X4M	21
C4F	39	37	X5M	14
C5F	30	28	X3G	29
C3FV	39	37	X4G	19
C4FV	37	35	X5G	12
C5FV	28	26	N1L	12
C1R	43	41	N1R	11
C2R	41	39	N1G	11
C3R	40	38		
C4R	38	36		
C5R	28	26		
C3M	38	37		
C4M	35	33		
C5M	26	23		
C3G	35	33		
C4G	28	25		
C5G	21	17		

§ 464.735 1955 crop; Virginia sun-cured tobacco, Type 37, advance schedule.¹

[Dollars per hundred pounds, farm sales weight]

Grade	Length 45	Length 44	Grade	
A1F	47.12	43.12	T3F	33.12
A2F	45.12	43.12	T4F	31.12
A3F	42.12	40.12	T5F	21.12
A1R	47.12	43.12	T3R	33.12
A2R	45.12	43.12	T4R	31.12
A3R	42.12	40.12	T5R	21.12
B1F	46.12	44.12	T3D	31.12
B2F	43.12	40.12	T4D	23.12
B3F	40.12	38.12	T5D	21.12
B4F	37.12	35.12	T3M	31.12
B5F	32.12	30.12	T4M	23.12
B1R	46.12	44.12	T5M	21.12
B2R	43.12	41.12	T3G	31.12
B3R	40.12	38.12	T4G	23.12
B4R	37.12	35.12	T5G	19.12
B5R	32.12	30.12	X1L	37.12
B1D	45.12	43.12	X2L	34.12
B2D	41.12	39.12	X3L	31.12
B3D	39.12	37.12	X4L	29.12
B4D	35.12	33.12	X5L	23.12
B5D	30.12	28.12	X1F	37.12
B3M	37.12	35.12	X2F	34.12
B4M	34.12	32.12	X3F	31.12
B5M	31.12	29.12	X4F	29.12
B3G	37.12	35.12	X5F	23.12
B4G	34.12	32.12	X1R	37.12
B5G	31.12	29.12	X2R	34.12
C1L	41.12	39.12	X3R	31.12
C2L	39.12	37.12	X4R	23.12
C3L	38.12	36.12	X5R	21.12
C4L	36.12	34.12	X3D	29.12
C5L	30.12	28.12	X4D	27.12
C1F	41.12	39.12	X5D	20.12
C2F	39.12	37.12	X3M	29.12
C3F	38.12	36.12	X4M	20.12
C4F	36.12	34.12	X5M	23.12
C5F	30.12	28.12	X3G	31.12
C1R	40.12	38.12	X4G	21.12
C2R	38.12	36.12	X5G	20.12
C3R	35.12	33.12	N1L	14.12
C4R	32.12	30.12	N1R	14.12
C5R	28.12	26.12	N1G	14.12
C3M	33.12	31.12		
C4M	31.12	29.12		
C5M	27.12	25.12		
C4G	31.12	29.12		
C5G	27.12	25.12		

Issued this 10th day of November 1955.

[SEAL] EARL M. HUGHES,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-9249; Filed, Nov. 17, 1955;
8:45 a. m.]

PART 474—FARM STORAGE FACILITIES

STORAGE PAYMENTS EARNED BY BORROWERS
UNDER PRICE SUPPORT OR RESEAL
PROGRAMS

Notwithstanding the provisions of CCC Grain Price Support Bulletins (1950-1955) 15 F R. 3147, 16 F R. 1987, 17 F R. 3521, 18 F R. 1960, 19 F R. 967, and 20 F R. 3017, and the provisions of Farm Storage Facility Loan Program Bulletins, 15 F R. 4867, 16 F R. 6492, and 20 F R. 5113 (which provide for the application of farm storage payments by CCC to the accelerated reduction of loans made under the Farm Storage Facility Loan Program and the Mobile Drying Equipment Loan Program), any payments for storage of commodities in farm storage structures under a price support or reseal program due from Commodity Credit Corporation to a borrower shall be applied (1) to any delinquent amount(s), and, (2) to the borrower's storage facility loan installment or mobile drying equipment loan installment which is due and

¹ See footnote on p. 8535.

payable when the storage payment is due, and (3) to any extended installment(s) each including interest. This Notice shall be effective with regard to any storage payments disbursed subsequent to the date of publication hereof. The provisions of any CCC Grain Price Support Bulletin or Farm Storage Facility Loan Bulletin which are inconsistent with the provisions of this Notice are hereby modified accordingly.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b)

NOTE: This notice affects §§ 474.431 (c) and 474.506 (c).

Issued this 14th day of November 1955.

[SEAL] WALTER C. BERGER,
Acting Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-9298; Filed, Nov. 17, 1955; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter B—Claims and Accounts

PART 536—CLAIMS AGAINST THE UNITED STATES

MUSTERING-OUT PAYMENTS

In § 536.75, paragraphs (a) (2) (viii) and (1) are amended to read as follows:

§ 536.75 *Mustering-out payments—*
(a) *Members engaged in active service in World War II.* * * *

(2) *To whom not payable.* * * *

(viii) Any commissioned officer unless he was discharged or relieved from active duty before April 29, 1955.

(1) *Claims—Veterans' Readjustment Assistance Act of 1952—*(1) *By whom paid.* All claims for mustering-out payments of members who have performed active duty on or after June 27, 1950 and who were discharged prior to July 16, 1952, will be paid by the Settlements Division, Finance Center, U. S. Army, Indianapolis 49, Indiana, provided the application is submitted not later than July 16, 1956. The postmark date on the envelope will be considered the effective date of the application, 1200 midnight, July 16, 1956 being the last hour acceptable.

(2) *Information required to be furnished with application.* Former members who are entitled to mustering-out payments as specified in subparagraph (1) of this paragraph will submit a signed application containing the following information:

(i) Statement that member was not discharged or released from active duty on his own request to accept employment; or if discharged or released to accept employment, statement that the member served outside the United States after June 26, 1950.

(ii) Statement that member is not now serving on active duty in the Armed Forces of the United States, if applicable.

(iii) Statement that member has not and will not make any other application for mustering-out payment for service after June 26, 1950.

(iv) Statement that member served outside the continental limits of the United States or in Alaska after June 26, 1950, if applicable.

(v) If member has served outside the continental limits of the United States or in Alaska, date of arrival in the United States.

(vi) Statement that member has or has not received any mustering-out payment for service after June 26, 1950.

(vii) Address to which check should be mailed, substantially as set forth below:

Print or type (Middle name) (Surname)
(first name)

(Service number) (Street number)

(City and zone) (State)

(viii) Statement reading as follows:

I certify that the above information is true and correct.

(Signature)

(3) *Claims on file in the Settlements Division, Finance Center, U. S. Army.* Claims on file in the Settlements Division, Finance Center, U. S. Army, which were submitted after July 16, 1954, which have been denied because they were received after the date such claims were required to have been filed under the Veterans' Readjustment Assistance Act of 1952, will be processed for payment, if entitlement otherwise exists. The payee will not be required to file a new claim.

[C1, AR 35-1340, September 13, 1955] (Sec. 5, 58 Stat. 10, as amended; sec. 505, 60 Stat. 690; 38 U. S. C. 691, 1015)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-9266; Filed, Nov. 17, 1955; 8:45 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

-OHIO RIVER AT NEW ALBANY, INDIANA

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.560 governing the operation of drawbridges across the Mississippi River and tributaries where constant attendance of draw tenders is not required is amended with respect to paragraph (g) (1), governing the operation of the Kentucky and Indiana Terminal Railroad Company bridge across the Ohio River at New Albany, Indiana, as follows:

§ 203.560 *Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.* * * *

(g) *Ohio River and Upper Mississippi River* (1) Ohio River, Ky., and Ind., Kentucky and Indiana Terminal Railroad Company bridge at New Albany, Indiana. The draw need not be opened

for the passage of vessels, and paragraphs (b) to (e) inclusive, of this section shall not apply to this bridge.

[Regg., 2 November 1955, 823.01 (Ohio River)—ENGWOW] (Sec. 5, 23 Stat. 392; 33 U. S. C. 499)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-9265; Filed, Nov. 17, 1955; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1251]

[Anchorage 019316, Misc. 1928465, Misc. 59678]

ALASKA

REVOKING PUBLIC LAND ORDER NO. 36 OF SEPTEMBER 7, 1942; PARTIALLY REVOKING AIR NAVIGATION SITE WITHDRAWAL NO. 132 OF JANUARY 15, 1940; WITHDRAWING PORTIONS OF THE RELEASED LANDS FOR VARIOUS PUBLIC PURPOSES

By virtue of the authority vested in the President by Section 1 of the act of March 12, 1914 (38 Stat. 305; 48 U. S. C. 304) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, and Section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U. S. C. 214) it is ordered as follows:

1. Public Land Order No. 36 of September 7, 1942, withdrawing lands in Alaska for use of the War Department for military purposes, which was partially revoked by Public Land Order No. 447 of February 17, 1948, is hereby revoked in its entirety. The following lands are released from withdrawal by this order:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,
Sec. 5, SW¼,
Sec. 6, SE¼,
Sec. 7, lots 3, 4, 7, NE¼,
Sec. 8, lots 1, 2, NW¼, E½SW¼, SW¼ SE¼;
Sec. 17, lots 1, 2, NE¼, E½NW¼,
Sec. 18, lots 1, 4.

The areas described aggregate 1,294.31 acres, of which the SW¼, sec. 5; NW¼, SW¼SW¼, sec. 8; N½NE¼, sec. 17, are nonpublic lands.

2. The Departmental order of January 15, 1940 (Air Navigation Site No. 132) as amended and modified by the Bureau of Land Management order of June 14, 1955 (20 F. R. 4329), withdrawing lands for use of the Department of Aviation, Territory of Alaska for air navigation facilities, is hereby revoked so far as it affects the following-described lands:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,
Sec. 17, lots 1, 2.

The tracts described contain 66.70 acres.

3. Subject to valid existing rights, the following-described public lands, which

are a portion of the lands released from withdrawal by paragraph 1 of this order, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and reserved as follows:

(a) Under the jurisdiction of the Department of the Interior for use of the Department of Aviation of the Alaska Aeronautics and Communications Commission:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,

Sec. 6, SE $\frac{1}{4}$,Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$,Sec. 8, lots 1, 2, and that portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying west of the right-of-way of the Alaska Railroad;Sec. 17, SW $\frac{1}{4}$ NE $\frac{1}{4}$, that part lying westerly of a line 200 feet from and parallel to the center line of the main track of the Alaska Railroad.

The areas described aggregate 355.65 acres.

(b) Under the jurisdiction of the Department of the Interior for use of the Alaska Railroad for railroad purposes:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,

Sec. 17, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, those parts lying between lines 100 feet and 200 feet respectively, southwesterly from and parallel to the center line of the main track of the Alaska Railroad. The tract of land is 100 feet by 1,440 feet approximately and extends along the Alaska Railroad from Mileage 185.04 to 185.31.

The tract described contains 3.31 acres.

4. Subject to valid existing rights, the following-described public lands, which are a portion of the lands released from withdrawal by paragraph 1 of this order, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws nor the Materials Act of July 31, 1947 (61 Stat. 681, 43

U. S. C. Sup. 1185-1187) and reserved under the jurisdiction of the Bureau of Land Management, Department of the Interior, for recreation purposes:

SEWARD MERIDIAN

T. 19 N., R. 4 W.,

Sec. 8, that portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying east of the Alaska Railroad right-of-way.

The tract described contains 12.33 acres.

5. Subject to any existing valid rights and the requirements of applicable law, the W $\frac{1}{2}$ NE $\frac{1}{4}$, lots 3, 4, 7, sec. 7; lots 1, 2, and that portion of the S $\frac{1}{2}$ NE $\frac{1}{4}$ lying east of the Alaska Railroad right-of-way sec. 17; and lots 1 and 4, sec. 18, T. 19 N., R. 4 W., containing 349.80 acres, are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws and applications and offers under the mineral-leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Alaska Home Site, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27,

1944 (58 Stat. 747-43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on December 16, 1955, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on March 16, 1956, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral-leasing laws, presented prior to 10:00 a. m. on March 16, 1956, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a. m. on March 16, 1956.

6. Persons claiming veteran's preference rights under Paragraph (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

WESLEY A. D'EWART,

Assistant Secretary of the Interior

NOVEMBER 10, 1955.

[F. R. Doc. 55-9267; Filed, Nov. 17, 1955; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

EMPLOYEE STOCK OPTIONS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Attention: T:P Washington 25, D. C., within the period

of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917-26 U. S. C. 7805)

[SEAL]

O. GORDON DELK,
Acting Commissioner
of Internal Revenue.

The following regulations are hereby prescribed under section 421 of the Internal Revenue Code of 1954, relating to employee stock options:

- Sec.
- 1.421 Statutory provisions; employee stock options.
- 1.421-1 Meaning and use of certain terms.
- 1.421-2 Restricted stock option.
- 1.421-3 Exercise of restricted stock option.
- 1.421-4 Modification, extension, or renewal.
- 1.421-5 Operation of section 421.
- 1.421-6 Effective date.

§ 1.421 Statutory provisions; employee stock options.

SEC. 421. Employee stock options—(a) Treatment of restricted stock options. If a share of stock is transferred to an individual pursuant to his exercise after 1949 of a restricted stock option, and no disposition of such share is made by him within 2 years from the date of the granting of the option nor within 6 months after the transfer of such share to him—

(1) No income shall result at the time of the transfer of such share to the individual upon his exercise of the option with respect to such share;

(2) No deduction under section 162 (relating to trade or business expenses) shall be allowable at any time to the employer corporation, a parent or subsidiary corporation, of such corporation, or a corporation issuing or assuming a stock option in a transaction to which subsection (g) is applicable, with respect to the share so transferred; and

(3) No amount other than the price paid under the option shall be considered as re-

ceived by any of such corporations for the share so transferred.

