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TITLE 3—THE PRESIDENT PROCLAMATION 3100

FURTHER MODIFICATION OF TRADE-AGREEMENT CONCESSION ON ALSIKE CLOVER SEED

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA
A PROCLAMATION

1. WHEREAS, pursuant to the authority vested in me by section 350 of the Tariff Act of 1930, as amended, and by section 7 (c) of the Trade Agreements Extension Act of 1951, as amended, on June 30, 1954, I issued Proclamation No. 3059 (19 F. R. 4103) modifying item 763 of Part I of Schedule XX (original) annexed to the General Agreement on Tariffs and Trade so as to provide that not more than 1,500,000 pounds of alsike clover seed described in the said item 763 entered, or withdrawn from warehouse, for consumption during the 12-month period beginning July 1, 1954, should be dutiable at 2 cents per pound and that any such seed not subject to the rate of 2 cents per pound should be dutiable at 6 cents per pound;

2. WHEREAS, on July 14, 1954, I directed the United States Tariff Commission to continue its investigation under section 7 of the Trade Agreements Extension Act of 1951, as amended, with regard to alsike clover seed, and to submit to me a supplementary report indicating whether the Commission considered the continuation of the tariff quota referred to in the previous recital beyond June 30, 1955, to be necessary to prevent or remedy the serious injury to the domestic industry concerned which was reported to me by the Commission on May 21, 1954, to exist by reason of increased imports of such seed;

3. WHEREAS, on April 28, 1955, the United States Tariff Commission reported to me that as a result of its continued investigation, including a public hearing, it has found that the continuation beyond June 30, 1955 of a modified tariff quota on alsike clover seed is necessary to prevent or remedy the serious injury to the domestic industry concerned;

4. WHEREAS section 350 (a) (2) of the Tariff Act of 1930, as amended, authorizes the President to proclaim such

modification of existing duties and such additional import restrictions as are required or appropriate to carry out any foreign trade agreement that the President has entered into under the said section 350 (a), and

5. WHEREAS I find that the further modification of the concession granted in the said General Agreement with respect to alsike clover seed described in the said item 763 to permit the application to such seed of the duty treatment hereinafter proclaimed is necessary to prevent serious injury to the domestic industry producing the like or directly competitive product, and that upon such further modification of the said concession it will be appropriate to carry out the said General Agreement to apply to alsike clover seed the duty treatment hereinafter proclaimed:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under the authority vested in me by section 350 of the Tariff Act of 1930, as amended, and by section 7 (c) of the Trade Agreements Extension Act of 1951, as amended, and in accordance with the provisions of the said General Agreement, do proclaim—

(a) That the provision in the said item 763 with respect to alsike clover seed shall be further modified during the period July 1, 1955 to June 30, 1957, both dates inclusive, to read as follows:

Tariff Act of 1930, paragraph	Description of products	Rate of duty
763.....	Grass seeds and other forage crop seeds:	Cents per pound
•	Alsike clover.	• 2
	<i>Provided</i> , That not more than 2,000,000 pounds of such seed entered during each 12-month period beginning July 1 in the years 1955 and 1956 shall be dutiable at 2 cents per pound. Any such seed entered during any such period and not subject to the rate of 2 cents per pound shall be dutiable at.....	6

(b) That during the period July 1, 1955 to June 30, 1957, both dates inclusive, alsike clover seed described in the

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(For use during 1955)

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- Titles 4-5 (\$0.70)
- Title 7: Parts 210-899 (\$2.50)
- Title 15 (\$1.25)
- Title 26: Parts 80-169 (\$0.50)
- Title 26: Part 300 to end and Title 27 (\$1.25)
- Title 50 (\$0.55)

Previously announced: Title 3, 1954 Supp. (\$1.75); Title 7: Parts 1-209 (\$0.60); Part 900 to end (\$2.25); Title 8 (\$0.45); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 16 (\$1.25); Title 17 (\$0.55); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Title 32A, Revised December 31, 1954 (\$1.50); Titles 35-37 (\$0.75); Title 38 (\$2.00); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60)

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said item 763, as modified by paragraph (a) above, shall be subject to the rates of duty specified in the said item 763 as so modified.

Proclamation No. 2761A of December 16, 1947, as amended and supplemented, is modified accordingly during the period July 1, 1955 to June 30, 1957, both dates inclusive.

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

DONE at the City of Washington this 29th day of June in the year of our Lord nineteen hundred and fifty-five, [SEAL] and of the Independence of the United States of America the one hundred and seventy-ninth.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 55-5446; Filed, July 1, 1955; 12:05 p. m.]

PROCLAMATION 3101

IMPOSING A QUOTA ON IMPORTS OF RYE, RYE FLOUR, AND RYE MEAL

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as added by section 31 of the act of August 24, 1935, 49 Stat. 773, reenacted by section 1 of the act of June 3, 1937, 50 Stat. 246, and as amended by section 3 of the act of July 3, 1948, 62 Stat. 1248, section 3 of the act of June 28, 1950, 64 Stat. 261, and section 8 (b) of the act of June 16, 1951, 65 Stat. 72 (7 U. S. C. 624) the Secretary of Agriculture advised me there was reason to believe that rye, rye

flour, and rye meal are practically certain to be imported into the United States after June 30, 1955, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program undertaken by the Department of Agriculture with respect to rye pursuant to sections 301 and 401 of the Agricultural Act of 1949, as amended, or to reduce substantially the amount of products processed in the United States from domestic rye with respect to which such program of the Department of Agriculture is being undertaken;

WHEREAS, on May 20, 1955, I caused the United States Tariff Commission to make an investigation under the said section 22 with respect to this matter;

WHEREAS the said Tariff Commission has made such investigation and has reported to me its findings and recommendations made in connection therewith;

WHEREAS, on the basis of the said investigation and report of the Tariff Commission, I find that rye, rye flour, and rye meal, in the aggregate, are practically certain to be imported into the United States after June 30, 1955, under such conditions and in such quantities as to interfere materially with and to tend to render ineffective the said price-support program with respect to rye, and to reduce substantially the amount of products processed in the United States from domestic rye with respect to which said price-support program is being undertaken; and

WHEREAS I find and declare that the imposition of the quantitative limitations hereinafter proclaimed is shown by such investigation of the Tariff Commission to be necessary in order that the entry, or withdrawal from warehouse, for consumption after June 30, 1955, of rye, rye flour, and rye meal will not render ineffective, or materially interfere with, the said price-support program:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that—

(1) the total aggregate quantity of rye, rye flour, and rye meal which may be entered, or withdrawn from warehouse, for consumption in each of the

12-month periods beginning July 1 in 1955 or in 1956 shall not exceed 186,000,000 pounds, of which not more than 15,000 pounds may be in the form of rye flour or rye meal, which permissible total quantities I find and declare to be proportionately not less than 50 per centum of the total quantity of such rye, rye flour, and rye meal entered, or withdrawn from warehouse, for consumption during the representative period July 1, 1950, to June 30, 1953, inclusive, and

(2) during each such 12-month period, of the foregoing permissible total quantity not more than 182,280,000 pounds shall be imported from Canada and not more than 3,720,000 pounds shall be imported from other foreign countries.

The provisions of this proclamation shall not apply to certified or registered seed rye for use for seeding and crop-improvement purposes, in bags tagged and sealed by an officially recognized seed-certifying agency of the country of production, if—

(a) the individual shipment amounts to 100 bushels (of 56 pounds each) or less, or

(b) the individual shipment amounts to more than 100 bushels (of 56 pounds each) and the written approval of the Secretary of Agriculture or his designated representative is presented at the time of entry, or bond is furnished in a form prescribed by the Commissioner of Customs in an amount equal to the value of the merchandise as set forth in the entry, plus the estimated duty as determined at the time of entry, conditioned upon the production of such written approval within six months from the date of entry.

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

DONE at the City of Washington this 29th day of June in the year of our Lord nineteen hundred and fifty-five, [SEAL] five, and of the Independence of the United States of America the one hundred and seventy-ninth.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 55-5447; Filed, July 1, 1955; 12:05 p. m.]

RULES AND REGULATIONS

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

[Gen. Reg. 123]

PART 7—PASSENGER TRANSPORTATION SERVICES FOR THE ACCOUNT OF THE UNITED STATES

Part 7 is rescinded in its entirety and a new Part 7 is substituted, as follows:

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- AUTHORITY: §§ 7.1 to 7.92 issued under secs. 309, 311 (f), 42 Stat. 25; 31 U. S. C. 49, 52 (f).
- INTRODUCTION
- § 7.1 *Transactions governed.* The regulations in this part govern: (a) The procurement of passenger transportation services by or for persons authorized to travel on official business for agencies of the Government of the United States; (b) the billing and payment for such services; (c) carrier refunds for unfurnished passenger transportation service and unused tickets or portions thereof; (d) collection by U. S. General Accounting Office of amounts due from carriers; and (e) carrier claims against the United States.
- SCOPE OF REGULATIONS
- § 7.2 *Applicability of regulations in this part.* The regulations in this part are applicable to passenger transportation services within the United States, between the United States and its possessions, between and within its possessions, between the United States and foreign countries, and, where United States of America Transportation Requests can be utilized, within and between foreign countries.
- § 7.3 *Administrative regulations.* Departments and establishments of the United States Government are expected to issue, revise, or modify administrative regulations and procedures to conform to the regulations in this part.
- USE OF TRANSPORTATION SERVICES
- § 7.4 *Procurement of passenger transportation services.* Passenger transportation services by air, bus, rail, or water should be procured, whenever practicable, directly from carriers. However, when authorized under administrative regulations and the interests of the United States would be served more advantageously thereby, the services of travel agencies may be utilized to secure such transportation services, or any com-

mination thereof, but only for travel within foreign countries (except Canada and Mexico) or between foreign countries, at charges not exceeding those otherwise payable to the carriers used. In this connection, attention of administrative agencies is directed to section 901 of the Merchant Marine Act of 1936, 49 Stat. 2015, 46 U. S. C. 1241.

§ 7.5 *Services which may not be procured from travel agencies.* The services of travel agencies may not be utilized to secure air, rail, water, and bus passenger transportation services, or any combinations thereof, within the United States, Canada, or Mexico, between the United States and foreign countries, between the United States and Canada or Mexico, between the United States and its possessions, and between and within its possessions.