This subsection and subsection (b) shall not apply unless (A) the individual, at the time he exercises the restricted stock option, is an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary of such corporation issuing or assuming a stock option in a transaction to which subsection (g) is applicable, or (B) the option is exercised by him within 3 months after the date he ceases to be an employee of such corporations.

(b) *Special rule where option price is between 85 percent and 95 percent of value of stock.* If no disposition of a share of stock acquired by an individual on his exercise after 1949 of a restricted stock option is made by him within 2 years from the date of the granting of the option nor within 6 months after the transfer of such share to him, but, at the time the restricted stock option was granted, the option price (computed under subparagraph (d) (1) (A)) was less than 95 percent of the fair market value at such time of such share, then, in the event of any disposition of such share by him, or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever applies—

(1) In the case of a share of stock acquired under an option qualifying under clause (1) of subparagraph (d) (1) (A), an amount equal to the amount (if any) by which the option price is exceeded by the lesser of—

(A) The fair market value of the share at the time of such disposition or death, or

(B) The fair market value of the share at the time the option was granted; or

(2) In the case of stock acquired under an option qualifying under clause (1) of subparagraph (d) (1) (A), an amount equal to the lesser of—

(A) The excess of the fair market value of the share at the time of such disposition or death over the price paid under the option, or

(B) The excess of the fair market value of the share at the time the option was granted over the option price (computed as if the option had been exercised at such time).

In the case of the disposition of such share by the individual, the basis of the share in his hands at the time of such disposition shall be increased by an amount equal to the amount so includible in his gross income.

(c) *Acquisition of new stock.* If stock is received by an individual in a distribution to which section 305, 354, 355, 356, or 1036, or so much of section 1031 as relates to section 1036, applies and such distribution was made with respect to stock transferred to him upon his exercise of the option, such stock shall be considered as having been transferred to him on his exercise of such option. A similar rule shall be applied in the case of a series of such distributions.

(d) *Definitions.* For purposes of this section—

(1) *Restricted stock option.* The term "restricted stock option" means an option granted after February 26, 1945, to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but only if—

(A) At the time such option is granted—

(i) The option price is at least 85 percent of the fair market value at such time of the stock subject to the option, or

(ii) In case the purchase price of the stock under the option is fixed or determinable under a formula in which the only variable is the value of the stock at any time during a period of 6 months which includes the time the option is exercised, the option price (computed as if the option had been exercised when granted) is at least 85 percent of the value of the stock at the time such option is granted; and

(B) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

(C) Such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation. This subparagraph shall not apply if at the time such option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option and such option either by its terms is not exercisable after the expiration of 5 years from the date such option is granted or is exercised within one year after the date of enactment of this title. For purposes of this subparagraph—

(1) Such individual shall be considered as owning the stock owned, directly or indirectly, by or for his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(ii) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries; and

(D) Such option by its terms is not exercisable after the expiration of 10 years from the date such option is granted, if such option has been granted on or after June 23, 1954.

(2) *Parent corporation.* The term "parent corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations ending with the employer corporation if, at the time of the granting of the option, each of the corporations other than the employer corporation owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(3) *Subsidiary corporation.* The term "subsidiary corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations beginning with the employer corporation if, at the time of the granting of the option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(4) *Disposition—(A) General rule.* Except as provided in subparagraph (B), the term "disposition" includes a sale, exchange, gift, or a transfer of legal title, but does not include—

(1) A transfer from a decedent to an estate or a transfer by bequest or inheritance;

(ii) An exchange to which section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applies; or

(iii) A mere pledge or hypothecation.

(B) *Joint tenancy.* The acquisition of a share of stock in the name of the employee and another jointly with the right of survivorship or a subsequent transfer of a share of stock into such joint ownership shall not be deemed a disposition, but a termination of such joint tenancy (except to the extent such employee acquires ownership of such stock) shall be treated as a disposition by him occurring at the time such joint tenancy is terminated.

(5) *Stockholder approval.* If the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval.

(6) *Exercise by estate—(A) In general.* If a restricted stock option is exercised subsequent to the death of the employee by the estate of the decedent, or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent, the provisions of this section shall apply to the same extent as if the option had been exercised by the decedent, except that—

(1) The holding period and employment requirements of subsection (a) shall not apply, and

(ii) Any transfer by the estate of stock acquired shall be considered a disposition of such stock for purposes of subsection (b).

(B) *Deduction for estate tax.* If an amount is required to be included under subsection (b) in gross income of the estate of the deceased employee or of a person described in subparagraph (A), there shall be allowed to the estate or such person a deduction with respect to the estate tax attributable to the inclusion in the taxable estate of the deceased employee of the net value for estate tax purposes of the restricted stock option. For this purpose, the deduction shall be determined under section 691 (c) as if the option acquired from the deceased employee were an item of gross income in respect of the decedent under section 691 and as if the amount includible in gross income under subsection (b) of this section were an amount included in gross income under section 691 in respect of such item of gross income.

(e) *Modification, extension, or renewal of option—(1) Rules of application.* For purposes of subsection (d), if the terms of any option to purchase stock are modified, extended, or renewed, the following rules shall be applied with respect to transfers of stock made on the exercise of the option after the making of such modification, extension, or renewal—

(A) Such modification, extension, or renewal shall be considered as the granting of a new option,

(B) The fair market value of such stock at the time of the granting of such option shall be considered as—

(i) The fair market value of such stock on the date of the original granting of the option,

(ii) The fair market value of such stock on the date of the making of such modification, extension, or renewal, or

(iii) The fair market value of such stock at the time of the making of any intervening modification, extension, or renewal,

whichever is the highest.

Subparagraph (B) shall not apply if the aggregate of the monthly average fair market values of the stock subject to the option for the 12 consecutive calendar months before the date of the modification, extension, or renewal, divided by 12, is an amount less than 80 percent of the fair market value of such stock on the date of the original granting of the option or the date of the making of any intervening modification, extension, or renewal, whichever is the highest.

(2) *Definition of modification.* The term "modification" means any change in the terms of the option which gives the employee additional benefits under the option, but such term shall not include a change in the terms of the option—

(A) Attributable to the issuance or assumption of an option under subsection (g); or

(B) To permit the option to qualify under subsection (d) (1) (B).

If an option is exercisable after the expiration of 10 years from the date such option is granted, subparagraph (B) shall not apply unless the terms of the option are also changed to make it not exercisable after the expiration of such period.

(f) *Effect of disqualifying disposition.* If a share of stock, acquired by an individual pursuant to his exercise of a restricted stock option, is disposed of by him within 2 years from the date of the granting of the option or within 6 months after the transfer of such share to him, then any increase in the income of such individual or deduction from the income of his employer corporation for the taxable year in which such exercise occurred attributable to such disposition, shall be treated as an increase in income or a deduction from income in the taxable year of such individual or of such employer corporation in which such disposition occurred.

(g) *Corporate reorganization, liquidations, etc.* For purposes of this section, the term "issuing or assuming a stock option in a transaction to which subsection (g) is applicable" means a substitution of a new option for the old option, or an assumption of the old option, by an employer corporation, or a parent or subsidiary of such corporation, by reason of a corporate merger, consolidation, acquisition of property or stock, separation, reorganization, or liquidation, if—

(1) The excess of the aggregate fair market value of the shares subject to the option immediately after the substitution or assumption over the aggregate option price of such shares is not more than the excess of the aggregate fair market value of all shares subject to the option immediately before such substitution or assumption over the aggregate option price of such shares, and

(2) The new option or the assumption of the old option does not give the employee additional benefits which he did not have under the old option.

For purposes of this subsection, the parent-subsidary relationship shall be determined at the time of any such transaction under this subsection.

§ 1.421-1 *Meaning and use of certain terms—(a) Option.* (1) For the purpose of section 421, the term "option" includes the right or privilege of an individual to purchase stock from a corporation by virtue of an offer of the corporation continuing for a stated period of time, whether or not irrevocable, to sell such stock at a price determined under paragraph (d) of this section, such individual being under no obligation to purchase. Such right or privilege, when granted, must be evidenced in writing. The individual who has such right or privilege is referred to as the optionee and the corporation offering to sell stock under such an arrangement is referred to as the optionor. While no particular form of words is necessary, the written option should express, among other things, an offer to sell at the option price and the period of time during which the offer shall remain open.

(2) An option may be granted as part of or in conjunction with an employee stock purchase plan or subscription contract.

(3) An arrangement between a corporation and an employee may involve more than one option. For example, if a corporation on June 1, 1954, grants to an employee the right to purchase 1,000 shares of its stock on or after June 1, 1955, another 1,000 shares on or after

June 1, 1956, and a further 1,000 shares on or after June 1, 1957, all shares to be purchased before June 1, 1958, provided the employee at the time of exercise of any of the purchase rights is employed by the corporation, such an arrangement will be construed as the grant to the employee on June 1, 1954, of three options, each for the purchase of 1,000 shares. Similarly if a corporation grants to an employee on January 1, 1955, the right to purchase 1,000 shares of its stock at \$85 per share during 1955, or at \$75 per share during 1956, or at \$65 per share during 1957, such an arrangement will be construed as the grant to the employee on January 1, 1955, of three alternative options, one option for the purchase of 1,000 shares at \$85 per share during 1955, an alternative option for the purchase of 1,000 shares at \$75 per share during 1956, and a third alternative option for the purchase of 1,000 shares at \$65 per share during 1957.

(b) *Time and date of granting of option.* (1) For the purpose of section 421, the words "the date of the granting of the option" and "the time such option is granted" and similar phrases refer to the date or time when the corporation completes the corporate action constituting an offer of stock for sale to an individual under the terms and conditions of a restricted stock option. Ordinarily if the corporate action contemplates an immediate offer of stock for sale to an individual or to a class including such individual, or contemplates a particular date on which such offer is to be made, the time or date of the granting of the option is the time or date of such corporate action if the offer is to be made immediately, or the date contemplated as the date of the offer, as the case may be. However, an unreasonable delay in the giving of notice of such offer to the individual or to the class will be taken into account as indicating that the corporation contemplated that the offer was to be made at the subsequent date on which such notice is given.

(2) If the corporation imposes conditions on the granting of an option (as distinguished from conditions governing the exercise of the option) such conditions shall be given effect in accordance with the intent of the corporation. A special rule is provided by section 421 (d) (5) for options subject to stockholder approval. If the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval. A condition which does not require corporate action, such as the approval of some regulatory or governmental agency, for example, a stock exchange or the Securities and Exchange Commission, is ordinarily considered a condition upon the exercise of the option unless the corporate action clearly indicates that the option is not to be granted until such condition is satisfied. If an option is granted to an individual upon the condition that such individual will become an employee of the corporation granting the option or of its parent or subsidiary corporation, such option is not granted prior to the date the individual becomes such an employee.

(3) In general, conditions imposed upon the exercise of an option will not operate to make ineffective the granting of the option. For example, on June 1, 1954, the A Corporation grants to X, an employee, an option to purchase 5,000 shares of the corporation stock, exercisable by X on or after June 1, 1955, provided he is employed by the corporation on June 1, 1955. Such an option is granted to X on June 1, 1954.

(c) *Stock.* For the purpose of section 421, the term "stock" means capital stock of any class, including voting or nonvoting common or preferred stock. The term includes both treasury stock and stock of original issue. Special classes of stock authorized to be issued to and held by employees are within the scope of the term "stock" as used in section 421, provided such stock otherwise possesses the rights and characteristics of capital stock.

(d) *Option price.* (1) For the purpose of section 421, the term "option price" or "price paid under the option" means the consideration in money or property which, pursuant to the terms of the option, is the price at which the stock subject to the option is purchased.

(2) With respect to its option price, a restricted stock option must, when granted, meet either of the following requirements:

(i) The option must specify the price which shall be paid for any stock acquired pursuant to such option; or

(ii) In the case of an option exercised during any taxable year of the optionee which begins after December 31, 1953, and ends after August 16, 1954, the option must provide that such price shall be determined by a formula in which the only variable is the value of the stock at any time during a period of six consecutive months which includes the day on which such option is exercised. Such formula may provide for determining such price by reference to such value on any particular day in such six-month period, or by reference to an average value of the stock over either the whole of such six-month period or over any shorter period included in such six-month period. Such six-month period may begin with, end with, or in any other manner span the day on which such option is exercised. Such formula may also depend upon factors other than such value of the stock, but such other factors must not be variable and must be fixed in the option when granted. For example, such formula may provide that the option price shall be 85 percent of the value of the stock on the day the option is exercised, but such price shall not be less than \$85, nor more than \$110. However, this requirement is not met by a formula which provides that if the profits of the employer for the year do not exceed \$100,000, the option price shall be \$15 under the fair market value of the stock at the time the option is exercised, but if such profits exceed \$100,000, the option price shall be \$20 under such value of the stock.

An option which does not meet the requirements of either subdivision (i) or (ii) of this subparagraph when granted,

will not be treated as a restricted stock option unless it is subsequently changed to meet such requirements. In case of such a change, see § 1.421-4 (c) (2).

(e) *Exercise.* For the purpose of section 421, the term "exercise" when used in reference to an option, means the act of acceptance by the optionee of the offer to sell contained in the option. In general, the time of exercise is the time when there is a sale or a contract to sell between the corporation and the individual. An agreement or undertaking by the employee to make payments under a stock purchase plan does not constitute the exercise of an option so long as the payments made remain subject to withdrawal by the employee.

(f) *Transfer.* For the purpose of section 421, the term "transfer" when used in reference to the transfer to an individual of a share of stock pursuant to his exercise of a restricted stock option, means the transfer of ownership of such share, or the transfer of substantially all the rights of ownership. Such transfer must, within a reasonable time, be evidenced on the books of the corporation.

§ 1.421-2 *Restricted stock option—(a) In general.* (1) A "restricted stock option" is an option granted after February 26, 1945, to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but, except in the case of options described in subparagraph (2) of this paragraph, only if—

(i) At the time such option is granted the option price is at least 85 percent of the fair market value at such time of the stock subject to the option; and

(ii) Such option by its terms is not transferable by such individual otherwise than by will or by the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

(iii) Such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock either of the employer corporation or of its parent or subsidiary corporation; and

(iv) In the case of options granted after June 21, 1954, such option by its terms is not exercisable after the expiration of ten years from the date on which such option was granted.

For the purpose of applying the rule of subdivision (i) of this subparagraph if the option price is determined by a formula described in § 1.421-1 (d) (2) (ii) the option price shall, notwithstanding any provision of the option, be computed as if such option is exercised on the day when it is granted. For example, if on June 15, 1954, an option is granted providing that the option price shall be \$10 under the average value of the stock during the month preceding the month in which the option is exercised, and if on June 15, 1954, the value of the stock subject to the option is \$100 a share, to determine if the option meets the requirement of subdivision (i) of this subparagraph, it is necessary to determine

the average value of the stock during the month of May 1954. If such average value is \$95 or more, the option meets the requirement of subdivision (i) of this subparagraph.

(2) Regardless of the extent to which the individual to whom the option is granted owns stock of either the employer corporation, or of its parent or subsidiary corporation, an option is a restricted stock option if—

(i) Such option is granted after February 26, 1945, to such individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations; and

(ii) At the time such option is granted the option price is at least 110 percent of the fair market value at such time of the stock subject to the option; and

(iii) Such option by its terms is not transferable by such individual otherwise than by will or by the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

(iv) Such option by its terms is not exercisable after the expiration of five years from the date on which such option was granted, or such option is exercised before August 17, 1955.

(3) At the time the option is granted, the relationship between the individual to whom an option is granted and the corporation granting the option (or a corporation which is a parent or subsidiary thereof) must be the legal and bona fide relationship of employer and employee. For rules applicable to the determination whether the employer-employee relationship exists, see 26 CFR (1939) 406.203, relating to collection of income tax at source on wages. An option granted before employment or after termination of employment is not a restricted stock option. As to the granting of an option conditioned upon employment, see § 1.421-1 (b) (2). The option must be granted for a reason connected with the individual's employment by the corporation or by its parent or subsidiary corporation.

(4) An option may qualify as a restricted stock option only if, under the terms of the option, it is not transferable (other than by will or by the laws of descent and distribution) by the individual to whom it is granted, and is exercisable, during the lifetime of such individual, only by him. Accordingly, an option which is transferable by the individual to whom it is granted during his lifetime, or is exercisable during such individual's lifetime by another person, is not a restricted stock option. However, in case the option contains a provision permitting the individual to whom the option was granted to designate the person who may exercise the option after his death, neither such provision, nor a designation pursuant to such provision, disqualifies the option as a restricted stock option.

(b) *Ownership of 10 percent of stock.* In determining the amount of stock owned by an individual, for the purpose of applying the 10 percent test of section 421 (d) (1) (C), stock of the employer corporation or of its parent or subsidiary

owned (directly or indirectly) by or for such individual's brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants, shall be considered as owned by such individual. Also, for such purpose, if a domestic or foreign corporation, partnership, estate, or trust owns (directly or indirectly) stock of the employer corporation or of its parent or subsidiary, such stock shall be considered as being owned proportionately by or for the shareholders, partners, or beneficiaries of the corporation, partnership, estate, or trust.

§ 1.421-3 *Exercise of restricted stock option.* (a) The special rules of income tax treatment provided in section 421 (a) and (b) are applicable only if the following conditions exist with respect to the transfer of a share of stock to an individual:

(1) The share of stock is transferred to the individual pursuant to his exercise after 1949 of a restricted stock option; and

(2) At the time the option is exercised by him, the individual is an employee of the corporation granting such option (or parent or subsidiary thereof), or of a corporation (or parent or subsidiary thereof) which issued or assumed the option under section 421 (g) (see § 1.421-4 (d)), or was an employee of any such corporations within three months before the date the option is exercised.

(b) (1) Section 421 is applicable to the exercise of a restricted stock option only if at the time the individual exercises the option he is a bona fide employee of the corporation granting the option, or of a corporation which is at the time the option is exercised a parent or subsidiary of such corporation, unless the old option has been assumed or a new option has been issued in its place under section 421 (g). See § 1.421-4 (d). In case of such an assumption of the old option or such issuance of a new option, the individual exercising the option must, at the time he exercises the option, be a bona fide employee of the corporation so assuming or issuing the option, or a parent or subsidiary of such corporation. Section 421 is also applicable if the individual exercising the option was a bona fide employee of any of such corporations within three months before the exercise of the option.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). On June 1, 1954, X Corporation granted a restricted stock option to A, an employee of X Corporation, to purchase a share of X stock. On February 1, 1955, X sold the plant where A was employed to M Corporation, an unrelated corporation, and A was employed by M. If A exercises this restricted stock option on June 1, 1955, section 421 is not applicable to such exercise, because on June 1, 1955, A is not employed by the corporation which granted the option or by a parent or subsidiary of such corporation. Nor was he employed by any of such corporations within three months before June 1, 1955.

Example (2). Assume the facts to be the same as in example (1), except that when A was employed by M Corporation, the option to purchase X stock was terminated, and was

replaced by an option to buy M stock in such circumstances that M Corporation is treated as a corporation issuing an option under section 421 (g). If A exercises the option to purchase the share of M stock on June 1, 1955, section 421 is applicable for A is then employed by a corporation which issued an option under section 421 (g).

(c) (1) The determination whether an option ultimately exercised is a restricted stock option is made as of the date such option is granted. An option which is a restricted stock option when granted does not lose its character as such an option by reason of subsequent events, and an option which is not a restricted stock option when granted does not become such an option by reason of subsequent events. See, however, § 1.421-4, relating to modification, extension, or renewal of an option.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). S-1 Corporation is a subsidiary of S Corporation which, in turn, is a subsidiary of P Corporation. On June 1, 1954, P grants to an employee of P a restricted stock option to purchase a share of stock of S-1. On January 1, 1955, S sells a portion of the S-1 stock which it owns to an unrelated corporation and, as of that date, S-1 ceases to be a subsidiary of S. On May 1, 1955, while still employed by P, the employee exercises his option to purchase a share of S-1 stock. The employee has exercised a restricted stock option.

Example (2). Assume P grants an option to an employee under the same facts as in example (1) above, except that on June 1, 1954, S-1 is not a subsidiary of either S or P. Such option is not a restricted stock option on June 1, 1954. On January 1, 1955, S purchases from an unrelated corporation a sufficient number of shares of S-1 stock to make S-1, as of that date, a subsidiary of S. On May 1, 1955, while still employed by P the employee exercises his option to purchase a share of S-1 stock. The employee has not exercised a restricted stock option.

(d) For the rules applicable to an exercise of a restricted stock option by the estate of the individual to whom the option was granted, or by a person who acquired the option by bequest or inheritance or by reason of the death of such individual, see § 1.421-5 (d)

§ 1.421-4 *Modification, extension, or renewal*—(a) *In general.* Section 421 (e) provides the rules for determining whether a share of stock transferred to an individual upon his exercise of an option, after the terms thereof have been modified, extended, or renewed, is transferred pursuant to the exercise of a restricted stock option. Such rules and the rules of this section are applicable to modifications, extensions, or renewals (or to changes which are not treated as modifications) in the case of an exercise of an option in any taxable year of the optionee which begins after December 31, 1953, and ends after August 16, 1954.

(b) *Effect of a modification, extension, or renewal.* (1) Any modification, extension, or renewal of the terms of an option to purchase stock shall be considered as the granting of a new option.

(2) Except as otherwise provided in subparagraph (3) of this paragraph, in case of a modification, extension, or renewal of an option, the highest of the following values shall be considered to

be the fair market value of the stock at the time of the granting of such option for the purpose of applying the rule of section 421 (d) (1) (A)—

(i) The fair market value on the date of the original granting of the option,

(ii) The fair market value on the date of the making of such modification, extension, or renewal, or

(iii) The fair market value at the time of the making of any intervening modification, extension, or renewal.

(3) (i) The rules of subparagraph (2) of this paragraph do not apply if the aggregate of the monthly average fair market values of the stock subject to the option for the 12 consecutive calendar months preceding the month in which the modification, extension, or renewal occurs, divided by 12, is an amount less than 80 percent of the fair market value of such stock on the date of the original granting of the option or the date of the making of any intervening modification, extension, or renewal, whichever is the highest. In such case, any modification, extension, or renewal of the option is treated as the granting of a new option but only the fair market value of the stock subject to the option at the time of the modification, extension, or renewal is considered in determining whether the option is a restricted stock option. In the case of stocks listed on a stock exchange, the average fair market value of the stock for any month may be determined by adding the highest and lowest quoted selling prices during such month and dividing the sum by two. The method used for determining the average fair market value of the stock for any month must be used for all 12 months.

(ii) The application of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. On June 1, 1954, a restricted stock option was granted to purchase before July 1, 1955, a share of stock for \$85. The fair market value of such stock on June 1, 1954, was \$100. On June 15, 1955, when the fair market value of the stock is \$80, such option is extended so that it is exercisable at any time before July 1, 1956, at \$55 a share. The average fair market value of the stock subject to the option for each of the 12 calendar months preceding June 1955, is as follows:

1954		1955	
June	\$100	January	\$90
July	90	February	80
August	80	March	70
September	70	April	60
October	80	May	60
November	80		
December	90		

The aggregate of such values is \$950. When this sum is divided by 12, the result is \$79.17, which is an amount less than 80 percent of the fair market value of the stock (\$100) when the option was granted. Accordingly, when the option is extended on June 15, 1955, the option price could have been reduced as low as \$51 (85 percent of the fair market value of the stock on such day) without disqualifying the option as a restricted stock option. If the aggregate fair market values of the stock so ascertained had amounted to \$960 or more, the rules of subparagraph (2) of this paragraph would have been applicable with the result that any reduction in the option price would have disqualified the option as a restricted stock option.

(c) *Definition of modification, extension, or renewal.* (1) The time or date when an option is modified, extended, or renewed shall be determined, insofar as applicable, in accordance with the rules governing determination of the time or date of granting an option provided in § 1.421-1 (b). For the purpose of section 421, the term "modification" means any change in the terms of the option which gives the optionee additional benefits under the option. For example, a change in the terms of the option, which shortens the period during which the option is exercisable, is not a modification. However, a change, which accelerates the time when the option is first exercisable, or which provides more favorable terms for the payment for the stock purchased under the option, is a modification. A mere change in the terms of the option, with respect to the number, kind, or price of the shares subject to the option, solely to reflect a stock dividend or reorganization, such as a recapitalization, is not a modification of the option. See § 1.421-4 (d) for rules relating to the issuance or assumption of an option under section 421 (g). Where an option is amended solely to increase the number of shares subject to the option, such increase shall not be considered as a modification of the option, but shall be treated as the grant of a new option for the additional shares.

(2) Any change in the terms of an option for the purpose of qualifying the option as a restricted stock option is a modification. For example, if an option was granted to purchase for \$80 a share of stock, the fair market value of which was \$100 at such time, and if later the option price is increased to \$85 in order to meet the requirement of section 421 (d) (1) (A), such change is a modification of the option, although the price is increased. Accordingly, the option, despite the change, is not a restricted stock option if the fair market value of the share is more than \$100 when the price is increased. However, if the terms of an option are changed to provide that the optionee cannot transfer the option except by will or by the laws of descent and distribution, such change is not a modification, provided the option is at the same time changed so that it is not exercisable after the expiration of ten years from the date the option was granted.

(3) An extension of an option refers to the granting by the corporation to the optionee of an additional period of time within which to exercise the option beyond the time originally prescribed. A renewal of an option is the granting by the corporation of the same rights or privileges contained in the original option on the same terms and conditions. The rules of this paragraph apply as well to successive modifications, extensions, and renewals.

(d) *Assumption or substitution of restricted stock options in connection with certain corporate transactions.* (1) Where, by reason of a corporate transaction, as defined in this paragraph, the employer corporation, or its parent or subsidiary corporation, assumes an exist-

ing option, or issues a new option in place of the old option, such assumption or issuance is not a modification, if—

(i) The excess of the aggregate fair market value of the stock subject to the option immediately after such assumption or issuance over the aggregate option price is not more than the excess of the aggregate fair market value of the stock subject to the option immediately before such assumption or issuance over the aggregate option price, and

(ii) Such assumption of the old option, or issuance of the new option, does not give the optionee additional benefits under the option.

For the purpose of this paragraph, the term "corporate transaction" means a corporate merger, consolidation, purchase or acquisition of property or stock, separation, reorganization, or liquidation. Thus, for this purpose, a "corporate transaction" includes a taxable transaction (such as, a purchase of stock or property for cash) and any corporate reorganization (whether or not it comes within the definition of such term in section 368) and any corporate liquidation (whether or not section 332 is applicable).

(2) This paragraph provides rules under which, in connection with a corporate transaction, the new employer corporation, or a parent or subsidiary corporation thereof, may assume an existing restricted stock option or may issue a new option in place of an existing restricted stock option without having such assumption or substitution considered to be a modification of the option. This paragraph is applicable, for example, where the former employer is merged into another corporation and the new employer assumes the option granted by the former employer, provided the requirements of this paragraph are met. However, this paragraph is applicable if, and only if, by reason of the corporate transaction the optionee is not thereafter an employee of the corporation which granted the existing restricted stock option or a parent or subsidiary of such corporation. The assumption or substitution may take place in accordance with this paragraph at the time of the corporate transaction, notwithstanding that the option could still be exercised in accordance with § 1.421-3 for a period of three months thereafter. The determination of the parent-subsidiary relationship shall be made after the assumption of the old option or after the issuance of the new option.

(e) *Effect on qualification.* A restricted stock option may, as a result of a modification, extension, or renewal, thereafter cease to be a restricted stock option, or any option may, by modification, extension, or renewal, thereafter become a restricted stock option.