U. S. GOVERNMENT STANDARD FORMS RELATING TO PASSENGER TRANSPORTATION

§ 7.6 *Standard forms relating to passenger travel.* The following new standard forms relate to passenger transportation and are hereby prescribed and published for use in lieu of all other forms of like character now authorized:

Standard Form No:

- 1169___ The United States of America Transportation Request—Original.¹
- 1169a___ Memorandum Card Copy.²
- 1169b___ Duplicate (snapout assembly only).²
- 1169c___ Triplicate (snapout assembly only).²
- 1170___ Redemption of Unused Tickets.²
- 1171___ Public Voucher for Transportation of Passengers—Original.²
- 1171a___ Memorandum Copy.²
- 1172___ Certificate in Lieu of Lost United States of America Transportation Request.²
- 1173___ Report of Change in Passenger Transportation Service.²

§ 7.7 *Printing of transportation requests.* Standard Form No. 1169 and Standard Form No. 1169a will be printed on punched card stock by or for the U. S. Government only and will be serially prenumbered and prepunched with corresponding serial numbers at the time of manufacture. Generally, the name and address of the paying office will not be preprinted unless authorized. Departmental numbering, coding, or symbolization will not be permitted other than herein provided to differentiate between civil and military agencies. Standard Forms Nos. 1169 and 1169a will be bound in books of ten (10) sets, each set consisting of one original, Standard Form No. 1169, and one memorandum card copy, Standard Form No. 1169a. In addition, Standard Forms Nos. 1169 and 1169a will be bound in individual snapout assemblies which contain two (2) additional paper copies, namely, Standard Forms Nos. 1169b (duplicate) and 1169c (triplicate). Although primarily for use by the military establishment, the individual assemblies may be made available to civil agencies.

¹ Filed as part of original document.

² Not filed with the Division of the Federal Register.

§ 7.8 *Numbering of transportation requests.* An alphabetical-numerical sequence will be followed in numbering Standard Forms No. 1169 assemblies in accordance with the following: (a) Books of ten (10) for civil agencies—transportation requests will start with the number A0,000,001 and continue through A9,999,999, after which the letter symbol will change to B, thence C, etc., (b) individual snapout assemblies for civil agencies—the transportation requests will start with the number L0,000,001 and continue through L9,999,999, after which the letter symbol will change to K, thence J, etc., and (c) individual snapout assemblies for military agencies—the transportation requests will start with the number M0,000,001 and continue through M9,999,999, after which the letter symbol will change to N thence forward through the balance of the alphabet.

§ 7.9 *Printing of unused ticket redemption form.* Standard Form No. 1170, Redemption of Unused Tickets, size 8 by 7 inches, is a four-part snapout carbonized set consisting of an original and three copies. The agency name and address will be preprinted on the form when there is volume use and arrangements therefor are made in advance. (This form will be superseded by a punched card form as soon as supplies become available.)

§ 7.10 *Printing of passenger billing-voucher forms.* The original of Public Voucher for Transportation of Passengers, Standard Form No. 1171, shall be printed on white paper and be 8½ by 14 inches overall including a perforated coupon, 8½ by 3 inches, at the bottom of the form. Carriers may request approval of proposed changes in format to conform to machine billing. Standard Form No. 1171a shall be printed on yellow paper in the same size as the original without the perforated coupon.

§ 7.11 *Printing of certificates in lieu of lost transportation requests.* Standard Form No. 1172, Certificate in Lieu of Lost United States of America Transportation Request, size 8½ by 10 inches, and Standard Form No. 1173, Report of Change in Passenger Transportation Service, size 7¾ by 3¼ inches, shall be printed on white paper stock.

§ 7.12 *Procurement of standard forms by Government agencies.* Requisitions by Government agencies for supplies of Standard Form No. 1169 assemblies and Standard Forms Nos. 1170 and 1173 shall be directed in accordance with established procedures to the Federal Supply Service, General Services Administration, Washington 25, D. C., which will advise the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., at the earliest practicable date, of numerical allotments made in response to requisitions for Standard Form No. 1169.

§ 7.13 *Procurement of standard forms by carriers.* Carriers may purchase Standard Forms Nos. 1171, 1171a, and 1172 from the Superintendent of Documents, U. S. Government Printing Office,

Washington 25, D. C., or have them printed. Unless otherwise authorized by the U. S. General Accounting Office the forms must be reproduced exactly as to color, size, type, wording, and arrangement. Carriers should not utilize Standard Forms Nos. 1067 and 1067a, Public Voucher for Transportation of Passengers, or Standard Forms Nos. 1113 and 1113a, Public Voucher for Transportation Charges, as billing documents for passenger transportation services furnished agencies of the Government after June 30, 1955, nor should Standard Form No. 1158, Certificate in Lieu of Lost U. S. Government Request for Transportation, be used after the aforementioned date to support billings for charges covering lost transportation requests. Old Standard Forms Nos. 1030, 1139, and 1141 honored for services which have not been billed prior to July 1, 1955, may be billed on either old Standard Voucher Forms Nos. 1067 or 1113 or on new Standard Voucher Form No. 1171 but such transportation requests should not be commingled with new Standard Form No. 1169 on the same bills.

§ 7.14 *Obsolete transportation requests.* U. S. Government Requests for Transportation, Standard Forms Nos. 1030, 1031, 1139, 1139a, 1141, and 1141a, shall not be issued after June 30, 1955, and each agency of the Government shall issue appropriate instructions consistent therewith. Unused or unissued forms thereafter on hand in any agency or in the custody of its officers and employees shall be assembled through administrative channels and disposed of as directed by General Services Administration.

USE OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.15 *Use of transportation requests in general.* United States of America Transportation Requests, Standard Forms No. 1169, shall not be used for other than officially authorized travel for the account of the United States Government. These requests will be issued by duly authorized personnel only for the transportation of persons and/or specified passenger transportation service or accommodations consistent with proper travel authority and administrative regulations. Transportation requests shall ordinarily be used to obtain all official passenger transportation when the amount involved is \$1 or more. However, cash payments up to \$10, plus Federal transportation tax, may be made by the traveler under regulations of the department or agency involved. Two copies of such regulations shall be furnished to the Transportation Division of the U. S. General Accounting Office.

§ 7.16 *Quantity ticket purchases.* When there is a continuing substantial volume of individual travel via the same mode and class of transportation between one origin and one destination and each one-way single fare does not exceed \$5, written applications from an agency or department for continuing permission, not heretofore granted, to use

transportation requests to procure a group of one-way or round-trip tickets for use within any one 30-day period of a fiscal year will be given consideration by the Comptroller General of the United States. Such applications shall include proposed procedures and requirements under which the interests of the United States will be adequately safeguarded.

§ 7.17 *Round-trip and other reduced rate services.* Through fares, special fares, commutation fares, excursion and other reduced rate round-trip fares, or party fares should be utilized for official travel when it can be determined prior to the commencement of a trip that any such type of service represents practical and economical usage of Government funds, but transportation requests should be drawn for round-trip services only when it is known or can be reasonably anticipated that such tickets will be required or utilized.

§ 7.18 *Stopovers.* When a traveler is obliged to make several stops to conduct official business, a through ticket with stopover privileges usually can be utilized at a saving to the Government, requiring only one transportation request to be issued. However, when Pullman or excess baggage services are involved each stopover point should be specifically indicated on the transportation request.

§ 7.19 *Taxicabs, intra-city transit, etc. services.* Transportation requests shall not be utilized to procure taxicab, airport limousine, intra-city transit, or so-called "drive-yourself" type or other for-hire automobile services.

§ 7.20 *Toll charges.* Transportation requests must not be used in lieu of cash as payment for toll road or toll bridge charges.

§ 7.21 *Unauthorized services.* Transportation requests shall not be issued for personal convenience to include an additional cost unauthorized services or to obtain transportation services exceeding those authorized under the applicable travel regulations, such as, extra-fare trains or planes, stop-overs which increase the cost of passage, higher-priced indirect routings, etc. When the traveler desires such unauthorized services the additional cost thereof (including the U. S. Government transportation tax) must be paid in cash by the traveler and collected by the carrier at the time the transportation request covering the authorized services or accommodations is exchanged for tickets.

ACCOUNTABILITY FOR UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.22 *Accountability for transportation requests.* Each department, agency, or other establishment of the United States Government shall promulgate appropriate procedures which will adequately control the procurement, stock, distribution, and accountability of United States of America Transportation Requests to safeguard properly the rights and interests of the United States.

PREPARATION OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.23 *Entries on transportation requests.* Care must be exercised to in-

sure legibility and permanency of the written request for service. When applicable, specific entries on Standard Form No. 1169 should be made in accordance with guides furnished in this part.

§ 7.24 *Joint procurement of rail transportation and Pullman accommodations.* Standard Form No. 1169 is designed to permit and should be used for the joint procurement from rail carriers of transportation and Pullman accommodations by the issuance of but one document. However, when such issuance is neither feasible nor practical, due to circumstances involved, the transportation request may be issued for the separate procurement of rail transportation or Pullman accommodations.

§ 7.25 *Specific information necessary on transportation requests for combination services.* In instances when all of the spaces are not required for the services being procured, horizontal lines should be drawn through the spaces that are not utilized. When the request is issued for a combination of classes of transportation and/or accommodations, specific information as to respective carriers and services authorized must be shown in detail in the "via" space or on the reverse of the request to preclude any ambiguity.

§ 7.26 *Continuation of information on reverse of request.* In any instance in which the available space on the front of the request is inadequate for the insertion of all of the necessary information, the space on the reverse of the request should be utilized for continuation purposes.

§ 7.27 *Preparation of transportation requests.* (a) It is believed that issuing officers and travelers will experience no difficulty in properly executing the new transportation request. However, attached to General Regulations No. 123 as Appendix A and codified as paragraph (b) of this section is a detailed general guide to preparation of transportation requests, and Appendix C of General Regulations No. 123 shows requests properly executed for certain typical trips. Agencies should issue administrative instructions, to the extent deemed necessary, to assure proper preparation of transportation requests, copies of such instructions to be forwarded to the Transportation Division, U. S. General Accounting Office, as soon as issued.

(b) Specific entries on United States of America Transportation Requests, Standard Forms No. 1169, should be made in accordance with the following:

(1) In the "Void after" space, enter the date after which the request is to become invalid for delivery to the carrier for services. Care should be exercised when setting this date to provide for the definite invalidation of the request at the earliest practicable date.

(2) In the "Bill To" space, enter the exact name and complete postal address of the Government office to which the carrier is to direct its bill for payment. Usually, this feature can be completed at administrative headquarters before the request, or book of requests, is de-

livered for use by issuing officers or travelers.

(3) In the space preceding the word "Company," enter the name of the carrier which is to honor the document.

(4) In the space preceding the word "class," enter the officially identified name of the class of service desired. For example, in rail travel it may be first, second or coach, etc., in air travel it may be first, day coach or night coach, charter, etc., in steamship it may be first, second, cabin or tourist, etc., and in bus it may be coach, special, charter, etc. If mixed classes of service are required by the traveler such shall be clearly identified.

(5) In the space preceding the word "transportation," enter the type of transportation to be used such as, "rail," "air," "bus," or "steamship."

(6) In the space following the word "from," enter the name of the city and State or point from which transportation is to be furnished.

(7) In the space following the word "to," enter the name of the city and State or point to which transportation is to be furnished. If round-trip transportation is desired enter the words "and return" after the name of the destination city and State. Also, whenever round-trip transportation is being requested, the time limit within which the round-trip travel is to be performed must be indicated, for example, "return limit 30 days."