(f) *Examples.* The rule states in section 421 (e) may be illustrated by the following examples:

Example (1). On June 1, 1954, the X Corporation grants to an employee an option to purchase 100 shares of the stock of X Corporation at \$90 per share, such option to be exercised on or before June 1, 1956. At the time the option is granted, the fair

market value of the X Corporation stock is \$100 per share. On February 1, 1955, before the employee exercises the option, X Corporation modifies the option to provide that the price at which the employee may purchase the stock shall be \$80 per share. On February 1, 1955, the fair market value of the X Corporation stock is \$90 per share. Under section 421 (e), the X Corporation is deemed to have granted an option to the employee on February 1, 1955. Unless the value of the stock has substantially declined making paragraph (b) (3) of this section applicable, such option shall be treated as an option to purchase at \$80 per share 100 shares of stock having a fair market value of \$100 per share, that is, the higher of the fair market value of the stock on June 1, 1954, and on February 1, 1955. The exercise of such option by the employee after February 1, 1955, is not the exercise of a restricted stock option.

Example (2). On June 1, 1954, the X Corporation grants to an employee a restricted stock option to purchase 100 shares of X Corporation stock at \$90 per share, exercisable after December 31, 1955, and on or before June 1, 1956. On June 1, 1954, the fair market value of X Corporation's stock is \$100 per share. On February 1, 1955, X Corporation modifies the option to provide that the option shall be exercisable on or after February 1, 1955, and on or before June 1, 1956. On February 1, 1955, the fair market value of X Corporation stock is \$110 per share. Under section 421 (e), X Corporation is deemed to have granted an option to the employee on February 1, 1955, to purchase at \$90 per share 100 shares of stock having a fair market value of \$110 per share, that is, the higher of the fair market value of the stock on June 1, 1954, and on February 1, 1955. The exercise of such option by the employee is not the exercise of a restricted stock option.

Example (3). The facts are the same as in example (1), except that the employee exercised the option to the extent of 50 shares on January 15, 1955, before the date of the modification of the option. Any exercise of the option after February 1, 1955, the date of the modification, is not the exercise of a restricted stock option. See example (1) in this paragraph. The exercise of the option on January 15, 1955, pursuant to which 50 shares were acquired, is the exercise of a restricted stock option.

Example (4). On June 1, 1954, the X Corporation grants to an employee an option to purchase 100 shares of the stock of X Corporation at \$80 per share, such option to be exercised on or before June 1, 1956. At the time the option is granted, the fair market value of the X Corporation stock is \$100 per share. On February 1, 1955, before the employee exercises the option, the X Corporation modifies the option to provide that the number of shares of stock which the employee may purchase at \$80 per share will be 250. On February 1, 1955, the fair market value of the X Corporation stock is \$90 per share. Under these facts, the X Corporation has granted two options, one option (not a restricted stock option) with respect to 100 shares having been granted on June 1, 1954, and the other option (a restricted stock option) with respect to the additional 150 shares having been granted on February 1, 1955. In the absence of facts identifying which option is exercised first, the employee will be deemed to have exercised the options in the order in which they were granted.

§ 1.421-5 *Operation of section 421—*
(a) *Rules applicable to all restricted stock options—*(1) *In general.* If a share of stock is transferred to an individual pursuant to his timely exercise of a restricted stock option and is not

disposed of by him within two years from the date of the granting of the option nor within six months after the transfer of such share to him, then, under section 421 (a)—

(i) No income shall result at the time of the transfer of such share to the individual upon his exercise of the option with respect to such share;

(ii) No deduction under section 162 shall be allowable at any time to the employer corporation of such individual or its parent or subsidiary corporation, or to a corporation which assumed or issued the option under section 421 (g) with respect to the share so transferred; and

(iii) No amount other than the option price shall be considered as received by any of such corporations for the share so transferred.

For the purpose of subdivisions (i), (ii), and (iii) of this subparagraph, each share of stock transferred pursuant to a restricted stock option is treated separately. For example, if an individual, while employed by a corporation granting him a restricted stock option, exercises the option with respect to part of the stock covered by the option, and if such individual exercises the balance of the option more than three months after leaving such employment, the application of section 421 to the stock obtained upon the earlier exercise of the option is not affected by the fact that the income taxes of the employer and the individual with respect to the stock obtained upon the later exercise of the option are not determined under section 421.

(2) *Holding period.* The special rules provided in section 421 (a) are not applicable if the individual disposes of the share of stock within two years from the date the option is granted or within six months after the transfer of such share to him. Section 421 is not made inapplicable by a transfer within the 2-year or 6-month period if such transfer is not a disposition of the stock as defined in subparagraph (3) of this paragraph, for example, a transfer from the decedent to his estate or a transfer by bequest or inheritance. Similarly, a disposition by the executor, administrator, heir, or legatee is not a disposition by the decedent. In case a restricted stock option is exercised by the estate of the individual to whom the option was granted, or by a person who acquired the option by bequest or inheritance or by reason of the death of such individual, see paragraph (d) of this section.

(3) *Disposition of stock.* (i) For the purpose of section 421, the term "disposition" includes a sale, exchange, gift, or any transfer of legal title, but does not include—

(a) A transfer from a decedent to his estate or a transfer by bequest or inheritance; or

(b) An exchange which occurs in a taxable year of the optionee beginning after December 31, 1953, and ending after August 16, 1954, and to which is applicable section 354, 355, 356, or 1036 (or so much of section 1031 as relates to sec-

tion 1036) or a corresponding provision of the Internal Revenue Code of 1939; or

(c) A mere pledge or hypothecation.

However, a disposition of the stock pursuant to a pledge or hypothecation is a disposition by the individual, even though the making of the pledge or hypothecation is not such a disposition.

(ii) If an individual exercises a restricted stock option, a share of stock acquired pursuant to such exercise is not considered disposed of by the individual if such share is taken in the name of the individual and another person jointly with right of survivorship, or is subsequently transferred into such joint ownership, or is retransferred from such joint ownership to the sole ownership of the individual. However, any termination of such joint ownership is a disposition of such share; except to the extent that the individual reacquires ownership of the share. For example, if such individual and his joint owner transfer such share to another person, the individual has made a disposition of such share. Likewise, if a share of stock held in the joint names of such individual and another person is transferred to the name of such other person, there is a disposition of such share by the individual. If an individual exercises a restricted stock option and a share of stock is transferred to another or is transferred to such individual in his name as trustee for another, the individual has made a disposition of such share.

(4) *Examples.* The rules of section 421 (a) may be illustrated by the following examples:

Example (1). On June 1, 1954, the X Corporation grants to E, an employee, a restricted stock option to purchase 100 shares of X Corporation stock at \$95 per share. On that date, the fair market value of X Corporation stock is \$100 per share. On June 1, 1955, while employed by X Corporation, E exercises the option in full and pays X Corporation \$9,500, and on that day X Corporation transfers to E 100 shares of its stock having a fair market value of \$12,000. Before June 1, 1956, E makes no disposition of the 100 shares so purchased. E realizes no income on June 1, 1955, with respect to the transfer to him of the 100 shares of X Corporation stock. X Corporation is not entitled to any deduction at any time with respect to its transfer to E of the stock. E's basis for such 100 shares is \$9,500.

Example (2). Assume, in example (1), that on August 1, 1956, two years and one month after the granting of the option and one year and one month after the transfer of the shares to him, E sells the 100 shares of X Corporation stock for \$13,000, which is the fair market value of the stock on that date. For the taxable year in which the sale occurs, E realizes a gain of \$3,500 (\$13,000 minus E's basis of \$9,500), which is treated as long-term capital gain.

Example (3). Assume, in example (2), that on August 1, 1956, E makes a gift of the 100 shares of X Corporation stock to his son. Such disposition results in no realization of gain to E either for the taxable year in which the option is exercised or the taxable year in which the gift is made. E's basis of \$9,500 becomes the donee's basis for determining gain or loss.

Example (4). Assume, in example (1), that on May 1, 1956, one year and 11 months after the granting of the option and 11 months after the transfer of the shares to him, E sells the 100 shares of X Corporation stock for \$13,000. The special rules of section

421 (a) are not applicable to the transfer of the stock by X Corporation to E, because disposition of the stock was made by E within two years from the date the option was granted. See paragraph (e) of this section for the effect of a disqualifying disposition.

Example (5). Assume, in example (1), that E dies on September 1, 1955, owning the 100 shares of X Corporation stock acquired by him pursuant to his exercise on June 1, 1955, of the restricted stock option. On the date of death, the fair market value of the stock is \$12,500. No income is realized by E by reason of the transfer of the 100 shares to his estate. If the stock is valued as of the date of E's death for estate tax purposes, the basis of the 100 shares in the hands of the executor is \$12,500.

(b) *Additional rules applicable where the option price is between 85 percent and 95 percent of the value of the stock—*

(1) *In general.* (i) If all the conditions necessary for the application of section 421 (a) exist, section 421 (b) provides additional rules which are applicable in cases where, at the time the restricted stock option is granted, the option price per share is less than 95 percent (but not less than 85 percent) of the fair market value of such share. In such case, upon the disposition of such share by the individual after the expiration of the 2-year and the 6-month periods, or upon his death while owning such share (whether occurring before or after the expiration of such periods), there shall be included in the individual's gross income as compensation (and not as gain upon the sale or exchange of a capital asset) an amount determined in the following manner. If the option qualified under section 421 (d) (1) (A) (i) (see § 1.421-1 (d) (2) (i)) such amount shall be the amount, if any, by which the option price is exceeded by the lesser of the fair market value of the share at the time the option was granted or the fair market value of the share at the time of such disposition or death. However, if the option qualified under section 421 (d) (1) (A) (ii) (see § 1.421-1 (d) (2) (ii)), such amount shall be whichever of the following amounts is lesser:

(a) The excess of the fair market value of the share at the time of such disposition or death over the price paid under the option, or

(b) The excess of the fair market value of the share at the time the option was granted over the option price, computed as if the option had been exercised at such time.

The amount of such compensation shall be included in the individual's gross income for the taxable year in which the disposition occurs or for the taxable year closing with his death, whichever event results in the application of section 421 (b)

(ii) The application of the special rules provided in section 421 (b) shall not affect the rules provided in section 421 (a) with respect to the individual exercising the option, the employer corporation, or its parent or subsidiary corporation. Thus, notwithstanding the inclusion of an amount as compensation in the gross income of an individual, as provided in section 421 (b) no income results to the individual at the time the stock is transferred to him,

and no deduction under section 162 is allowable at any time to the employer corporation or its parent or subsidiary with respect to such amount.

(iii) If the individual exercises a restricted stock option during his lifetime and dies before the stock is transferred to him pursuant to his exercise of the option, the transfer of such stock to the individual's executor, administrator, heir, or legatee is deemed, for the purpose of section 421, to be a transfer of the stock to the individual exercising the option and a further transfer by reason of death from such individual to his executor, administrator, heir, or legatee.

(2) *Basis.* If the special rules provided in section 421 (b) are applicable to the disposition of a share of stock by an individual, the basis of such share in the individual's hands at the time of such disposition, determined under section 1011, shall be increased by an amount equal to the amount includible as compensation in his gross income under section 421 (b). If the special rules provided in section 421 (b) are applicable to a share of stock upon the death of an individual, the basis of such share in the hands of the estate or the person receiving the stock by bequest or inheritance shall be determined under section 1014, and shall not be increased by reason of the inclusion upon the decedent's death of any amount in his gross income under section 421 (b). See example (9) of this paragraph with respect to the determination of basis of the share in the hands of a surviving joint owner.

(3) *Examples.* The operation of section 421 (b) may be illustrated by the following examples:

Example (1). On June 1, 1954, the X Corporation grants to E, an employee, a restricted stock option to purchase a share of X Corporation's stock for \$85. The fair market value of the X Corporation stock on such date is \$100 per share. On June 1, 1955, E exercises the restricted stock option and on that date the X Corporation transfers the share of stock to E. On January 1, 1957, E sells the share for \$150, its fair market value on that date. E makes his income tax return on the basis of the calendar year. The income tax consequences to E and X Corporation are as follows: (1) Compensation in the amount of \$15 is includible in E's gross income for 1957, the year of the disposition of the share. The \$15 represents the difference between the option price (\$85) and the fair market value of the share on the date the option was granted (\$100), since such value is less than the fair market value of the share on the date of disposition (\$150). For the purpose of computing E's gain or loss on the sale of the share, E's cost basis of \$85 is increased by \$15, the amount includible in E's gross income as compensation. Thus, E's basis for the share is \$100. Since the share was sold for \$150, E realizes a gain of \$50, which is treated as long-term capital gain; (ii) The X Corporation is entitled to no deduction under section 162 at any time with respect to the share transferred to E.

Example (2). Assume, in example (1), that E sells the share of X Corporation stock on January 1, 1958, for \$75, its fair market value on that date. Since \$75 is less than the option price (\$85), no amount in respect of the sale is includible as compensation in E's gross income for 1958. E's basis for determining gain or loss on the sale is \$85. Since E sold the share for \$75, E realized a

loss of \$10 on the sale, which loss is treated as a long-term capital loss.

Example (3). Assume, in example (1), that the option provides that the option price shall be 90 percent of the fair market value of a share of the stock on the day the option is exercised. On June 1, 1955, when the option is exercised, the fair market value of the stock is \$120 per share so that E pays \$108 for the share of stock. Compensation in the amount of \$10 is includible in E's gross income for 1957, the year of the disposition of the share. This is determined in the following manner. The excess of the fair market value of the stock at the time of the disposition (\$150) over the price paid for the share (\$108) is \$42; and the excess of the fair market value of the stock at the time the option was granted (\$100) over the option price, computed as if the option had been exercised at such time (\$90), is \$10. Accordingly, \$10, the lesser, is includible in gross income. In this situation, E's cost basis of \$108 is increased by \$10, the amount includible in E's gross income as compensation. Thus, E's basis for the share is \$118. Since the share was sold for \$150, E realizes a gain of \$32, which is treated as long-term capital gain.