(8) In the space following the word "via," enter the initials of each carrier and abbreviated name of each connecting junction point via which ticket is to be issued.

(9) In the space following the words "for use of," enter the name of the person (the traveler) to whom the service, etc., is to be furnished. If transportation is also being procured for others, insert after the word "and" the numerical figure to cover that number of persons, excluding the traveler. When the request is to cover only one person the word "no" should be entered in the space after the word "and." (If transportation of children is involved, the respective names and dates of birth should be shown on the reverse side of the request.)

(10) In the space preceding the word "accommodations," enter the exact quantity and type of accommodations to be furnished.

(11) When accommodations are to be utilized by rail the exact quantity and type to be furnished, such as lower standard berth, parlor car seat, roomette, reserved coach seat, etc. (abbreviated if necessary) should be clearly shown as well as the points between which each type of accommodations will be utilized.

(12) When air berth accommodations are being requested, the exact quantity and type of berth that is to be furnished should be shown in the "Accommodation" area.

(13) When steamship transportation is being requested clearly indicate, when known, the name of the vessel, sailing date, and the number of the assigned stateroom accommodation (bed or berth where less than room capacity is in-

involved) in addition to the class of service involved.

(14) When at the time of issuance of the transportation request, the available steamship accommodation of the class desired has not been ascertained, the issuing officer should designate the class of service to be furnished and further endorse the request "Lowest available accommodation." Before such request is delivered to the carrier for the passage ticket, the traveler should endorse on the reverse of the request, over his own signature, "I certify that Berth _____, Stateroom No. _____, on SS _____, date of sailing _____, was furnished as the lowest available accommodation at time reservation was made." The foregoing shall not be construed as authorizing travelers to obligate the United States Government to pay for services in excess of those allowed by law or pertinent administrative regulations.

(15) When staterooms on lake, river, or coastwise steamships are a separate charge, the specific value of the room authorized should be inserted.

(16) In the space following the words "accommodations from," enter the name of the city and State or point from which accommodations are to be furnished even though such city is the same as the point of origin under "transportation."

(17) In the space following the word "to" after "accommodations," enter the city and State or point to which such service is to be furnished. If round-trip accommodations are desired, enter the words "and return" after destination city and State.

(18) In the space following the words "transport not over," if there is official authorization to transport excess baggage enter the exact weight of the EXCESS baggage. When the exact weight is unknown the authorized maximum excess weight should be shown. (Carriers in all instances must support billings for excess weight with copies of excess baggage coupons or similar documentary evidence showing the gross weight and free allowance.)

(19) If there is no authorization to transport excess baggage, a horizontal line should be inserted in the space following the words "transport not over."

(20) In the space following the words "excess baggage from," enter the name of the city and State or point from which the excess baggage is to be transported.

(21) In the space following the word "to" after "excess baggage," enter the name of the city and State or point to which the excess baggage is to be transported.

(22) When the transportation request is being issued to procure excess baggage services only, there should be indicated in the spaces provided therefor: (i) The date after which the request is invalid for service; (ii) the name of the first carrier; (iii) the routing; (iv) the name of the traveler; (v) the exact or maximum weight of the excess baggage to be carried; (vi) the points between which such service is to be furnished; (vii) the place and date of issue; (viii) the names and titles of the traveler and issuing officer; and (ix) the fiscal data. All other spaces should be lined out. (Carriers in

all instances must support billings for excess weight with copies of excess baggage coupons or similar documentary evidence showing the gross weight and free allowance.)

(23) The "Place of Issue" space, including date, refers to the place of issue of the request and not of the ticket or transportation service involved.

(24) The request provides for "Traveler's Signature" and "Issuing Officer's Signature" and both must be signed by hand before the document is valid for service. In most instances two different individuals will be involved, but when the official traveler is administratively authorized to issue the transportation request for his own account, the request must be signed by him in each of the signature spaces, that is, as "Issuing Officer" and "Traveler."

(25) The spaces reserved for "Title" under "Traveler's Signature" and "Issuing Officer's Signature" should be used accordingly.

(26) In the area entitled "Fiscal Data (Appropriation, Authorization, etc.)," enter such reference matter as may be necessary for the fiscal accounting of the respective agencies.

§ 7.28 *Notations necessary on transportation requests for charter and contract services.* The transportation request is also designed for utilization in the procurement of chartered or contract service and when such is to be furnished it shall be specified in the class of service area and further identified by the charter or contract movement number that covers the details of the movement.

MEMORANDUM CARD COPY OF THE UNITED STATES OF AMERICA TRANSPORTATION REQUEST

§ 7.29 *Preparation of memorandum copy of transportation request.* Administratively authorized issuing officers and official travelers are cautioned that the memorandum card copy of the United States of America Transportation Request, Standard Form No. 1169a, must clearly reflect all information and insertions, other than signatures, that appear on Standard Form No. 1169 at the time of its surrender for service.

SPOILED OR CANCELED UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.30 *Spoiled or canceled transportation requests.* All Standard Forms No. 1169 that are spoiled in preparation, canceled for any reason, or prepared for issuance but unused, shall be endorsed "Canceled" across the face and forwarded immediately, through the official who furnished them, to the administrative office where accountability records are maintained. After necessary recordation entries have been accomplished such requests shall be disposed of as directed by General Services Administration.

EXCHANGE OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.31 *Proper execution of transportation requests and identification of travelers.* Issuing officers and travelers are cautioned that transportation requests must be completely filled out and properly signed by both issuing officer and

traveler before such are valid for presentation to obtain transportation and/or accommodations. Carrier agents should refuse to honor incomplete or unsigned requests and must require the person presenting a request to establish his identity as the traveler or other party properly authorized to receive the transportation. In the absence of satisfactory identification, the request should not be honored.

§ 7.32 *The furnishing of services other than authorized.* The United States Government will not be responsible for any charges in excess of those applicable for transportation and/or accommodations of the type, class, or character specified in the request. Accordingly, if transportation and/or accommodations costing more than those officially authorized on the request are furnished, the additional cost must be collected in cash from the traveler at the time transportation and/or accommodations are obtained and not billed against the Government. When a transportation request is exchanged for transportation and/or accommodations of a different type or lesser value than originally specified in the request, the traveler must be required to record in the space provided on the reverse of the form the actual services furnished and sign the statement. The notation by the traveler on the reverse of the request will serve to restrict the carrier billing to an amount consistent with the changed services or lesser cost factors, and avoid subsequent accounting adjustments with the Government.

§ 7.33 *Erasures and alterations.* Transportation requests showing erasures or alterations not validated by the initials of the issuing officer should not be honored.

§ 7.34 *Transportation request identification on tickets.* Carriers shall stamp or endorse "U. S. Government" or otherwise indicate on each coupon of the ticket, exchange order, or other transportation document that it was issued in exchange for a transportation request and endorse thereon the serial number of the related request.

§ 7.35 *Honoring of transportation requests generally.* The transportation request should be drawn upon the carrier which is expected to honor it for service. Under exceptional conditions or due to unforeseen circumstances, a request may be honored for service by another carrier, subject to charges applicable: (a) To class and type of transportation authorized on the transportation request or (b) to a lower class or lesser amount of service, if such is actually furnished. In such situations, the honoring initial carrier shall require the traveler to record in the space on the reverse of the request the name of the honoring carrier, the services actually received or covered by the tickets furnished and the reason for the change and to sign and date the statement. The traveler must also make the same endorsement on the memorandum card copy of the transportation request if possible, and, if not, promptly forward written notification of such change to his administrative office.

§ 7.36 *Joint issuance of rail and Pullman tickets.* When a single transportation request is presented for rail transportation and Pullman accommodations, both rail and Pullman tickets will be issued by ticket agents, subject to the following exceptions and qualifications.

§ 7.37 *Issuance and use of Pullman tickets when accommodations not assigned.* When agent at point where travel begins is unable to assign space because: (a) Pullman accommodations are not to begin at initial point of rail travel and advance reservations cannot be obtained, (b) Pullman is authorized from initial point of rail travel, but the space assignment at such point has been exhausted, or (c) round-trip Pullman is authorized and accommodations cannot be obtained in advance for the return trip; such ticket agent will issue a Pullman ticket (or tickets) endorsed to show the type and quantity of accommodations and points between which such are authorized in accordance with transportation request issuance. In these situations there is no guarantee that the authorized accommodations will be available, thus, it is incumbent that travelers holding such tickets immediately attempt to obtain actual space assignments upon arrival at points where such are to be furnished. When the accommodations or transportation service supplied are of a different character or a lesser value than those authorized by the tickets, the traveler should endeavor to secure a written acknowledgment of that fact from the conductor and submit it promptly with a written report of the facts and circumstances to the appropriate designated office of the administrative agency identifying the transportation request used to procure the transportation involved and submitting any unused tickets or transportation coupons in his possession. In this connection, attention is directed to the fact that Standard Form No. 1173, Report of Change in Passenger Transportation Service, is available for use, if desired, in submitting reports to the administrative agency.

§ 7.38 *Use of Accommodation Authority in lieu of Pullman ticket.* When ticket agents are supplied with railroad tickets but not supplied with Pullman tickets, travelers will be issued rail tickets and furnished a uniform pre-numbered "Accommodation Authority" form covering the accommodations authorized by the transportation request. Such "Accommodation Authority" form will be honored by Pullman conductors and handled in the same manner as outlined in this part for parties of 15 or more.

§ 7.39 *Use of Accommodation Authority for parties of 15 or more.* When parties of 15 or more are moving by rail, tickets will be issued for rail travel only and a uniform pre-numbered "Accommodation Authority" form will be issued for Pullman accommodations. This "Accommodation Authority" form, which is supplied by the rail carriers, will be prepared by the carrier's agent at point or origin so as to show in the

spaces provided, consistent with the authorization of the related transportation request, all the required information, i. e., the name of the origin railroad, the symbol or main number, if any, the name of the traveler or person in charge of a group, the number of other passengers, the number and kind of accommodations, the points between which accommodations are to be furnished, the transportation request number, the "Void After" date of the transportation request, the name of the issuing station, the date the form is issued, and the impression of the ticket dater stamp. The original copy of the "Accommodation Authority" form will be given to the traveler or person in charge of a group, who will present it to the Pullman conductor (not the ticket agent) as authority for Pullman accommodations. The Pullman conductor will endorse on the back of the form over his signature the accommodations furnished and if such accommodations vary from the accommodations authorized he will also state in writing the reason for such variations. After the "Accommodation Authority" form has also been signed by the traveler or person in charge of a group, the Pullman conductor will lift it and forward it to the Pullman auditor, who will promptly endorse thereon the correct billing data, including the amount, and send to the proper railroad auditor for billing.