Example (4). Assume, in example (1), that instead of selling the share on January 1, 1957, E makes a gift of the share on that day. In such case, \$15 is includible as compensation in E's gross income for 1957. E's cost basis of \$85 is increased by \$15, the amount includible in E's gross income as compensation. Thus, E's basis for the share is \$100, which becomes the donee's basis, as of the time of the gift, for determining gain or loss.

Example (5). Assume, in example (2), that instead of selling the share on January 1, 1958, E makes a gift of the share on that date. Since the fair market value of the share on that day (\$75) is less than the option price (\$85), no amount in respect of the disposition by way of gift is includible as compensation in E's gross income for 1958. E's basis for the share is \$85, which becomes the donee's basis, as of the time of the gift, for the purpose of determining gain. The donee's basis for the purpose of determining loss, determined under section 1015 (a), is \$75 (fair market value of the share at the date of gift).

Example (6). Assume, in example (1), that after acquiring the share of stock on June 1, 1955, E dies on August 1, 1956, at which time the share has a fair market value of \$150. Compensation in the amount of \$15 is includible in E's gross income for the taxable year closing with his death, such \$15 being the difference between the option price (\$85) and the fair market value of the share when the option was granted (\$100), since such value is less than the fair market value at date of death (\$150). The basis of the share in the hands of E's estate is determined under section 1014 without regard to the \$15 includible in the decedent's gross income.

Example (7). Assume, in example (6), that E dies on August 1, 1955, at which time the share has a fair market value of \$150. Although E's death occurred within two years from the date of the granting of the option and within six months after the transfer of the share to him, the income tax consequences are the same as in example (6).

Example (8). Assume the same facts as in example (1) except that the share of stock was issued in the names of E and his wife jointly with right of survivorship, and except that E and his wife sold the share on June 15, 1956, for \$150, its fair market value on that date. Compensation in the amount of \$15 is includible in E's gross income for 1956, the year of the disposition of the share. The basis of the share in the hands of E and his wife for the purpose of determining gain

or loss on the sale is \$100, that is, the cost of \$85 increased by the amount of \$15 includible as compensation in E's gross income. The gain of \$50 on the sale is treated as long-term capital gain, and is divided equally between E and his wife.

Example (9). Assume the same facts as in example (1), except that the share of stock was issued in the names of E and his wife jointly with right of survivorship, and except that E predeceased his wife on August 1, 1956, at which time the share had a fair market value of \$150. Compensation in the amount of \$15 is includible in E's gross income for the taxable year closing with his death. See example (6). The basis of the share in the hands of E's wife as survivor is determined under section 1014 without regard to the \$15 includible in the decedent's gross income.

Example (10). Assume, in example (9), that E's wife predeceased him on July 1, 1956. Section 421 (b) does not apply in respect of her death. Upon the subsequent death of E on August 1, 1956, the income tax consequences in respect of E's taxable year closing with the date of his death, and in respect of the basis of the share in the hands of his estate, are the same as in example (9). If E had sold the share on July 15, 1956 (after the death of his wife), for \$150, its fair market value at that time, the income tax consequences would be the same as in example (1).

(c) Acquisition of other stock. (1) Section 421 (c) provides that the special rules stated in section 421 (a) and (b), if applicable with respect to stock transferred to an individual upon his exercise of an option, shall likewise be applicable with respect to stock acquired by a distribution to which is applicable section 305, 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) or a corresponding provision of the Internal Revenue Code of 1939. Stock so acquired shall, for the purpose of section 421, be considered as having been transferred to the individual upon his exercise of the option. A similar rule shall be applied in the case of a series of such acquisitions. With respect to such acquisitions, section 421 (c) does not make inapplicable any of the provisions of section 305, 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036). Section 421 (c) is applicable only with respect to such acquisitions which occur in any taxable year of the shareholder which begins after December 31, 1953, and ends after August 16, 1954. As to acquisitions occurring in earlier taxable years, see section 130A (c) of the Internal Revenue Code of 1939.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following example:

Example. If, with respect to stock transferred pursuant to the timely exercise of a restricted stock option, there is a distribution of new stock to which section 305 (a) is applicable, and if there is a disposition of such new stock within two years after the option was granted, such disposition makes section 421 inapplicable to the transfer of the original stock pursuant to the exercise of the option to the extent that the disposition effects a reduction of the individual's total interest in the old and new stock. However, if the new stock, as well as the old stock, is not disposed of within two years after the option was granted, nor within six months after the transfer of the old stock pursuant to the exercise of the option, section 421 is applicable.

(d) Exercise after death. (1) If a restricted stock option is exercised by the estate of the individual to whom the option was granted, or by any person who acquired such option by bequest or inheritance or by reason of the death of such individual, and if such exercise occurs in a taxable year of the estate or of such person beginning after December 31, 1953, and ending after August 16, 1954, section 421 applies to such exercise in the same manner as if such option had been exercised by such deceased individual. Consequently, neither the estate nor such person is required to include any amount in gross income as a result of a transfer of stock pursuant to such exercise of the option. Nor does section 421 become inapplicable if such executor, administrator, or person disposes of the stock so acquired within two years after the granting of such option or within six months after the transfer of the stock pursuant to the exercise of such option. This exception as to the applicability of section 421 does not affect the applicability of section 1222, relating to what constitutes a short-term and long-term capital gain or loss. Section 421 is applicable even though such executor, administrator, or person is not employed by the corporation granting the option, or a parent or subsidiary thereof, either when the option is exercised or at any time. However, section 421 is not applicable to an exercise of the option by the estate or by such person, unless the individual to whom the option was granted met the requirements of § 1.421-3 (b) relating to the employment of such individual, either at the time of his death or within three months before such time. If the option is exercised by a person other than the executor or administrator, or other than a person who acquired the option by bequest or inheritance or by reason of the death of such deceased individual, section 421 is not applicable to the exercise. For example, if the option is sold by the estate, section 421 does not apply to an exercise of the option by such buyer; but if the option is distributed by the administrator to an heir as part of the estate, section 421 is applicable to an exercise of the option by such heir.

(2) Any transfer by the estate, whether a sale, a distribution of assets, or otherwise, of the stock acquired by its exercise of the option under this paragraph is a disposition of the stock. Therefore, if section 421 (b) is applicable, the estate must include an amount as compensation in its gross income. Similarly, if section 421 (b) is applicable in case of an exercise of the option under this paragraph by a person who acquired the option by bequest or inheritance or by reason of the death of the individual to whom the option was granted, there must be included in the gross income of such person an amount as compensation, either when such person disposes of the stock, or when he dies owning the stock.

(3) (i) If under section 421 (b) an amount is required to be included in the gross income of the estate or of such person, the estate or such person shall be allowed a deduction as a result of the in-

clusion of the value of the restricted stock option in the estate of the individual to whom the option was granted. Such deduction shall be computed under section 691 (c) by treating the restricted stock option as an item of gross income in respect of a decedent under section 691 and by treating the amount required to be included in gross income under section 421 (b) as an amount included in gross income under section 691 in respect of such item of gross income. No such deduction shall be allowable with respect to any amount other than an amount includible under section 421 (b). For the rules relating to the computation of a deduction under section 691 (c) see § 1.691 (c)-1.

(ii) The application of subdivision (i) may be illustrated by the following example:

Example. On June 1, 1953, E was granted a restricted stock option to purchase for \$85 one share of the stock of his employer. On such day, the fair market value of such stock was \$100 a share. E died on February 1, 1954, without having exercised such option. The option was, however, exercisable by his estate, and for purposes of the estate tax was valued at \$30. On March 1, 1955, the estate exercised the option, and on March 15, 1955, sold for \$150 the share of stock so acquired. For its taxable year including March 15, 1955, the estate is required by section 421 (b) to include in its gross income as compensation the amount of \$15. During such taxable year, no amounts of income were properly paid, credited, or distributable to the beneficiaries of the estate. However, under section 421 (d) (6) (B) the estate is entitled to a deduction determined in the following manner. E's estate includes no other items of income in respect of a decedent referred to in section 691 (a), and no deductions referred to in section 691 (b), so that the value for estate tax purposes of the restricted stock option, \$30, is also the net value of all items of income in respect of the decedent. The estate tax attributable to the inclusion of the restricted stock option in the estate of E is \$10. Since \$15, the amount includible in gross income by reason of section 421 (b), is less than the value for estate tax purposes of the option, only 15% of the estate tax attributable to the inclusion of the option in the estate is deductible; that is, 15% of \$10, or \$5. The estate realizes a capital gain of \$50 since the \$15 which is included in the gross income of the estate is added to the \$85 paid for the stock in determining the basis of the stock, but the basis of the stock is not increased by reason of the inclusion of the restricted stock option in the estate (see section 1014 (d)). No deduction under section 421 (d) (6) (B) is allowable with respect to the \$50 capital gain.

(e) *Disqualifying disposition.* The disposition of a share of stock, acquired by the exercise of a restricted stock option, within two years after the granting of the option or within six months after the transfer of the share pursuant to such exercise makes section 421 inapplicable to such transfer of the share. If such disqualifying disposition occurs in a taxable year of the individual which begins after December 31, 1953, and ends after August 16, 1954, the income attributable to such transfer shall be treated by the individual as income received in the taxable year in which such disposition occurs. Similarly, if such disposition occurs in a taxable year of the employer which begins after December 31, 1953, and ends after August 16, 1954, the de-

duction attributable to the transfer of the share of stock pursuant to the exercise of the option shall be allowable for the taxable year in which such disposition occurs. In such cases, no amount shall be treated as income, and no amount shall be allowed as a deduction, for the taxable year in which the stock was transferred pursuant to the exercise of the option. The extent to which such deduction is allowable, though, shall be determined as if such deduction was claimed for the taxable year of the transfer.

§ 1.421-6 *Effective date.* Sections 1.421-1 to 1.421-5, inclusive, shall be applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954, except as is otherwise provided in such sections.

[F. R. Doc. 55-9281; Filed, Nov. 17, 1955; 8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 115]

REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the act of August 28, 1937 (50 Stat. 874) and Revised Statutes 2478 (43 U. S. C. 1201) it is proposed to issue regulations implementing the said act of August 28, 1937, supra, so far as is necessary.

The proposed regulations are set forth below.

Interested persons may submit in triplicate written comments, suggestions, or objections with respect to the proposed regulations or forms to the Bureau of Land Management, Washington 25, D. C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

DOUGLAS MCKAY,
Secretary of the Interior

NOVEMBER 10, 1955.

1. Section 115.166 (a) is amended to read as follows:

§ 115.166 *Agreements and arbitration between permittee and licensee respecting compensation payable by licensee to permittee for use of road.* (a) In the event the United States exercises the rights received from a permittee hereunder to license a person to remove forest products over any road, right-of-way, or lands of the permittee or of his successor in interest, to the extent that such matters are not covered by an agreement under § 115.165, such licensee will be required to pay the permittee or his successor in interest such compensation and to furnish him such security, and to carry such liability insurance as the permittee or his successor in interest and the licensee may agree upon. If the parties do not agree, then upon the written request of either party delivered to the other party, the matter shall be re-

ferred to and finally determined by arbitration in accordance with the procedures established by § 115.169. During the pendency of such arbitration proceedings, the licensee shall be entitled to use the road, right-of-way, or lands involved upon payment, or tender thereof validly maintained, to the permittee of an amount to be determined by the authorized officer and upon the furnishing to the permittee of a corporate surety bond in an amount equal to the difference between the amount fixed by the authorized officer and the amount sought by the permittee. The licensee shall also, as a condition of use in such circumstances, maintain such liability insurance in such amounts covering any additional hazard and risk which might accrue by reason of the licensee's use of the road, as the authorized officer may prescribe.

2. Section 115.171 (b) is amended to read as follows:

§ 115.171 *Payment to the United States for road use.* * * *

(b) In addition, where the permittee receives a right to use a road constructed or acquired by the United States, which is under the administrative jurisdiction of the Bureau of Land Management, he will be required to pay to the United States for the use thereof, except where he transports forest products purchased from the United States through the Bureau, a fee to be determined by the authorized officer who shall base his determination upon the amortization of the replacement costs for a road of the type involved, together with a reasonable interest allowance on such costs, plus costs of maintenance if furnished by the United States and any extraordinary costs peculiar to the construction or acquisition of the particular road. In arriving at the amortization item, the authorized officer shall take into account the probable period of time, past and present, during which such road may be in existence and the volume of timber which has been moved and the volume of timber, currently merchantable, which probably will be moved from all sources over such road. The authorized officer may fix the rate at which payments shall be made by the permittee during his use of the road: *Provided, however* That this paragraph shall not apply where payment for such road use to another permittee is required under §§ 115.154 to 115.179: *Provided further,* That where the United States is entitled to charge a fee for the use of a road, the authorized officer may waive such fee if the permittee grants to the United States and its licensee the right to use, without charge, permittee's roads of approximately equal value, taking into account, in determining such values, the proposed use of the roads.

3. Section 115.174 (a) is amended by adding at the end thereof two new subparagraphs as follows:

§ 115.174 *Terms and conditions of permit.* (a) As to all permits: Every permittee shall agree: * * *

(10) Upon request of an authorized officer, to submit to the Bureau within

15 days with permission to publish the detailed terms and conditions, including the fee which the permittee will ask as a condition of such licensee's use for the removal of forest products over any road or right-of-way which the United States and its licensees have acquired a right to use under § 115.162.