§ 7.40 *Honoring of transportation request on train for rail and Pullman.* When ticket agent is not on duty, necessitating that rail and Pullman tickets be obtained at the nearest available point en route, rail and Pullman conductors will honor the transportation request to the first station en route where rail and Pullman tickets can be obtained, endorse on the back of the request over their signatures the points between which the request was honored without tickets, and secure the signature of the traveler to such endorsement. The ticket agent at such en route station, in exchange for the transportation request, will issue rail and Pullman tickets from the initial points of service as authorized on the transportation request.

§ 7.41 *Honoring of transportation request on train for Pullman only.* When a transportation request is presented on the train for Pullman accommodations only, the request will be honored by the Pullman conductor who will remit it to the Pullman auditor for billing.

§ 7.42 *Honoring of transportation requests by bus drivers.* When requests are presented: (a) Directly to a bus driver, (b) at a bus station not supplied with the proper ticket forms, (c) at a nonagency station, or (d) at a station at which the ticket office is not open for the sale of tickets; the bus driver will honor the request to destination or arrange for its exchange for a ticket at some intermediate point. When the request is exchanged at an intermediate ticket office, it should be endorsed to show clearly that transportation was furnished from point of origin of travel and not from the intermediate point at

which the request was exchanged for a ticket.

"FOR CARRIERS USE ONLY" AREA ON THE UNITED STATES OF AMERICA TRANSPORTATION REQUEST

§ 7.43 *Portion of transportation request reserved for carrier's use.* In the area reserved "For Carriers Use Only" in the lower left-hand corner of the transportation request, carriers shall make specific entries in accordance with the following guides.

§ 7.44 *Notations as to ticket forms and numbers.* In the "Form" and "Numbers" spaces under heading "Ticket" the ticket agent will record the forms and numbers of the respective tickets furnished in exchange for the document.

§ 7.45 *Agent's valuation of transportation.* In the "Transp." space under heading "Agent's Value" the ticket agent will enter the cost of the transportation furnished. Included in this should be the cost of any supplementary service furnished in accordance with the authorization of the transportation request, such as parking, switching, extra fare, or excess baggage service. Such additional charges should be listed separately in this column and not included in the amount covering the regular transportation charges. In no instance, though, are sleeping accommodations, parlor car, or coach reserved seats, etc., to be included even though collectible by and payable to the rail or air carrier.

§ 7.46 *Agent's valuation of accommodations.* In the "Accomod." space under heading "Agent's Value" the ticket agent will enter the cost of accommodations furnished in accordance with the transportation request authorization, such as Pullman accommodations (berths, roomettes, etc.), parlor car seats (whether Pullman or railroad), coach reserved seats, or air berth accommodations. Ordinarily, entries will not be made in this space by bus and water carriers, except when stateroom charge is separate, since under their existing tariff structures there is no distinction between charges for transportation and charges for other related services.

§ 7.47 *Auditor's valuation of transportation and accommodations.* In the "Transp." and "Accomod." spaces under "Auditor's Value," entries by carriers' audit offices, with the exception of rail carriers, will cover the same charges as specified above for similarly designated spaces under "Agent's Value." Railroad audit offices, however, may enter under "Transp." all of the charges accruing to the railroads and under "Accomod." all of the charges accruing to the Pullman Company. This will result in some instances of identical items and amounts being included by the ticket agent under "Accomod." and by the auditor under "Transp."

UNUSED TRANSPORTATION OR ACCOMMODATIONS

§ 7.48 *Reporting of unfurnished or unused transportation or accommodations.* The traveler or person in charge of a group shall submit promptly a re-

port to the appropriate office of the administrative agency in each instance in which (a) travel is finally terminated short of the destination to which a transportation request was drawn; (b) services actually furnished are of a lesser value or different character than those originally specified on a request which has not been so endorsed; or (c) the return portion of a round-trip ticket is not used. Such report shall identify the pertinent transportation request, set forth the attendant facts and circumstances and transmit therewith any unused tickets or coupons. When there are no unused tickets or coupons to reflect the unfurnished transportation services the traveler or person in charge of a group should endeavor to secure written acknowledgment of the situation from the carrier's representative for submission with the report to the administrative agency. Attention is directed to the fact that Standard Form No. 1173, Report of Change in Passenger Transportation Service, is available for use, if desired, in submitting such reports to the administrative agency. Upon receipt of such reports, Government agencies shall take prompt steps to effect adjustments with carriers by use of Standard Form No. 1170 as outlined in this part. In instances when transportation and/or accommodations are furnished for a lesser number of persons than called for on a party ticket, the conductor or other ticket collector of the carrier shall be requested to note on the pertinent ticket or coupon the number of persons actually transported and the number and type of accommodations actually furnished. Failure of travelers to comply with the foregoing and thus protect properly the interests of the United States may subject them to responsibility for any resulting losses.

§ 7.49 *Adjustments for unfurnished or unused services.* All adjustments in connection with United States Government transportation must be processed only to or through a department or agency of the Government. Travelers, issuing officers, or private individuals are not authorized to receive refunds or credits for unfurnished service or unused tickets or portions thereof issued in exchange for transportation requests. Any refunds or adjustments made by carriers to travelers, issuing officers, or individuals of monies or credits properly due the Government shall be at the peril of the carrier.

CANCELLATION OF RESERVATIONS

§ 7.50 *Cancellation of reservations.* When it is necessary to cancel reservations for transportation or accommodations secured in exchange for transportation requests, the cancellations should be made as soon as it is known that the reservations will not be used since most carriers including the Pullman Company require that cancellations be made within restricted specific time limits to preclude the assessment of cancellation charges. Government travelers should be informed to the fullest extent possible of such requirements in order to protect the interests of the United States.

UNUSED TRANSPORTATION REFUND PROCEDURES

§ 7.51 *Use of Standard Form No. 1170 in general.* Unused tickets, exchange orders, etc., and portions thereof, shall be processed to carriers for refund by means of Standard Form No. 1170, Redemption of Unused Tickets. A separate Standard Form No. 1170 must be used for each transportation request though more than one ticket or adjustment transaction may be listed on that form. In no case should more than one transportation request be covered on one Standard Form No. 1170. All refund requests involving unused Pullman tickets or accommodations shall be addressed to the General Office of The Pullman Company notwithstanding such accommodations were procured jointly with the related rail transportation on a single transportation request drawn on, billed by, and paid to a rail carrier.

§ 7.52 *Processing of Standard Form No. 1170 by Government agencies.* Standard Form No. 1170 shall be processed by the agencies of the Government as follows: (a) All copies shall be properly and completely executed as to the required detail; (b) the original and the duplicate copy shall be forwarded to the carrier together with unused complete tickets or coupons if such are involved, and if not, then the essential facts on which the refund claim is based should be included on Standard Form No. 1170; and (c) the triplicate and quadruplicate copies shall be processed in the administrative office after receipt of the refund or other advice from the carrier with respect thereto.

§ 7.53 *Processing of Standard Form No. 1170 by carriers.* The carrier shall insert on the original of Standard Form No. 1170, in the designated spaces, the amount being credited on each ticket as well as the total amount being refunded and return such original with the covering remittance. (If no refund is due, the carrier should furnish an explanation on the returned original.)

§ 7.54 *Processing of refunds by Government agencies.* Upon receipt in the administrative agency of the refund and the returned original Standard Form No. 1170, agency records shall be annotated consistent with its fiscal procedures and such original Standard Form No. 1170 dispatched promptly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 7.55 *Prohibiting of rebilling adjustments by carriers or Government agencies and reporting of failure to receive refund.* Carriers should make prompt refund of monies due in connection with items listed on Standard Form No. 1170 even though the bill covering charges for the related transportation request has not been submitted or paid. Connectively, subject to the provisions of § 7.56, carrier bills for the related charges on transportation requests will not be subjected administratively to deduction, revision, or rebilling to adjust such items. However, should a carrier fail to refund or satisfactorily furnish

reasons showing no refund to be due within ninety (90) days from the time application is made, or refuse to adjust for unused transportation, the Government agency so involved shall refer the matter to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., for appropriate action, transmitting therewith a copy of the pertinent Standard Form No. 1170 and all related correspondence.

§ 7.56 *Refund procedures covering unused foreign transportation services and cancellation of reservations for such services.* Except (a) as to Canada and Mexico and (b) when the foreign carrier maintains a billing office in the United States, Standard Form No. 1170 and the procedures with respect thereto shall not be utilized or considered applicable when foreign passenger transportation services are involved. In such situations, it shall be the responsibility of the Government agency concerned to institute effective procedures by which there may be recovered, by setoff or deduction from unpaid bills, the values of unused tickets or portions thereof, including any requests for adjustment when a journey is discontinued short of destination or when transportation services furnished are of a different character or lesser value than those specified in the pertinent transportation request. In this regard, attention is directed to the fact that many foreign carriers, particularly the railroads, specify unusual conditions, time limits, and procedures to be observed in connection with the cancellation of passenger accommodations and the right to claim any redemption account of unused transportation services. Government agencies should advise travelers in foreign areas to become fully informed of these requirements in order that the interests of the Government will not be jeopardized.

§ 7.57 *Cross-referencing of deduction vouchers.* In situations in which the procedures prescribed for use in connection with Standard Form No. 1170 are not for application and adjustments for unfurnished transportation are made by deduction or setoff, a full description of each unused ticket or portion shall be noted on the deduction voucher. If the deduction is being effected on a voucher other than the one covering the billing of the transportation request, there shall be furnished also the number of the transportation request so involved and a complete citation to the voucher covering payment thereof. The unused ticket or portion shall be forwarded by the administrative office to the carrier and copy of such letter of transmittal shall be attached to the deduction voucher involved.

LOST OR STOLEN UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.58 *Safeguarding of and liability for transportation requests.* Each agency shall establish appropriate safeguards to protect the United States against the improper or unauthorized use of transportation requests. In this connection, each officer and employee of

the United States Government or other person having custody of requests is responsible for their safety and accountable for any amounts which the Government of the United States may be required to pay by reason of such documents being improperly used through fault or negligence of such custodians.

§ 7.59 *Report of lost transportation request to administrative office.* When a United States of America Transportation Request is lost or stolen, the employee accountable therefor shall transmit in writing prompt notification to the appropriate administrative office of such loss or theft and a complete statement of attendant facts.

§ 7.60 *Report of lost transportation request to carriers.* In addition, when a transportation request reported as lost or stolen is known to have been filled out to the extent of showing the carrier and services desired from a designated point of origin, the person accountable for such request shall furnish promptly to the named as well as other local initial carriers a description of the lost or stolen document and request that it not be honored. Such advice shall be confirmed in writing, and a copy promptly transmitted to the appropriate administrative office.

§ 7.61 *Disposition of a recovered lost transportation request.* Under no circumstances shall transportation requests which have been reported as lost or stolen be subsequently used to obtain transportation or accommodations if such documents are found or recovered. Subsequently recovered transportation requests which have been previously reported lost or stolen, whether in blank or completely filled out, shall be promptly transmitted to the issuing officer who shall endorse the documents "Canceled" and then forward them through administrative channels for disposition as directed by General Services Administration.