(11) To grant to the United States, upon request of an authorized officer, in lieu of the rights-of-way across legal subdivisions granted pursuant to § 115.162, such permanent easements on specifically described locations as may be necessary to permit the Bureau to construct roads on such legal subdivisions with appropriated funds: *Provided*, That at the time of the grant of such permanent easements the Bureau shall release, except for necessary connecting spur roads, the rights-of-way across such legal subdivisions previously granted: *Provided further* That if the United States builds a road on such permanent easements it shall pay for any timber of the permittee which is cut, removed, or destroyed in accordance with § 115.167. The authorized officer shall waive the requirement under this paragraph, however, if the permittee makes a satisfactory showing to the authorized officer that he does not own a sufficient interest in the land to grant a permanent easement, and that he has negotiated therefor in good faith without success.

(28 Stat. 635, as amended, sec. 11, 39 Stat. 223, sec. 6, 40 Stat. 1181, sec. 5, 50 Stat. 875; 43 U. S. C. 956)

[F. R. Doc. 55-9269; Filed, Nov. 17, 1955; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 908]

[Docket No. AO-243-A1]

HANDLING OF MILK IN CENTRAL ARKANSAS MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900) notice is hereby given of a public hearing to be held in the Hearing Room, Fish & Game Building, State Capitol, Little Rock, Arkansas, beginning at 10:00 a. m., November 22, 1955.

The public hearing is for the purpose of receiving evidence with respect to emergency marketing conditions and the proposed amendment hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order regulating the handling of milk in the Central Arkansas marketing area. The proposed amendment has not received the approval of the Secretary of Agriculture.

By The Central Arkansas Producers Association:

1. Amend § 908.51 (a) to provide for an automatic adjustment of the Class I price based upon the supply-demand adjustment now provided in § 918.51 (a) of the order regulating the handling of milk in the Memphis, Tennessee marketing area.

2. Consider the need for emergency action with respect to the proposal stated above.

Copies of this notice of hearing and the order now in effect may be procured from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: November 15, 1955.

[SEAL] ROY W. LERNHARTSON,
Deputy Administrator.

[F. R. Doc. 55-9302; Filed, Nov. 17, 1955; 8:52 a. m.]

[7 CFR Part 966]

[Docket No. AO-257-A1]

HANDLING OF MILK IN SHREVEPORT, LOUISIANA, MARKETING AREA

NOTICE OF POSTPONEMENT AND SUPPLEMENTAL NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, (7 U. S. C. 601 et seq.), and in accordance with the applicable rules of practice and procedure, as amended, (CFR Part 900), notice is hereby given of the postponement of a public hearing previously scheduled to be held in Shreveport, Louisiana, on November 21, 1955 (20 F. R. 8336). The hearing will be held in the State Exhibit Museum, 3015 Greenwood Road, Shreveport, Louisiana, beginning at 10:00 a. m., December 12, 1955.

In addition to the proposals contained in the original notice of hearing which was published in the FEDERAL REGISTER November 5, 1955, the following proposals are to be considered:

By Parker's Dairy, Haynesville, Louisiana:

8. Amend § 966.7 to read as follows:

§ 966.7 *Distributing plant*. "Distributing plant" means any plant from which Class I milk is disposed during the month through routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except fluid milk plants) located in the marketing area.

By Sanitary Dairy Products, Inc., Minden, Louisiana:

9. Review § 966.41 (b) relative to "shrinkage"

The proposed amendments have not received approval of the Secretary of Agriculture. Copies of this notice of hearing and the order now in effect may be procured from the market administrator, 3822 Linwood Avenue, Shreveport, Louisiana, or the Hearing Clerk, Room 112, Administration Building,

United States Department of Agriculture, Washington 25, D. C., or may be inspected there.

Dated: November 15, 1955.

[SEAL] ROY W. LERNHARTSON,
Deputy Administrator.

[F. R. Doc. 55-9391; Filed, Nov. 17, 1955; 8:52 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 193]

[Ex Parte No. MC-49]

CARRIERS BY MOTOR VEHICLE; PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

QUALIFICATIONS AND MAXIMUM HOURS OF SERVICE OF EMPLOYEES OF MOTOR CARRIERS AND SAFETY OF OPERATION AND EQUIPMENT

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 10th day of November A. D. 1955.

It appearing that our continuing study of the Motor Carrier Safety Regulations and the effectiveness thereof indicates the desirability in the public interest, of imposing at the earliest practicable date, additional regulations with respect to safeguards against parts failures in motor vehicle braking systems;

It further appearing that the mechanical means for accomplishing the results sought have been sufficiently perfected to permit the imposition of reasonable regulations with respect thereto;

And it further appearing that by petition, dated September 3, 1954, filed by the Brotherhood of Locomotive Firemen and Enginemen to which American Trucking Associations, Inc., Private Truck Council of America, Inc., National Association of Motor Bus Operators, Public Service Coordinated Transport, Automobile Manufacturers Association, Inc., and National Automobile Transporters Association, concurred in by Ford Motor Company, filed replies, petitioner seeks the institution of an investigation for the purpose of determining whether motor carriers (including common carriers, contract carriers, private carriers and so-called "exempt" carriers under section 203 (b) of the Interstate Commerce Act) in the interest of public safety should be required to install and maintain on every motor vehicle equipment which would cause the brakes on such vehicles to apply automatically when a condition of loss of braking power is created from any cause; and good cause appearing therefor:

It is ordered, That pursuant to section 4 (a) of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1003) notice is hereby given of the Commission's proposal to adopt and prescribe the following regulation as an addition to the Motor Carrier Safety Regulations, adopted April 14, 1952, as amended (49 CFR Parts 190-197) (49 Stat. 546, as

amended; 49 U. S. C. 304) The proposed regulation is as follows:

§ 193.53 *Safeguards against parts failure.* Every motor vehicle, the date of manufacture of which is subsequent to September 30, 1956, and every motor vehicle in use after March 31, 1957, if used in a combination of motor vehicles shall, except as otherwise provided in this rule, have its service braking system so designed, constructed, and maintained as to provide that failure of any part thereof shall not prevent the effective application of brakes on more than one axle of the combination except that the front axle brakes of the towing vehicle need not be included in the protected group. The braking system shall be subject to the driver's control at all times by means of the controls which are used in the application of the service brakes, except as provided in these regulations with respect to automatic brake applications. Application of towed-vehicle brakes shall be, and application of towing-vehicle brakes may be, automatic in the event of failure of the source of braking power on the towing vehicle or of the means of applying the brakes, but the system shall not be arranged to permit automatic brake application on the towing vehicle without brake application

on the towed vehicle or vehicles, nor to permit automatic brake application on the foremost axle of the towing vehicle in any event. Neither the design, construction, nor installation of the protective features necessary for compliance with this rule shall be such as to interfere with the normal operation of the service brakes under any circumstances. This rule shall not be so construed as to require all wheels of all vehicles to be provided with brakes, where provision to the contrary is made in § 193.42 or § 193.48, nor to constitute an exception to the requirement for automatic braking of towed vehicles in the event of breakaway contained in § 193.43, nor to constitute an exception to the requirements of § 193.48 regarding operative condition of vehicle brakes.

It is further ordered, That interested persons may, on or before January 3, 1956, submit written statements containing data, views, or arguments, verified under oath by a person having knowledge of such data, views, or arguments, and that thereafter consideration will be given to the proposed rule or some revision thereof in the light of the statements which may be submitted.

It is further ordered, That one signed copy and 14 additional copies of such statements be furnished for the use of

the Commission by mailing to the Secretary of the Interstate Commerce Commission, Washington, D. C. No oral hearing is contemplated, but any request for such hearing shall be supported by an explanation as to why the evidence to be presented cannot reasonably be submitted in the form heretofore provided. The Commission, thereafter, will determine whether or not assignment of the matter for oral hearing is necessary or desirable.

It is further ordered, That the said petition, except to the extent that the relief sought therein is provided by the rule proposed herein, be, and it is hereby, denied.

And it is further ordered, That notice of this proposed rule shall be given to motor carriers, other persons of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Interstate Commerce Commission, Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-9273; Filed, Nov. 17, 1955;
8:46 a. m.]

NOTICES

DEPARTMENT OF COMMERCE Civil Aeronautics Administration

[Amdt. 8]

ORGANIZATION AND FUNCTIONS

MISCELLANEOUS AMENDMENTS

In accordance with the public information requirements of the Administrative Procedure Act, the description of the Organization and Functions of the Civil Aeronautics Administration is hereby amended by (1) adding the Deputy Administrator as a principal officer of the Office of the Administrator, (2) defining the functions and responsibilities of the Deputy Administrator, (3) deleting the Executive Staff Division and Technical Staff Division of the Office of Aviation Safety, and (4) deleting the Executive Staff Division of the Office of Federal Airways.

1. Section 11 (b) (1) published in 20 F. R. 2202 of April 7, 1955, is amended to read:

(1) Office of the Administrator, which includes the—

(i) Immediate Office of the Administrator.

(ii) Office of the Deputy Administrator.

(iii) Office of the Assistant Administrator for Administration.

(iv) Office of the Assistant Administrator for Operations.

(v) Office of the Assistant Administrator for Planning, Research, and Development.

(vi) Office of the Executive Assistant.

2. Section 14, published in 20 F. R. 2202 of April 7, 1955, is amended by renumbering subsections (b) (2) through (b) (5) as (b) (3) through (b) (6) respectively, and inserting a new subsection (b) (2) to read as follows:

(2) The Deputy Administrator assists the Administrator in performing the functions and exercising the powers, authorities, and discretions vested in the Administrator exercises general supervision on behalf of the Administrator over all Washington Offices and field organizations of the Civil Aeronautics Administration; and performs such other duties and assignments as the Administrator may prescribe.

3. Section 15 (h) published in 19 F. R. 2099 of April 10, 1954, and renumbered as 15 (g) in 20 F. R. 2202 of April 7, 1955, is amended by deleting "Executive Staff Division, Technical Staff Division"

4. Section 15 (i) published in 19 F. R. 2099 of April 10, 1954, and renumbered as 15 (h) in 20 F. R. 2202 of April 7, 1955, is amended by deleting "Executive Staff Division"

This amendment shall become effective November 1, 1955.

[SEAL]

F. B. LEE,
Administrator of Civil Aeronautics.

Approved:

SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 55-9296; Filed, Nov. 17, 1955;
8:50 a. m.]

FARM CREDIT ADMINISTRATION

INVITATION TO BID ON SURETY BOND

Notice is hereby given to all companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds, that the Farm Credit Administration will accept sealed bids beginning November 17, 1955, on a position schedule bond covering approximately 40 of its officers and employees. Copies of the invitation to bid, service requirements, the bond, and the schedule of positions to be bonded may be obtained by phoning or writing to Joseph Kudlack, Room 0456 South Building, USDA, Washington 25, D. C., Phone RE 7-4142, extension 4219. Bids are to be opened at 2 p. m., e. s. t., on December 15, 1955.

[SEAL]

A. T. ESGATE,
Acting Governor

[F. R. Doc. 55-9270; Filed, Nov. 17, 1955;
8:45 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order 450]

SPECIAL INDUSTRY COMMITTEES; PUERTO RICO

NOTICE OF RESIGNATION AND APPOINTMENT OF REPRESENTATIVES

Mr. Emiliano Pol of Pueblo Viejo, Puerto Rico, having resigned as a repre-

representative of the employers on Special Industry Committees Nos. 18-A, 18-B, and 18-D for Puerto Rico, the Secretary of Labor, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.) hereby appoints Mr. Frank Besosa of San Juan, Puerto Rico, to serve in his stead as a representative of the employers on such Committees. The prior appointments of both Mr. Pol and Mr. Besosa to serve as employer representatives on Special Industry Committee No. 18-C are not affected by this order.

Signed at Washington, D. C., this 14th day of November 1955.

JAMES P. MITCHELL,
Secretary of Labor

[F. R. Doc. 55-9280; Filed, Nov. 17, 1955;
8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11055, 11056; FCC 55M-946]

AIRCALL, INC., AND TELEPHONE ANSWERING
SERVICE

ORDER CONTINUING HEARING

In re applications of Aircall, Inc., Detroit, Michigan, Docket No. 11055, File No. 744-C2-P-54; John W. Bennett, d/b, as Telephone Answering Service, Flint, Michigan, Docket No. 11056, File No. 276-C2-P-54; for construction permits for one-way signaling stations in the Domestic Public Land Mobile Radio Service.

The Hearing Examiner having under consideration the above-entitled proceeding;

It appearing that a short continuance of the hearing herein is necessary to accommodate the Hearing Examiner's calendar;

It is ordered, This 10th day of November 1955, on the Hearing Examiner's own motion, that the hearing now scheduled for November 16, 1955, is continued until November 30, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9290; Filed, Nov. 17, 1955;
8:49 a. m.]

[Docket No. 11300; FCC 55M-947]

ALLEGHENY-KISKI BROADCASTING CO.
(WKPA)

STATEMENT CONCERNING HEARING CONFER-
ENCE AND ORDER SCHEDULING HEARING

In re application of Allegheny-Kiski Broadcasting Co. (WKPA), New Kensington, Pennsylvania, Docket No. 11300, File No. BP-9546; for construction permit.

1. A hearing conference was held herein, before the Hearing Examiner, on October 26, 1955, to consider matters connected with new issues added by the Commission's order of October 12, 1955.

2. Agreements were reached among

No. 225—3

the parties and were stated on the record, as reflected in the transcript which is incorporated herein by reference. Such agreements are found to be acceptable and approved by the Hearing Examiner. They include the following subjects:

(a) Exchange of direct case, in writing, covering all matters which any party desires to introduce on its original affirmative showing concerning the new issues, on or before November 16, 1955 (Tr. 29)

(b) Notification, on or before November 28, 1955, as to which witnesses parties desire to be presented for cross-examination (Tr. 29)

(c) Omission of further conference before hearing (Tr. 29, 46)

(d) Hearing schedule for December 5, 1955, at 10:00 a. m. (Tr. 29).

(e) Limitation of evidence to be adduced under issues 3 and 4: program service rendered by Station WWVA limited primarily to composite weeks and descriptive material of not too great magnitude relating to special programs within last two years (Tr. 30-31)

3. The timeliness of a request for information under Section 1.841 (e) was discussed, and parties indicated they did not desire a time limit to be specified at that time (Tr. 43-45)

4. The scope of issue number 3 was discussed, and it was agreed by the parties that the Hearing Examiner should rule on the evidence as it was offered and should not attempt to rule on the scope of that issue at the hearing conference (Tr. 32-46)

It is ordered, This 10th day of November 1955, that the foregoing agreements and requirements shall govern the course of the proceeding to the extent indicated, unless modified by the Hearing Examiner for cause or by the Commission upon review of the Hearing Examiner's ruling; and hearing herein is scheduled to be held on December 5, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9291; Filed, Nov. 17, 1955;
8:49 a. m.]

[Docket No. 11469 etc.; FCC 55M-921]

ROLLINS BROADCASTING, INC., ET AL.

STATEMENT AND ORDER SCHEDULING HEARING

In re applications of Rollins Broadcasting, Inc., Indianapolis, Indiana, Docket No. 11469, File No. BP-9414; Jules J. Paglin & Stanley W. Ray, Jr., d/b as OK Broadcasting Company, Indianapolis, Indiana, Docket No. 11470, File No. BP-9473; Charles N. Cutler and Earl T. Herzog, d/b as Wireless Broadcasters, Franklin, Indiana, Docket No. 11471, File No. BP-9494; Wabash-Peru Broadcasting Company, Inc. (WARU) Peru, Indiana, Docket No. 11472, File No. BP-9731; Twin Valley Broadcasters, Inc. (WTVB), Coldwater, Michigan, Docket No. 11473, File No. BP-9732; for construction permits.

Appearances. Leonard H. Marks and Paul Dobin, on behalf of Rollins Broadcasting, Inc., Leo Resnick, on behalf of Wireless Broadcasters; John H. Midlen, on behalf of Wabash-Peru Broadcasting Company, Inc. (WARU) and Twin Valley Broadcasters, Inc. (WTVB) and Thomas B. Fitzpatrick, on behalf of the Chief, Broadcast Bureau, Federal Communications Commission.

1. Pursuant to sections 1.813 and 1.841 (c) of the Commission's rules, as amended, the first session of the initial pre-hearing conference in the above-entitled proceeding was held on September 21, 1955, and the second session was held on October 21, 1955, in the offices of this Commission, Washington, D. C. The names of the parties attending and participating in the September 21, 1955, session, as well as certain dates which were tentatively set therein for the taking of several procedural steps involved in this proceeding, were set forth in a Statement and Order subsequently issued by the undersigned Hearing Examiner on September 28, 1955. The October 21, 1955, session of this pre-hearing conference was attended by counsel for all of the parties listed above under the heading "Appearances"

2. At the opening of the second session of this pre-hearing conference on October 21, 1955, the Hearing Examiner stated that on October 19, 1955, he had been advised by telephone by Mr. D. F. Prince, attorney for OK Broadcasting Company (Docket No. 11470), that he was about to file a petition on behalf of his client to dismiss the application of that party from the instant proceeding and had therefore decided not to appear at this conference. (The Commission's records disclose that a petition to dismiss the application of OK Broadcasting Company was subsequently filed on October 24, 1955, and that as yet no action has been taken thereon.) Radio St. Clair, Inc. (WDOG), Respondent, was not represented by counsel at this second session.

3. As indicated in the Hearing Examiner's Statement and Order of September 28, 1955, Mr. John H. Midlen, Counsel for Wabash-Peru Broadcasting Company, Inc. (WARU) and Twin Valley Broadcasters, Inc. (WTVB), did not participate in the September 21, 1955, session of this pre-hearing conference due to the fact that he was confined to his home by illness. At this session a few agreements were reached and procedures established governing the hearing, subject to subsequent consent thereto by Mr. Midlen on behalf of his clients. At the October 21, 1955, session of the pre-hearing conference Mr. Midlen stated on the record that he agreed to these stipulations and procedures. He further stated, however, that he had previously filed with the Commission a petition requesting reconsideration and grant of the application of Twin Valley Broadcasters, Inc. (WTVB), Coldwater, Michigan (Docket No. 11473) and was considering filing a similar petition requesting reconsideration and grant of the application of Wabash-Peru Broadcasting Company, Inc. (WARU) (Docket No. 11472) (The Commission's records disclose that

a petition was filed for reconsideration and grant of the application of Twin Valley Broadcasters, Inc. (WTVB) on October 14, 1955, and that a supplement thereto was filed on November 2, 1955. To date no action has been taken on this petition) The following procedures were established at the two sessions of the initial pre-hearing conference: (1) No letters will be received in evidence, offered for the purpose of proving the facts contained therein, if objections are raised to their admission on the ground that it would be in violation of the hearsay rule; (2) no evidence will be admitted which is hearsay in character concerning the past operation of existing broadcast stations owned or operated by applicants in this proceeding and the facts concerning such operation must be proved either by the presentation of witnesses at the hearing, the taking of their depositions, the production of properly authenticated program logs and other competent evidence; (3) all of the parties stipulated that formal proof will not be required for the purpose of authenticating contracts offered in evidence but do not waive any of their rights to object to the admission of such contracts on the ground that they may be lacking in relevance or materiality (4) each applicant will be required to appropriately identify its exhibits by name and to number such exhibits, beginning with the number "1" (5) the hearing will begin on the application with the lowest docket number, namely that of Rollins Broadcasting, Inc. (Docket No. 11469) to be followed by the remaining applications in consecutive order of their docket numbers; and (6) with respect to each application, the affirmative case will be presented in its entirety and the cross-examination of witnesses will be completed before proceeding to take evidence on the next application; however, following the presentation of evidence on these applications all parties to the proceeding will be allowed a reasonable period, if desired, for the preparation and presentation of rebuttal evidence, including the taking of depositions for this purpose.

4. Pursuant to discussions between the parties, with the approval of the Hearing Examiner, it was agreed, that the date now set for the presentation and exchange of the affirmative written cases by the parties to the proceeding, namely, November 10, 1955, will be retained, except with respect to the applications of Wabash-Peru Broadcasting Company, Inc. (WARU) and Twin Valley Broadcasters, Inc. (WTVB) that written requests by parties to the proceeding for information from opposing parties concerning the cost of construction and operation of the proposed station or other information relevant to their proposals, as authorized under section 1.841 (e) of the Commission's rules, as amended, must be served on such opposing parties on or before November 21, 1955; that the final pre-hearing conference, required under section 1.841 (c) supra, shall be held on November 29, 1955; and that the date for the commencement of the hearing and the tak-

ing of testimony shall be December 12, 1955.

5. Counsel for Wabash-Peru Broadcasting Company, Inc. (WARU) stated on the record that he would submit the affirmative written case of that applicant on November 10, 1955, unless prior to that date he files a petition for reconsideration and grant of that application, showing the acceptance of mutual interference by both the said applicant and Rollins Broadcasting, Inc., which would be expected to result from the grant of their proposals and supported by a complete engineering study in exhibit form on this subject. Thereupon, the Hearing Examiner ruled, with the consent of all parties to the proceeding, that with respect to Wabash-Peru Broadcasting Company, Inc. (WARU) and Twin Valley Broadcasters, Inc. (WTVB) if either or both of those parties have pending before the Commission petitions to reconsider and grant their respective applications upon which no action has been taken, they will not be required to submit their affirmative cases in writing on November 10, 1955, and that such cases may be presented for the first time on the date now set for the commencement of the taking of testimony, namely, December 12, 1955.

In accordance with the foregoing: *It is ordered*, This 4th day of November 1955, that unless subsequently modified upon an appropriate showing of good cause, the procedures set forth herein shall govern the hearing; that, with the exceptions noted above, the affirmative written cases of the applicants shall be presented and exchanged on or before November 10, 1955 that written requests by parties for information from opposing parties, as authorized under section 1.841 (e) supra, shall be served upon such opposing parties on or before November 21, 1955; that the final pre-hearing conference required under section 1.841 (c) supra, shall be held on November 29, 1955; and that the hearing shall begin on December 12, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9292; Filed, Nov. 17, 1955;
8:50 a. m.]

[Docket No. 11474, 11475; FCC 55M-949]

NORTHERN INDIANA BROADCASTERS, INC.,
AND ST. JOSEPH VALLEY BROADCASTING
CORP.

ORDER SCHEDULING HEARING

In re applications of Northern Indiana Broadcasters, Inc., South Bend, Indiana, Docket No. 11474, File No. BP-9602; St. Joseph Valley Broadcasting Corporation, Mishawaka, Indiana, Docket No. 11475, File No. BP-9778; for construction permits.

The Hearing Examiner having under consideration a petition filed November 4, 1955, by Northern Indiana Broadcasters, Inc., applicant in Docket 11474, requesting that a specified date be an-

nounced for the start of the hearing in the above-entitled proceeding; and

It appearing that the hearing was originally scheduled to commence on October 12, 1955, but that it was continued at the request of St. Joseph Valley Broadcasting Corporation with the concurrence of counsel for all parties; and

It further appearing that there are no objections to specifying a date certain for the commencement of the hearing and that such a date should be specified;

It is ordered, This the 10th day of November 1955, that the hearing in the above-entitled proceeding is scheduled to begin on December 19, 1955.

It is further ordered, That a pre-hearing conference pursuant to the provisions of Section 1.813 of the Commission's Rules will be held Friday, November 18, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9293; Filed, Nov. 17, 1955;
8:50 a. m.]

[Docket No. 11530; FCC 55M-950]

JAMES W MILLER

ORDER SCHEDULING HEARING

In re application of James W Miller, Milford, Massachusetts, Docket No. 11530, File No. BP-9878; for construction permit.

It is ordered, This 10th day of November 1955, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on January 8, 1956, in Washington, D. C.

Released: November 14, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9294; Filed, Nov. 17, 1955;
8:50 a. m.]

[Docket No. 11531; FCC 55M-961]

SANFORD A. SCHAFITZ

ORDER SCHEDULING HEARING

In re application of Sanford A. Schafitz, Lorain, Ohio, Docket No. 11531, File No. BP-9934; for construction permit.

It is ordered, This 10th day of November 1955, that Hugh B. Hutchison will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on January 8, 1956, in Washington, D. C.

Released: November 14, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-9295; Filed, Nov. 17, 1955;
8:50 a. m.]

DEPARTMENT OF DEFENSE

Office of the Secretary

SECRETARIES OF THE MILITARY DEPARTMENTS, AND DIRECTOR, OFFICE OF ADMINISTRATIVE SERVICES, OFFICE OF THE SECRETARY OF DEFENSE

DELEGATION OF AUTHORITY RE PURCHASE OF BONDS TO COVER CIVILIAN OFFICERS AND EMPLOYEES AND MILITARY PERSONNEL OF THE DEPARTMENT OF DEFENSE

The authority vested in the Secretary of Defense as head of the Department in Public Law 323, 84th Congress (5 U. S. C. 1003) approved August 9, 1955, and Regulations of the Department of the Treasury (31 CFR Part 226) is hereby delegated to the Secretaries of the military departments with respect to such departments and to the Director, Office of Administrative Services, with respect to the Office, Secretary of Defense, pursuant to authorities contained in the National Security Act, 1947, as amended. Such authority may be redelegated to the extent required for effective administration.

C. E. WILSON,
Secretary of Defense.

NOVEMBER 14, 1955.

[F. R. Doc. 55-9282; Filed, Nov. 17, 1955; 8:48 a. m.]

ASSISTANT SECRETARY OF DEFENSE (SUPPLY AND LOGISTICS)

DELEGATION OF AUTHORITY WITH RESPECT TO CERTIFICATION OF CONSTRUCTION, REPLACEMENT OR REACTIVATION OF BAKERIES, LAUNDRIES OR DRY-CLEANING FACILITIES

By virtue of the authority vested in the Secretary of Defense by section 202 (f) of the National Security Act of 1947, as amended, and section 5 of the Reorganization Plan No. 6 of 1953, there is hereby delegated to the Assistant Secretary of Defense (Supply and Logistics) the authority to determine and certify in writing, with reasons therefor, that service furnished by bakery, laundry or dry-cleaning facilities are not obtainable from commercial sources at reasonable rates. The purpose of such certification is to meet the restrictions upon the use of appropriated funds for the construction, replacement, or reactivation of any bakery, laundry or dry-cleaning facility which are imposed by (a) section 604, Second Supplemental Appropriation Act, 1952 (65 Stat. 765) (b) section 804, Supplemental Appropriation Act, 1953 (66 Stat. 647) (c) section 804, Supplemental Appropriation Act, 1954 (67 Stat. 429) (d) section 736, Department of Defense Appropriation Act, 1955 (68 Stat. 357) (e) section 905, Supplemental Appropriation Act, 1955 (68 Stat. 821) (f) section 632, Department of Defense Appropriation Act, 1956 (69 Stat. 320) and (g) section 305, Supplemental Appropriation Act, 1956 (69 Stat. 454) or which may be similarly imposed by future statutes. Requests for such authorizations as may be required for the construction or replacement of such facilities, or for the apportionment of funds therefor or

for the reactivation of such facilities, will continue to be submitted in accordance with established procedures.

The Assistant Secretary of Defense (Supply and Logistics) may not redelegate the authority contained herein.

Delegation of authority published at 19 F. R. 6834 is hereby superseded and cancelled.

C. E. WILSON,
Secretary of Defense.

NOVEMBER 14, 1955.

[F. R. Doc. 55-9283; Filed, Nov. 17, 1955; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-4964 etc.]

GRAGG OIL AND GAS CO. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

NOVEMBER 14, 1955.

In the matters of Gragg Oil and Gas Company, Docket No. G-4964; Cox Oil and Gas Company, Docket No. G-4965; Dougherty Oil and Gas Company, Docket No. G-4966; Newlon Oil and Gas Company, Docket No. G-4968; Simons Oil and Gas Company, Docket No. G-4969; Byrd Oil and Gas Company, Docket No. G-4974.