§ 7.62 *Billings for lost transportation requests by carriers.* Carriers which have lost or misplaced United States of America Transportation Requests which have been honored for services may bill for such charges on Standard Form No. 1171, Public Voucher for Transportation of Passengers, direct to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C. Each item so involved must be supported by: (a) A Certificate in Lieu of Lost United States of America Transportation Request, Standard Form No. 1172, and (b) a statement embodying a recital of any other pertinent facts and circumstances. Such billings may cover one or more lost transportation request items but should not be included on bills that refer to any other type of transaction.

§ 7.63 *Disposition of transportation requests previously certified lost.* If an original United States of America Transportation Request which has been certified as lost is subsequently located by a carrier, it shall be forwarded promptly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., together with a full explanation

of the facts and circumstances and a citation to the carrier bill on which Standard Form No. 1172 was presented for payment.

CONTRACT SERVICES

§ 7.64 *Procedures for procurement of transportation services by contract.* Contracts, negotiated or otherwise, which cover rates or services from air, rail, bus, or water carriers for the account of any agency, department, or establishment of the Government shall be reduced to writing and signed by the contracting parties. The original of each such contract shall be dispatched directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., for examination and retention. Any services ordered under such contracts shall be secured by the issuance of transportation requests, each of which shall bear reference to the pertinent contract; billed by the carrier on Standard Form No. 1171, Public Voucher for Transportation of Passengers, and paid in the same manner as passenger transportation charges generally.

CHARTER SERVICES

§ 7.65 *Procedures for procurement of charter transportation services.* When charter services are ordered from an air or bus carrier for the account of an agency of the Government, the terms of the charter must be reduced to writing and signed by the representatives of the Government and the carrier. Moreover, such charter services shall be procured by the use of United States of America Transportation Requests, Standard Form No. 1169, and billed on Public Voucher for Transportation of Passengers, Standard Form No. 1171. The original of each charter order or certificate must accompany the related transportation request when it is billed.

BILLING AND PAYMENT OF PASSENGER TRANSPORTATION CHARGES

§ 7.66 *Carrier bills; Standard Form No. 1171.* Carrier original bills for transportation services furnished under these regulations for the account of The United States shall be prepared on Standard Form No. 1171, Public Voucher for Transportation of Passengers, including one memorandum copy thereof, Standard Form No. 1171a, and presented for payment as directed on the transportation request.

§ 7.67 *Transmission of carrier bills with supporting data.* Standard Forms No. 1169 together with the respective supporting documentation, which shall be cross-referenced as to the involved transportation request, should be placed in one envelope and forwarded with the related Standard Form No. 1171 for payment and audit.

§ 7.68 *Single payment for transportation and Pullman services.* When Standard Form No. 1169 has been issued for the joint procurement of transportation and Pullman accommodations, the honoring rail carrier shall bill for both transportation and Pullman accommodations and payment shall be made

by the issuance of but one check for the total amount payable.

§ 7.69 *Execution of Standard Form No. 1171.* Standard Form No. 1171 shall reflect the complete serial number of each billed transportation request and show opposite thereto the applicable charges: those for transportation in the column headed "Transportation" and those for accommodations, such as Pullman, air berth, or stateroom, in the column headed "Accommodations" Entries in these respective columns should correspond with the totals shown under "Auditor's Value" in the "For Carriers Use Only" area on each listed Standard Form No. 1169, with a separate total for each column and a grand total shown in the designated spaces. Standard Form No. 1171 is designed to permit machine tabular listings of transportation requests though such is not a requirement.

MACHINE PUNCHING BY CARRIERS ON UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.70 *Carrier machine punchings on transportation requests.* Carriers using 80 column tabulating equipment may elect to punch certain information in the transportation requests. However, such punching is restricted to the information and card fields listed below. Any carrier electing to punch must punch all the applicable data as follows:

- 48-52 Carrier's Code No. (To be supplied upon request by Transportation Division, U. S. General Accounting Office, Washington 25, D. C.)
- 53-57 Carrier's Bill No.
- 58-65 Total amount of transportation charges.
- 66-72 Total amount of accommodation and other charges.

FACTUAL SUPPORT OF CHARGES BILLED

§ 7.71 *Referencing and associating supporting papers.* In all instances when information or facts additional to those shown on the transportation request are necessary to support or explain charges billed, the statement of such facts—including where required original signed certifications or affidavits, section 22 Quotations, charter orders, air ferry mileage supports, excess baggage coupons or similar documentary evidence showing gross and net weights, bus dead-head mileage supports, Accommodation Authority forms, authorizations, etc.—shall be appropriately referenced as to the serial number of the pertinent transportation request and together therewith shall accompany at all times the standard Form No. 1171 covering the billing of such document.

CARRIER NOTATIONS ON UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 7.72 *Omission of unnecessary notations.* Transportation requests should not be subjected to unnecessary notations during the carrier's audit since it is essential that the requests reflect only transactions between travelers and carrier agents. However, this should not be construed as prohibiting mechanized interpretation in the designated spaces in the upper right-hand corner of the request, nor other desirable informative notations.

TRAVEL AGENCY BILLINGS

§ 7.73 *Travel agency additional billing procedure.* Travel agencies must support charges billed for each transportation request by a citation to the tariff or other authority relied upon to substantiate the billing and if not clearly set forth on the transportation request, such agencies must furnish information as to the names of the carriers involved in the routes of travel and the connecting or interchange points of the several carriers, if more than one carrier is concerned in such routes of travel. This showing may be on the face of the bill, Standard Form No. 1171, if space permits, otherwise, on a separate attachment to Standard Form No. 1171.

OVERPAYMENT AND DEBT COLLECTIONS

§ 7.74 *Carrier's rights as to payment.* Bills of carriers subject to the Interstate Commerce Act and the Civil Aeronautics Act for transportation of persons are required to be paid upon presentation and prior to audit or settlement in the General Accounting Office, with the right reserved to the Government to deduct the amount of any overpayment to any such carrier from any amount subsequently found due such carrier.

§ 7.75 *Exceptions to liability of disbursing and certifying officers.* Also, certifying and disbursing officers are relieved of liability for overpayments made for transportation furnished on Government transportation requests due to: (a) Improper transportation rates, (b) improper classifications, or (c) failure to deduct the proper amount under equalization or other agreements.

§ 7.76 *Audit of vouchers and collection of overpayments by General Accounting Office.* In order to discharge its responsibilities under the law to perform a post-payment audit of billings for passenger transportation services furnished for the account of the United States, the General Accounting Office has centralized in its Transportation Division in Washington the related functions of audit and collection of overpayments to carriers.

§ 7.77 *Overpayment collection procedure.* If it be determined in the Transportation Division in the U. S. General Accounting Office that an overpayment has been made on a particular bill for passenger transportation services or if the payment record fails to legally and adequately support such billing, a GAO Form 1003, Notice of Overpayment, is dispatched directly to the carrier or travel agency with request for prompt refund of the amount due the United States, failing which a disbursing officer is requested to effect deduction of the amount determined due the United States from an unpaid amount otherwise due the carrier or travel agency. As circumstances require, further actions properly to protect the interests of the United States are taken progressively and, when deemed necessary, such debts are transmitted to the Department of Justice for collection by suit or otherwise.

§ 7.78 *Disposition of overpayment collections.* The foregoing proceedings are conducted directly with indebted carriers and do not provide for advice to agencies and departments of the initiation or progress thereof. Collections by or for the Transportation Division are deposited for credit in accordance with accounting procedures prescribed for Government agencies generally.

§ 7.79 *Co-ordination of collection activities.* Also, the Transportation Division acts for departments, agencies, and establishments of the Government as a focal point for collection of accounts receivable due from carriers when such have been administratively determined as uncollectible or as to which it appears the facilities of that Division afford a means for prompt collections.

CLAIMS

§ 7.80 *Presentation of claims to General Accounting Office.* Whenever it is determined by a carrier that there is due for passenger transportation services or accommodations furnished for the account of the United States an amount additional to that previously billed and paid for the same services or accommodations or a totally unpaid amount for services and accommodations furnished the United States more than one year previously, there may be presented directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., a claim (supplemental bill) for the amount deemed due.

§ 7.81 *Preparation of supplemental bills.* Each such claim (supplemental bill) shall: (a) Be presented on Standard Form No. 1171, Public Voucher for Transportation of Passengers; (b) set forth the bases upon which the amount sought is asserted as due from the United States; (c) furnish the serial number of each pertinent United States of America Transportation Request; (d) cite the previous bill of the carrier covering amounts paid; and (e) bear the handwritten signature of an authorized official or agent. To facilitate consideration, each claim (supplemental bill) should be restricted to the same items covered in a single original bill.

§ 7.82 *Substantiation of supplemental bills.* Carriers are advised that claims (supplemental bills) must be supported by such evidentiary data as will establish substantively the liability of the United States and thus warrant consideration by the U. S. General Accounting Office. Bare assertions as to amounts due from the United States which are unsupported by statements of facts and pertinent details or necessary evidentiary support may be returned without action by the Transportation Division.

§ 7.83 *Statute of limitations on claims.* In every instance in which a claim (supplemental bill) is first presented to the U. S. General Accounting Office more than ten years after the date such claim first accrued, the law requires the return by the U. S. General Accounting Office of such claim without action.

§ 7.84 *Administrative reports on carrier claims.* In order to adjudicate

properly the rights of claimants and the United States, it may be necessary for the Transportation Division to request a report from the agency or department for which the service was furnished as to the facts and the Government funds involved and to have withdrawn from Government agency or storage files the original billing and payment or procurement documentation. Due to the time required to assemble necessary reports and records, claimants should withhold inquiries for at least six months after filing.

§ 7.85 *Disposition of claims and appeal procedures.* Advice of disposition of each claim (supplemental bill) filed with the Transportation Division, U. S. General Accounting Office, is transmitted directly to the claimant. Request for explanation of claim adjudication action, protest to such action, or request for reconsideration thereof should be directed first to the Director, Transportation Division, U. S. General Accounting Office, Washington 25, D. C. Such protest or request should set forth the laws, decisions, tariffs, or facts relied upon to support the position of the claimant and there should be furnished originals or certified copies of such carrier documents as are pertinent to the claim record. If there be disagreement with the final action taken upon reconsideration in the Transportation Division of a supplemental bill (claim), claimants may request a review by the Comptroller General of the United States, U. S. General Accounting Office, Washington 25, D. C.

§ 7.86 *Carrier attorneys or agents.* When carriers are represented in person or through correspondence by attorneys, attorneys-in-fact, or agents with respect to matters pending before the U. S. General Accounting Office and its Transportation Division, there must be of record such authorization as meets the requirements of Special Regulation No. 1 of the U. S. General Accounting Office, and § 1.1 of this chapter. Such requirements do not apply to full-time officials and employees of carriers.

§ 7.87 *Transmission of doubtful carrier claims to General Accounting Office.* Whenever there is presented for payment to any department, agency, or establishment of the Government a carrier bill as to which there arises a substantial question of law or fact as to entitlement to payment, the said bill may be transmitted through appropriate administrative channels to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., together with a report of attendant facts and circumstances, a recommendation as to disposition of the matter, and a citation to the appropriation or fund to be charged with any amount allowed.

EXCEPTIONS

§ 7.88 *Exceptions to regulations.* Exceptions to these regulations may be made only after obtaining the written approval of the Comptroller General of the United States.

GOVERNMENT CORPORATIONS

§ 7.89 *Adoption of procedures and forms by Government corporations.* All

or any part of the procedures and forms prescribed herein may be adopted for use by Government corporations, provided, notice of the extent thereof and the effective date shall be transmitted in advance to the Director, Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

EFFECTIVE DATE

§ 7.90 *Effective date.* The provisions of the regulations in this part shall become effective July 1, 1955. General Regulations No. 108, issued November 21, 1946, and Supplements Nos. 1, 2, 3, and 4, thereto, dated July 3, 1950, April 16, 1951, May 14, 1951, and June 14, 1951, are rescinded as of June 30, 1955.

APPENDIXES

§ 7.91 *Appendixes.* Facsimile blank copies of the prescribed Standard Forms Nos. 1169, 1169a, 1169b, 1169c, 1170, 1171, 1171a, 1172, and 1173, in addition to specimen examples¹ of properly issued transportation requests in certain situations, are attached to General Regulations No. 123. Also, there is attached to such regulation a facsimile copy of the "Accommodation Authority" form² referred to in this part.

COPIES OF GENERAL REGULATIONS NO. 123

§ 7.92 *Purchasing copies of regulation.* Copies of General Regulations No. 123 may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

[SEAL] JOSEPH CAMPBELL,
Comptroller General
of the United States.

[F. R. Doc. 55-5341; Filed, June 30, 1955;
12:35 p. m.]

PART 9—PUBLIC VOUCHER FOR TRANSPORTATION CHARGES

USE BY CARRIERS IN BILLING PASSENGER TRANSPORTATION CHARGES

Effective June 30, 1955, § 9.3 is revoked.

(Secs. 309, 311 (f), 42 Stat. 25; 31 U. S. C. 49, 52 (f))

[SEAL] JOSEPH CAMPBELL,
Comptroller General
of the United States.

[F. R. Doc. 55-5340; Filed, June 30, 1955;
12:35 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE INTERIOR

Effective upon publication in the FEDERAL REGISTER, paragraph (h) (3) of § 6.310 is amended and paragraph (h) (4) is added as set out below.

¹ Not filed with the Division of the Federal Register.

² Filed as part of original document.

§ 6.310 *Department of the Interior.*

- * * *
- (h) *National Park Service.* * * *
- (3) Two Assistant Directors.
- (4) One Associate Director.

(R. S. 1753, sec. 2; 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-5342; Filed, July 1, 1955;
8:47 a. m.]

TITLE 7—AGRICULTURE

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

[Valencia Orange Reg. 42]

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

LIMITATION OF HANDLING

§ 922.342 *Valencia Orange Regulation 42—(a) Findings.* (1) Pursuant to Order No. 22 (19 F. R. 1741) regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on June 23, 1955, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of

the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order* (1) Valencia Orange Regulation 31 (§ 922.331, 20 F. R. 2508) is hereby terminated at 12:01 a. m., P. S. T., July 3, 1955, and upon such termination the provisions of Valencia Orange Regulation 28 (§ 922.328; 20 F. R. 1845) shall not thereafter be applicable to the handling of Valencia oranges grown in District 1.

(2) During the period beginning at 12:01 a. m., P. S. T., July 3, 1955, and ending at 12:01 a. m., P. S. T., February 5, 1956, no handler shall handle any Valencia oranges, grown in District 1 or in District 2, which are of a size smaller than 2.31 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the oranges contained in any type of container may measure smaller than 2.31 inches in diameter.

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

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 29, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable
Division, Agricultural Marketing
Service.

[F. R. Doc. 55-5334; Filed, July 1, 1955;
8:46 a. m.]

[Valencia Orange Reg. 43]

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

LIMITATION OF HANDLING

§ 922.343 *Valencia Orange Regulation 43—(a) Findings.* (1) Pursuant to Order No. 22 (19 F. R. 1741), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the pub-

lic interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on June 30, 1955, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order* (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., July 3, 1955, and ending at 12:01 a. m., P. s. t., July 10, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 415,800 boxes;
- (iii) District 3: Unlimited movement.

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

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

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 1, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director Fruit and Vegetable Division, Agricultural Marketing Service,

[F. R. Doc. 55-5435; Filed, July 1, 1955; 11:38 a. m.]

[Lemon Reg. 596]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.703 *Lemon Regulation 596*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175; 20 F. R. 2913) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on June 29, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., July 3, 1955, and

ending at 12:01 a. m., P. s. t., July 10, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 600 carloads;
 - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 30, 1955.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-5403; Filed, July 1, 1955; 8:55 a. m.]

[Lime Order 1]

PART 1001—LIMES GROWN IN FLORIDA
QUALITY REGULATION

§ 1001.301 *Lime Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 101 (7 CFR Part 1001, 20 F. R. 4179) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047) and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 4, 1955. The shipping season for Florida limes was already underway on June 15, 1955, the date upon which Marketing Agreement No. 126 and Order No. 101 became effective; the Florida Lime Administrative Committee met and organized on June 23, 1955, at which time consideration was given to all available information as to anticipated production of Florida limes during the 1955-56 season, the demand situation, the current rate of shipments and the prices being received by the growers of such limes. The recommendation for regulation of shipments covered by this section and supporting information was

submitted to the Department following the meeting which was held after due notice had been given thereof; interested parties were afforded an opportunity to submit their views at this meeting; the provisions of this section are identical with the aforesaid recommendations of the committee and information concerning such provisions have been disseminated among the handlers of limes; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order* (1) During the period beginning at 12:01 a. m., e. s. t., July 4, 1955, and ending at 12:01 a. m., e. s. t., April 1, 1956, no handler shall handle:

(1) Any limes grown in the State of Florida, except the area West of the Suwannee River, of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U. S. No. 2.

(2) As used in this section "handler" and "handle" shall have the same meaning as when used in said marketing agreement and order and the term "U. S. No. 2" shall have the same meaning as when used in the United States Standards for Persian (Tahiti) Limes, as reclassified (§ 51.1001 of this title; 18 F. R. 7107)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: June 29, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-5360; Filed, July 1, 1955;
8:51 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 37—RADIOISOTOPE RESEARCH SUPPORT PROGRAM

Pursuant to section 3 of the Administrative Procedure Act, Public Law 404, 79th Congress, 2d Session, the following rule is published as a document subject to codification, effective July 1, 1955.

Sec.	
37.1	Purpose.
37.2	Scope.
37.3	Definitions.
37.4	Interpretations.
37.5	Communications.
37.6	Applications.
37.7	Additional information.
37.8	Requirements for approval.
37.9	Issuance.
37.10	Disapproval of applications.
37.11	Discount Certificate.
37.12	Discount purchase procedures.
37.13	Procedures for suppliers.

AUTHORITY: §§ 37.1 to 37.13 issued under sec. 161, 68 Stat. 948; 42 U. S. C. 2201. Interpret or apply secs. 31, 81, 68 Stat. 927, 935; 42 U. S. C. 2051, 2111.

§ 37.1 *Purpose.* The regulations in this part set forth the Atomic Energy Commission's criteria and procedures for the purchase of radioisotopes, at a discount, for use in research programs

within the scope of the regulations in this part.

§ 37.2 *Scope.* The scope of the program set forth in this part extends only to purchases of radioisotopes for use in research in the fields of agriculture and biomedicine, including research in medical therapy and diagnosis, and permits such purchases at 20 percent of the current prices established by the Commission. Discount purchases are not permitted for radioisotopes used in routine clinical treatment, in fixed sources such as strontium applicators, teletherapy units, cobalt-60 needles and applicators, gold 198 colloid, or Y-90 colloid. All discount purchases of radioisotopes are subject to budgetary limitations and the availability of funds, and to the byproduct license requirements of Part 30 of this chapter.

§ 37.3 *Definitions.* As used in this part: (a) "Applicant" means any domestic user of radioisotopes that is an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, a State or any political subdivision of, or any political entity within a State, or a legal successor, representative, agent or agency of the foregoing: *Provided however* That the term "applicant" shall not include, for purposes of this part, any agencies of the United States Government or any contractor operated facility, wholly supported by the AEC.

(b) "Commission" means the Atomic Energy Commission or its duly authorized representative.

(c) "Director" means the Director, Division of Biology and Medicine, or his duly authorized representative.

(d) "Distributor" means any AEC facility which produces radioisotopes for sale.

(e) "Purchaser" means any applicant to which the Commission has issued a Discount Certificate.

(f) "Radioisotope" means any byproduct material as defined in section 11 (e) of the Atomic Energy Act of 1954.

(g) "Supplier" means anyone, licensed by the Atomic Energy Commission under the authority of section 81 of the Atomic Energy Act of 1954, engaged in the business of selling radioisotopes.

§ 37.4 *Interpretations.* Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than by the General Counsel, in writing, will be recognized to be binding upon the Commission.

§ 37.5 *Communications.* All communications concerning the program established in this part, and applications filed in connection with it, should be addressed to the United States Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Biology and Medicine.

§ 37.6 *Applications.* (a) Any applicant desiring to purchase radioisotopes at discount from the AEC established price, pursuant to this part shall file with the Director a Form AEC-372,

"Application for Radioisotope Research Support."

(b) Form AEC-372, will require the applicant to: State name and address; agree to limit the use of the radioisotopes purchased at discount solely to the purposes permitted by the program; agree to make the results of the research available either for publication or to the AEC; agree to treat Restricted Data developed in the course of the research in accordance with the security requirements of the Atomic Energy Act of 1954 and the Commission's regulations for the safeguarding of Restricted Data, summarize the nature of the research in connection with which the radioisotopes will be used; state the location at which the research is to be conducted; briefly describe facilities to be used for the particular research proposed; summarize briefly the research experience of the applicant; list its licenses or authorizations permitting the procurement of radioisotopes for use in connection with the research proposed; and, state whether or not the contemplated medical research involves human applications, and if so, whether or not the applicant is a Doctor of Medicine and licensed to practice in the jurisdiction in which the research will be conducted.

§ 37.7 *Additional information.* The Director may, at any time after the filing of the original application and before the expiration of the Discount Certificate, require additional information in order to enable him to determine whether the Discount Certificate should be granted or denied or whether it should be modified, suspended, or revoked.