Take notice that there have been filed with the Federal Power Commission applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications on file with the Commission, and open to public inspection.

The above-named Applicants produce and sell natural gas in interstate commerce to Carnegie Natural Gas Company for resale, as indicated in the following tabulation:

Docket No., Name of Applicant, and Location
G-4964; Gragg Oil and Gas Company; Gilmer County, W. Va.
G-4965; Cox Oil and Gas Company; Ritchie County, W. Va.
G-4966; Dougherty Oil and Gas Company; Ritchie County, W. Va.
G-4968; Newlon Oil and Gas Company; Ritchie County, W. Va.
G-4969; Simons Oil and Gas Company; Ritchie County, W. Va.
G-4974; Byrd Oil and Gas Company; Ritchie County, W. Va.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 20, 1955, at 9:45 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW, Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the

Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 1, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9275; Filed, Nov. 17, 1955; 8:47 a. m.]

[Docket No. G-7912, etc.]

VAN CAMP OIL AND GAS CO. ET AL.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 14, 1955.

In the matters of Van Camp Oil & Gas Company, Docket No. G-7912; Lewis Oil & Gas Company, Docket No. G-7915; John Metro and Joseph Pulaski, Docket No. G-7917; McCall Drilling Company, Inc., Docket Nos. G-7944 through G-7957, inclusive, G-7960 through G-7967, inclusive.

Take notice that there have been filed with the Federal Power Commission applications for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the respective Applicants to sell natural gas in interstate commerce for resale and render service as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in their respective applications on file with the Commission, and open for public inspection.

The above-named Applicants produce and sell natural gas in interstate commerce for resale as indicated below:

Applicant and Docket; Purchaser and Sale Date; Field; County and State

Van Camp Oil & Gas Company, (G-7912); Godfrey L. Cabot, Inc. (G-5-52); Sherman District; Calhoun, W. Va.
Lewis Oil & Gas Company (G-7915); Penova Interests (2-29-52); Murphy District; Ritchie, W. Va.
John Metro & Joseph Pulaski (G-7917); New York State Natural Gas Corp. (2-27-54); Driftwood Field; Cameron, W. Va.
McCall Drilling Company, Inc. (G-7944); Godfrey L. Cabot, Inc. (4-14-31); Sherman District; Calhoun, W. Va.
McCall Drilling Company, Inc. (G-7945); Godfrey L. Cabot, Inc. (5-5-32); DeKalb District; Gilmer, W. Va.
McCall Drilling Company, Inc. (G-7946); Godfrey L. Cabot, Inc. (10-7-32); Center District; Gilmer, W. Va.
McCall Drilling Company, Inc. (G-7947); Godfrey L. Cabot, Inc. (10-7-32); Center District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7948); Godfrey L. Cabot, Inc. (11-25-32); Sherman District; Calhoun, W. Va.

McCall Drilling Company, Inc. (G-7949); Godfrey L. Cabot, Inc. (10-7-33); Sherman District; Calhoun, W. Va.

McCall Drilling Company, Inc. (G-7950); Godfrey L. Cabot, Inc. (5-1-34); Center District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7951); Godfrey L. Cabot, Inc. (1-3-35); Sherman District; Calhoun, W. Va.

McCall Drilling Company, Inc. (G-7952); Godfrey L. Cabot, Inc. (12-23-37); Sherman District; Calhoun, W. Va.

McCall Drilling Company, Inc. (G-7953); Godfrey L. Cabot, Inc. (3-27-46); Reedy District; Wirt, W. Va.

McCall Drilling Company, Inc. (G-7954); Carnegie Natural Gas Company (7-3-36); Clay District; Ritchie, W. Va.

McCall Drilling Company, Inc. (G-7955); Carnegie Natural Gas Company (7-6-37); Glenville Ind. District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7956); Carnegie Natural Gas Company (10-25-37); DeKalb, Murphy Districts; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7957); Carnegie Natural Gas Company (5-5-41); Center District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7960); Equitable Gas Company (10-6-21); Troy District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7961); Equitable Gas Company (4-20-23); Glenville District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7962); Equitable Gas Company (10-10-35); Union District; Ritchie, W. Va.

McCall Drilling Company, Inc. (G-7963); Equitable Gas Company (2-20-42); Freeman's Creek District; Lewis, W. Va.

McCall Drilling Company, Inc. (G-7964); Equitable Gas Company (2-20-42); Freeman's Creek District; Lewis, W. Va.

McCall Drilling Company, Inc. (G-7965); Equitable Gas Company (2-20-42); Troy District; Gilmer, W. Va.

McCall Drilling Company, Inc. (G-7966); Equitable Gas Company (9-13-29); Freeman's Creek District; Lewis, W. Va.

McCall Drilling Company, Inc. (G-7967); Equitable Gas Company (6-18-51); Collins Settlement District; Lewis, W. Va.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 20, 1955, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 1, 1955. Failure of any party

to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9276; Filed, Nov. 17, 1955;
8:47 a. m.]

[Docket Nos. G-1142, G-2019, G-1508, G-2074, G-2210, G-2220, G-2378]

UNITED GAS PIPE LINE CO.

NOTICE OF ORDER MODIFYING DECISION

NOVEMBER 14, 1955.

Notice is hereby given that on November 8, 1955, the Federal Power Commission issued its order adopted November 2, 1955, modifying decision of Presiding Examiner and affirming decisions as so modified in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9277; Filed, Nov. 17, 1955;
8:47 a. m.]

[Docket Nos. G-5258, G-8487]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF ORDER APPROVING PROPOSED RATE SETTLEMENT

NOVEMBER 14, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its order adopted November 2, 1955, approving proposed rate settlement in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9278; Filed, Nov. 17, 1955;
8:47 a. m.]

[Docket No. ID-1175]

DON B. POTTER

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

NOVEMBER 14, 1955.

Notice is hereby given that on November 7, 1955, the Federal Power Commission issued its order adopted November 2, 1955, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9279; Filed, Nov. 17, 1955;
8:47 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

DELEGATIONS OF FINAL AUTHORITY

MISCELLANEOUS AMENDMENTS

Section II, Delegations of Final Authority, is amended as follows:

1. Paragraph A is amended to read as follows:

A. Powers delegated in this section may not be redelegated. However, they may be exercised by an officer or employee designated to serve in an "Acting" capacity during the absence from duty of the official to whom the powers are delegated. Any officer or employee to whom powers are delegated in this section is authorized to designate any officer or employee under his supervision to serve in an "Acting" capacity, for periods not exceeding 30 days, during his absence; except that a Field Office Director is authorized to make such a designation only for periods of absence during which both designees set forth in Section I are also absent.

2. Paragraph G 3 is amended to read as follows:

3. To execute or approve contracts and amendments thereto for the purchase and rental of equipment and supplies, for the rental of space, for the purchase of services other than personal services, and for the sale or transportation of personal property.

Assistant Commissioner for Administration.

Director, Property and Services Branch.

3. Paragraph E 10 is hereby revoked.

Date approved: November 10, 1955.

[SEAL] CHARLES E. SLUSSER,
Commissioner

[F. R. Doc. 55-9271; Filed, Nov. 17, 1955;
8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-970]

GAS INDUSTRIES FUND, INC.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION FROM PROVISIONS CONCERNING PURCHASE OF SECURITIES DURING EXISTENCE OF UNDERWRITING SYNDICATE

NOVEMBER 14, 1955.

Notice is hereby given that Gas Industries Fund, Inc. ("Gas Industries"), a registered open-end diversified investment company, has filed an application pursuant to section 10 (f) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 10 (f) of the act the proposed purchase by Gas Industries of not more than 10,000 shares of the common stock of Colorado Interstate Gas Company ("Colorado") during the existence of the underwriting syndicate mentioned below.

The application states that The First Boston Corporation ("First Boston") expects to be among a group of principal underwriters which plans to sell by public offering 256,503 shares of outstanding common stock of Colorado now owned by Public Service Company of Colorado; that James H. Orr, one of the four directors of Gas Industries, is also a director of; and therefore an affiliated person of, First Boston; and that Gas Industries considers it desirable to be in a position to purchase not more than 10,000 shares of Colorado common stock

during the public offering in order to have reasonable assurance of being able to obtain a substantial block of shares and to avoid the possibility of a higher price after the underwriting syndicate has dissolved.

Section 10-(f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director of such registered investment company is an affiliated person, unless the Commission by order upon application grants an exemption therefrom. The application states that since a director of Gas Industries is an affiliated person of an investment banking organization which is part of the principal underwriting group, the proposed purchase is subject to the provisions of section 10 (f)

It is represented that the directors of Gas Industries have authorized the purchase by Gas Industries of not exceeding 10,000 shares of common stock of Colorado from underwriters or members of the selling group, if any, other than First Boston, except to the extent that First Boston might be included if a purchase were to be made from Union Securities Corporation (the representative of the principal underwriters) for the account of the several underwriters.

Colorado, a Delaware corporation, owns and operates a natural gas pipeline system for the production, purchase, gathering, transportation and sale of natural gas. Its general area of supply includes fields in Texas, Kansas, Oklahoma and Colorado, and its pipeline system extends from such supply areas to Denver, Colorado.

The application states that if Gas Industries were to purchase 10,000 shares of common stock of Colorado, it would acquire approximately 3.9 percent of the total contemplated offering, and assuming a purchase price of \$60 a share (the proposed maximum offering price set forth in the preliminary prospectus of Colorado) the aggregate purchase price would represent an investment of \$600,000 or approximately 1.6 percent of the total assets of Gas Industries as of November 4, 1955.

It is represented that the proposed purchase by Gas Industries is consistent with its stated investment policies.

Notice is further given that any interested person may, not later than November 28, 1955, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided

in Rule N-5 of the Rules and Regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-9274; Filed, Nov. 17, 1955;
8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

BERTHA BECKER ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Bertha Becker, Los Angeles, California, Salll (a/k/a Salomon) Baum, Villeurbanne, France, Joachim Hess, Manchester, England, Manfred Hess, Haifa, Israel, Claim No. 24193, Vesting Order No. 1042; \$815.34 in the Treasury of the United States, payable as follows: one-third (1/3) to Bertha Becker, one-third (1/3) to Salll (a/k/a Salomon) Baum, one-sixth (1/6) to Joachim Hess and one-sixth (1/6) to Manfred Hess.

Executed at Washington, D. C., on November 8, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director
Office of Alien Property.

[F. R. Doc. 55-9287; Filed, Nov. 17, 1955;
8:49 a. m.]

CLARA HINKEL

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Clara Hinkel, nee Blesinger, Augsburg, Germany, Claim No. 40363, Vesting Order 6487; 1/4 of \$8,453.91 in the Treasury of the United States.

Executed at Washington, D. C., on November 8, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 55-9288; Filed, Nov. 17, 1955;
8:49 a. m.]

WILLIAM DOUGLAS NOAR

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No. Property, and Location

William Douglas Noar, Chauny (Aisne), France, Claim No. 61325, Vesting Order No. 17897; \$1,362.19 in the Treasury of the United States.

Executed at Washington, D. C., on November 9, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director
Office of Alien Property.

[F. R. Doc. 55-9289; Filed, Nov. 17, 1955;
8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 15, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31304: *Merchandise from Detroit, Mich., to Tennessee.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on merchandise, viz., freight, all kinds, carloads from Detroit, Mich., to Glenduff and Nashville, Tenn.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Agent Hinsch's tariff I. C. C. No. 4685.

FSA No. 31305: *Iron or steel pipe in the Southwest.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on pipe, wrought iron or steel, carloads from, to, and between points in southwestern territory.

Grounds for relief: Short-line distance formula, circuitry, and grouping.

Tariff: Supplement 10 to Agent Kratzmeir's I. C. C. No. 4171.

FSA No. 31306: *Slag from Tennessee to Belton, Tex.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on slag, carloads from Mt. Pleasant and Siglo, Tenn., to Belton, Texas.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 39 to Agent Kratzmeir's I. C. C. No. 4135.

FSA No. 31307: *Motor-rail rates, Missouri-Kansas-Texas R. R., et al.* Filed by Middlewest Motor Freight Bureau, Agent, for interested rail and motor carriers. Rates on Highway truck trailers,

NOTICES

loaded and empty, on flat cars between St. Louis, Mo., and Dallas, Texas.

Grounds for relief: Motor carrier competition.

Tariff: Supplement 30 to Middlewest Motor Freight Bureau Tariff MF-I. C. C. No. 223.

FSA No. 31308: *Coke from Illinois to Keokuk, Iowa.* Filed by R. G. Raasch, Agent, for interested rail carriers. Rates on coke, coke breeze, coke dust or coke screenings, carloads from Lockport and Joliet, Ill., to Keokuk; Iowa.

Grounds for relief: Barge competition.

Tariff: Supplement 37 to Agent Raasch's I. C. C. 767.

FSA No. 31309: *Rubber tires from Ohio to Lower Mississippi River Crossings.*

Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on tires, rubber, pneumatic and parts, carloads from Toledo, Middletown, and Sebring, Ohio to Memphis, Tenn., Baton Rouge, New Orleans, North Baton Rouge, La., and Natchez, Miss.

Grounds for relief: Circuitry.

Tariff: Supplement 89 to Agent Hinsch's I. C. C. 4367.

FSA No. 31310: *Petroleum products from Panama City, Fla., to Alabama.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on petroleum products, carloads from Panama City, Fla., to Alabama City and Gadsden, Ala.

Grounds for relief: Circuitry.

Tariff: Supplement 228 to Agent C. A. Spaninger's I. C. C. No. 1253.

FSA No. 31311: *Cereal foods from Battle Creek, Mich., to Mobile, Ala.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on cereal food preparations, carloads from Battle Creek, Mich., to Mobile, Ala.

Grounds for relief: Circuitry.

Tariff: Supplement 89 to Agent Hinsch's I. C. C. No. 4367.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F. R. Doc. 55-9272; Filed, Nov. 17, 1955;
8:46 a. m.]