§ 37.8 *Requirements for approval.* The applicant must evidence, in its application and any supporting information submitted supplementary thereto, that it is qualified to conduct the research proposed, and that the research proposed constitutes a well considered program justifying an authorization to purchase radioisotopes at a discount.

§ 37.9 *Issuance.* The Director will review each application and, upon making a finding that the applicant satisfies the requirements of § 37.8 will issue to the applicant three original copies of a Discount Certificate.

§ 37.10 *Disapproval of applications.* If the Director determines that the applicant does not satisfy the requirements of § 37.8, he will so notify the applicant and include in the notice a statement of the reasons for that determination. The Director's determination shall be final.

§ 37.11 *Discount Certificate.* A Discount Certificate:

(a) Is merely evidence that its holder may purchase radioisotopes at the discount specified thereon;

(b) Does not, in any way, affect any limitations imposed by or abrogate any requirements of byproduct licenses or radioisotope authorizations issued or required pursuant to the Atomic Energy Act of 1954;

(c) Apart from any requirements or limitations pursuant to § 37.11 (b) of this part, sets no limits on the types or quantities of radioisotopes purchased;

(d) Is non-transferable and non-assignable;

(e) Is valid only during the fiscal year (July 1-June 30) in which it is issued but may be reissued for the ensuing fiscal year upon the submission and approval of a new application;

(f) May be modified from time to time, as the Director deems necessary, in accordance with Commission regulations and pursuant to established Commission policy; and

(g) May be suspended or revoked by the Director,

(1) If budgetary or fiscal limitations necessitate the discontinuance of the program; or

(2) For cause, including, but not limited to, a material false statement in the application, revealed conditions or facts which would have warranted a disapproval of the application in the first instance, failure to fulfill the obligations undertaken in the application, or violation of or failure to observe any of the requirements, terms, or conditions of the Atomic Energy Act of 1954 or Commission regulations. The Certificate holder shall be notified promptly of a suspension or revocation for cause and the reasons therefor.

§ 37.12 *Discount purchase procedures.* Discount Certificate holders may make discount purchases of radioisotopes:

(a) By providing suppliers with a purchase order upon which, or affixed to which, is an exact signed copy of the following:

The undersigned certifies to the supplier and to the U. S. Atomic Energy Commission that Discount Certificate No. _____, which expires _____, has been issued to the undersigned by the Director, Division of Biology and Medicine, U. S. Atomic Energy Commission, authorizing the purchase of radioisotopes at 20 percent of AEC established price; that isotopes purchased under this authority will be used only for agricultural and biomedical research, including research in medical therapy and diagnosis; that the undersigned is authorized, pursuant to the regulations in Title 10, Part 30, Code of Federal Regulations, Radioisotope Distribution, to procure such radioisotopes; and, that all of the information set forth and the statements made herein are to the best of (its) (my) knowledge true and correct.

(Signature)

(b) By forwarding to the supplier, along with the first purchase order placed with it during the fiscal year then current, a copy of the purchaser's Discount Certificate as furnished by the Commission, or a certified true copy thereof.

§ 37.13 *Procedures for suppliers*
(a) Suppliers that receive requests for discount purchases are, before honoring such requests, responsible for obtaining a certified purchase order and a copy of a Discount Certificate as required by § 37.12.

(b) A supplier that has honored a discount purchase request for radioisotopes shall, within 45 days from the date of the discount sale, submit to the distributor from which the radioisotopes were obtained, a request for a credit, against the supplier's further purchases of radioisotopes, in the dollar amount of the dis-

counts the supplier has allowed under and in accordance with the regulations in this part.

(c) Such a request for credit submitted to a distributor shall summarize the total of the credit requested for the period covered and shall be accompanied by supporting documents, such as shipping memoranda, shipping tabulations, or receipted purchase orders, which include the following pertinent information with respect to each sale or shipment and such additional information as may be required by the distributor:

(1) Name of purchaser in the same manner as it appears on the purchaser's Discount Certificate;

(2) Number of the purchaser's Discount Certificate;

(3) Type and quantity of radioisotopes sold and delivered;

(4) Date of shipment;

(5) Evidence of the amount of the discount given to the purchaser.

(d) The distributor shall, within a reasonable time after receipt of a request for credit, require any supplementary supporting data that may be necessary and notify the supplier of the credit granted.

Dated at Washington, D. C., this 19th day of June 1955.

K. E. FIELDS,
General Manager

[F. R. Doc. 55-5349; Filed, July 1, 1955;
8:49 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Reg. No. SR-392A]

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OP- ERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF- ROUTE RULES

PART 43—GENERAL OPERATION RULES

PART 45—COMMERCIAL OPERATOR CERTIFI- CATION AND OPERATION RULES

SPECIAL CIVIL AIR REGULATION; POSITION AND ANTI-COLLISION LIGHT SYSTEMS ON TRANSPORT CATEGORY AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of June 1955.

On April 9, 1953, the Board adopted Special Civil Air Regulation No. SR-392 which permits experimentation projects on a limited number of airplanes for the purpose of improving position light and anti-collision light systems. SR-392 terminates on June 30, 1955. The Board considers that further improvement of the conspicuity of transport airplanes is desirable and that continued experimentation along these lines should be permitted.

Although this special regulation makes some changes in the language used in

SR-392 and Civil Air Regulations Draft Release No. 55-14, dated May 18, 1955, such changes are considered minor and have no substantive effect upon the authorization contained in SR-392 and extended by this special regulation. This regulation authorizes continued experimentation on a limited number of air carrier airplanes with position light and anti-collision light systems which deviate from the specifications prescribed in presently effective Part 4b of the Civil Air Regulations, provided such deviations are within limitations prescribed by the Administrator to be necessary for safety and for avoiding confusion in air navigation.

Interested persons have been afforded an opportunity to participate in the making of this regulation and due consideration has been given to all relevant matter presented. Since this regulation imposes no additional burden on any person, it may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective July 1, 1955:

Contrary provisions of the Civil Air Regulations notwithstanding, any air carrier may, subject to the approval of the Administrator, install and use experimentally, on a limited number of airplanes, equipment designed to improve the position light and anti-collision light systems presently specified in Part 4b of the Civil Air Regulations. The Administrator shall prescribe such conditions and limitations as may be necessary to assure safety and to avoid confusion in air navigation, and shall require each carrier to disclose publicly its deviations from the requirements of Part 4b at times and in a manner which he deems consistent with the best interests of safety.

This regulation supersedes Special Civil Air Regulation No. SR-392 and shall terminate June 30, 1960, unless sooner superseded or rescinded.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 691, 693, 694, 52 Stat. 1007, 1009, 1010, as amended; 49 U. S. C. 551, 553, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 55-5358; Filed, July 1, 1955;
8:51 a. m.]

[Civil Air Regs. Amdt. 40-15]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

EN ROUTE NAVIGATIONAL FACILITIES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of June 1955.

Currently effective § 40.36 of Part 40 of the Civil Air Regulations requires that nonvisual ground aids to air navigation be available along each route, but provides "That no nonvisual ground aids to navigation are required for day VFR operations where the characteristics of the terrain are such that navigation can be conducted by pilotage." This amendment permits VFR operations

also at night, but only over lighted airways or on routes where, in the opinion of the Administrator, lighted landmarks permit navigation to be safely conducted by pilotage.

Prior to the effective date of revised Part 40, night VFR operations were authorized on certain routes not served by nonvisual aids when such routes were equipped with airway beacons and obstruction lights deemed by the Administrator to be adequate for safe air carrier operations at night. At the time Part 40 was revised it was considered that authorization for night VFR was inconsistent with the airborne equipment requirements of § 40.231 (b) and it was therefore deleted.

The Board has since been advised by the Civil Aeronautics Administration that as a result of this deletion it will be necessary to cancel a large number of night VFR operations previously authorized under the provisions of old Parts 40 and 61 because the routes are not equipped with nonvisual ground aids. Thus it appears that the deletion of the authorization for night VFR operations is unduly restrictive with regard to previously authorized routes. Furthermore, the Board has received requests from the industry that Part 40 be amended to permit again night VFR operations on certain routes, where lighted airway beacons or lighted landmarks permit navigation to be conducted by pilotage. The CAA also has recommended such an amendment.

For the foregoing reasons, the Civil Aeronautics Board issued a notice of proposed rule making which was published in the FEDERAL REGISTER (20 F. R. 1057) and circulated to the industry as Civil Air Regulations Draft Release No. 55-4, dated February 9, 1955, which proposed to amend revised Part 40 to authorize such operations.

Comment has been received which recommends against the proposal in favor of the establishment of controlled IFR routes between all airline terminals. The Board agrees that it would be ideal to establish controlled IFR routes between all airline terminals. However, from a practical standpoint it must be recognized that this is not possible for the CAA to do for every route segment. Furthermore, if this policy were adhered to strictly it would prohibit many night VFR operations which heretofore have been approved and conducted safely for a number of years. The Board does not believe that such an effect is warranted. Furthermore, the Board anticipates that when checking route segments for approval for night VFR operations, the CAA will give consideration to the characteristics of the adjacent terrain and also to the availability of radio navigational facilities adjacent to the route and that safety will be adequately assured.

The Board believes that justification exists for amending Part 40 of the Civil Air Regulations to permit again VFR operations at night in accordance with the provisions, and subject to the conditions, prescribed by this amendment; and the Board finds that safety will not be jeopardized thereby.

Interested persons have been afforded an opportunity to participate in the

making of this amendment, and due consideration has been given to all relevant matter presented. Since this amendment relieves a restriction and imposes no additional burden on any person, it may be made effective without prior notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 40 of the Civil Air Regulations (14 CFR Part 40, as amended) effective June 29, 1955:

By amending the proviso of § 40.36 to read as follows:

§ 40.36 *En route navigational facilities.* * * * "Provided, That no nonvisual ground aids to navigation are required for day VFR operations where the characteristics of the terrain are such that navigation can be conducted by pilotage, or for night VFR operations along lighted airways or on routes where the Administrator has determined that reliably lighted landmarks are adequate for safe operations."

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or applies secs. 601, 604, 52 Stat. 1007, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 55-5359; Filed, July 1, 1955; 8:51 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 120]

PART 608—RESTRICTED AREAS

WENDOVER, UTAH, AND SCHOFIELD, ISLAND OF OAHU, TERRITORY OF HAWAII

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.52, the Wendover, Utah, area (R-258), amended on February 11, 1953, in 18 F. R. 844 is further amended by changing the "Designated Altitude" column to read: "Surface to unlimited"; and by changing the "Controlling Agency" column to read: "Ninth Air Force, Shaw AFB, South Carolina."

2. In § 608.62, the Schofield, Island of Oahu, Territory of Hawaii, area, (R-335), amended on February 11, 1953, in 18 F. R. 844 is redesignated as follows:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
SCHOFIELD, Island of Oahu (R-335) (Hawaiian Islands Chart).	Beginning at latitude 21°32'25" longitude 158°10'30" thence to latitude 21°31'36" longitude 158°04'45" thence to latitude 21°30'00" longitude 158°04'33" thence to latitude 21°29'11" longitude 158°07'33" thence to latitude 21°30'30" longitude 158°12'30"; thence to latitude 21°31'00" longitude 158°10'00" thence to point of beginning.	16,000 feet mean sea level.	As described in NOTAMS.	U S A R P A C, Fort Shafter, Oahu, T. H.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on July 14, 1955.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 55-5327; Filed, July 1, 1955; 8:45 a. m.]

[Amdt. 121]

PART 608—RESTRICTED AREAS
CHINA LAKE, CALIFORNIA

The restricted area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.14, the China Lake, California, area (R278) amended on Febru-

ary 26, 1955, in 20 F. R. 1209, is further amended by changing the "Controlling Agency" column to read: "CO NOTS, China Lake, California"

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

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

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 55-5328; Filed, July 1, 1955; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53830]

PART 1—CUSTOMS DISTRICTS AND PORTS

HEADQUARTERS OF APPRAISERS OF MERCHANDISE

As the offices of some of the appraisers of merchandise are located in different buildings than those occupied by the col-

lectors of customs or deputy collectors, it has been deemed advisable to include the locations and mailing addresses of the appraisers in the Customs Regulations for the convenience of the public. Accordingly, Part 1 of the Customs Regulations is amended by adding a new

section designated § 1.6 to read as follows:

§ 1.6 *Headquarters of appraisers of merchandise.* The locations of the headquarters of the appraisers of merchandise for the customs collection districts are as follows:

District No.	Name of district	Location of headquarters	Address of appraiser of merchandise
31	Alaska	Juneau, Alaska	(0).
26	Arizona	Nogales, Ariz.	Terrace Ave and International St.; P. O. Box 1783.
9	Buffalo	Buffalo 3, N. Y.	213 Washington St.
39	Chicago	Chicago 7, Ill.	610 South Canal St.
47	Colorado	Denver, Colo.	(0).
6	Connecticut	Bridgeport 9, Conn.	123 Middle St.
34	Dakota	Pembina, N. Dak.	Noyes, Minn. ³
36	Duluth and Superior	Duluth, Minn.	(0).
24	El Paso	El Paso, Tex.	409 Myrtle St.
18	Florida	Miami 37, Fla.	149 N. E. 29th Ter.
22	Galveston	Houston 11, Tex.	7399 Wincoat St.
17	Georgia	Savannah, Ga.	Bay and Bull Sts.
32	Hawaii	Honolulu 13, T. H.	219 Federal Bldg.
40	Indiana	Indianapolis, Ind.	(0).
42	Kentucky	Louisville, Ky.	(0).
23	Laredo	Laredo, Tex.	Convent Ave. and Zaragoza St.; P. O. Box 1339.
27	Los Angeles	Los Angeles 13, Calif.	531 Mateo St.
1	Maine and New Hampshire	Portland, Maine	(0).
13	Maryland	Baltimore 2, Md.	103 S. Gay St.
4	Massachusetts	Boston 10, Mass.	408 Atlantic Ave.
38	Detroit	Detroit 26, Mich.	109 W. Larned St.
35	Minnesota	Minneapolis 1, Minn.	115 U. S. Court House.
19	Mobile	Mobile, Ala.	(0).
33	Montana and Idaho	Great Falls, Mont.	(0).
20	New Orleans	New Orleans 16, La.	423 Canal St.
10	New York	New York 14, N. Y.	291 Varick St. ¹
15	North Carolina	Wilmington, N. C.	(0).
41	Ohio	Cleveland 14, Ohio	215 Superior Ave. NE.
29	Oregon	Portland 9, Oreg.	220 N. W. 8th Ave.
11	Philadelphia	Philadelphia 6, Pa.	21 and Chestnut Sts.
12	Pittsburgh	Pittsburgh 19, Pa.	639-0 New Federal Bldg.
49	Puerto Rico	San Juan 24, P. R.	Deposito St., Marina; P. O. Box 4712.
5	Rhode Island	Providence 3, R. I.	Weybosset St.
8	Rochester	Rochester 14, N. Y.	39 Church St.
21	Sabine	Port Arthur, Tex.	(0).
25	San Diego	San Diego 1, Calif.	325 W. "F" St.
28	San Francisco	San Francisco 11, Calif.	639 Sansome St.
16	South Carolina	Charleston, S. C.	(0).
7	St. Lawrence	Ogdensburg, N. Y.	127 N. Water St.
45	St. Louis	St. Louis 1, Mo.	12th and Market Sts.
43	Tennessee	Memphis, Tenn.	(0).
2	Vermont	St. Albans, Vt.	68-69 Main St.
14	Virginia	Norfolk 10, Va.	101 E. Main St.
30	Washington	Seattle 4, Wash.	47 Federal Office Bldg.
37	Wisconsin	Milwaukee 2, Wis.	623 E. Michigan St.

¹ The appraiser of merchandise is under the jurisdiction of the collector of customs and is located at the same address as collector. Correspondence for the appraiser shall be sent to the collector—"Attention: Appraiser of Merchandise."
² U. S. Appraiser of Merchandise, New York, N. Y.
³ Although the appraiser is under the jurisdiction of the collector of customs at Pembina, N. Dak., office of appraiser is in Noyes, Minn.

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

[SEAL] **RALPH KELLY,**
Commissioner of Customs.
 Approved: June 27, 1955.
H. CHAPMAN ROSE,
Acting Secretary of the Treasury.
 [F. R. Doc. 55-5346; Filed, July 1, 1955;
 8:48 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter J—Procurement
 [CFR 55-29]

PART 116—PROCEDURES FOR PURCHASING
PART 118—CONTRACTS

MISCELLANEOUS AMENDMENTS

The amendments to §§ 116.01-63 through 116.01-67 incorporate the provisions of Treasury Department Order No. 184, dated May 2, 1955, authorizing the Commandant to make Buy-American Act determinations.

The amendment to § 116.01-90 incorporates the revised provisions of General Services Administration Regulation 1-II-213.00, effective May 6, 1955.

The amendment to § 116.01-155 authorizes district commanders and commanding officers of Headquarters units to procure replacement office labor-saving devices which were formerly purchased only by the Commandant.

The amendment to § 116.01-159 authorizes the purchase of marine fuels and lubricants for small craft on credit cards when Government refueling facilities are unavailable.

The amendments to the center note preceding §§ 116.01-60 and to 116.01-160 are editorial in nature to clarify requirements of existing procedures.

The amendment to § 116.01-169 eliminates the requirement for written utility contracts when the supplier's rates are regulated by a Federal, State, or other public regulatory body.

The amendments to §§ 118.02-1 and 118.03-4 eliminate obsolete Standard Form 40, Contract for Telephone Service.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order

No. 120, dated July 31, 1950 (15 F. R. 6521) the following amendments are prescribed:

1. Part 116 is amended by revising the center note immediately preceding § 116.01-60 *Statutory authority* to read "Foreign Purchases" in lieu of "Procurement of Domestic and Foreign Materials and Products."

2. Section 116.01-63 is amended to read as follows:

§ 116.01-63 *Buy-American Act determinations*—(a) *Delegation of authority to Commandant.* Treasury Department Order No. 184, dated May 2, 1955, transferred to the Commandant, to be exercised with respect to procurement by the Coast Guard, the functions of the Secretary of the Treasury under the Buy-American Act (41 U. S. C. 10a-10d), laws supplementary to or requiring application of the Buy-American Act, and Executive Order 10582, dated December 17, 1954. In carrying out the above delegation of authority, determinations under section 5 of Executive Order 10582 may be made by the Commandant only after approval by the Secretary, and the reports required by that section must be prepared for the signature of the Secretary.

(b) *Action addressee on requests for determinations.* Contracting officers shall address all requests for determinations, or other correspondence pertaining to the Buy-American Act, to the Commandant (FS) via the chain of command.

(c) *Annual report to Secretary.* After the close of each calendar year, the Commandant must submit a report to the Secretary of the Treasury summarizing Buy-American Act determinations made during the year.

3. Section 116.01-64 is amended to read as follows:

§ 116.01-64 *Violations by construction contractors*—(a) *Report to Commandant.* Upon determining that a contractor performing a construction contract has not complied with the provisions of the Buy-American Act, the contracting officer shall submit a report to the Commandant (FS) setting out complete details relative to the use of foreign materials and supplies.

(b) *Action by Commandant.* The Commandant will review violation reports, make required determinations, and advise the contracting officers of action to be taken.

4. Section 116.01-65 is amended by revising the section headnote, and the introductory sentence following the section headnote, to read as follows:

§ 116.01-65 *Exceptions that may be authorized by the Commandant.* The Commandant is authorized to grant exceptions to the Buy-American Act when application of the act would cause any one of the situations enumerated below:

5. Section 116.01-66 *Determination of unreasonable cost* is amended by deleting the last sentence of paragraph (b) (3) reading "In such cases, the Commandant (FS) must refer the matter to the Secretary of the Treasury with

a statement of facts and recommendations."

6. Section 116.01-67 *Exception of printed matter* is amended by deleting the introductory phrase "In accordance with § 116.01-65," following the section headline.

7. Section 116.01-90 is amended to read as follows:

§ 116.01-90 *Exchange or sale of personal property for replacement purposes*—(a) *Authority.* The Federal Property and Administrative Services Act of 1949, section 201 (c) (63 Stat. 334) (40 U. S. C. 481c) authorizes the exchange or sale of personal property and the application of the exchange allowances or proceeds of sale in whole or in part toward the purchase of personal property of the same general character, under regulations prescribed by the Administrator, General Services Administration. This section sets forth the procedures to be followed by Coast Guard units in exercising the authority granted under section 201 (c) of the above act.

(b) *Definitions.* As used in this section, the following definitions apply:

(1) *Personal property.* Property of any kind except the following: (Items falling within the excepted categories shall not be eligible for handling under the provisions of this section.)

(i) Coast Guard records;
(ii) Hardware, general purpose;
(iii) Lumber, millwork, plywood, and veneer;

(iv) Furniture, office, household and quarters, hospital, shipboard, and cafeterias located in the United States, its Territories and possessions;

(v) Office supplies;
(vi) Real property;
(vii) Textiles;
(viii) Vessels;
(ix) Wearing apparel.

(2) *Similar personal property.* The item of personal property to be exchanged or sold and the item to be acquired shall be deemed "similar" for the purpose of this section when:

(i) Both fall within any one of the categories listed in General Services Administration Regulation 1-II-213.00; or

(ii) In the case of personal property not falling within the categories of subdivision (i) of this subparagraph, the item to be acquired is designed and constructed for the same specific purpose as the item to be replaced; or

(iii) Both constitute containers for items which are similar within the meaning of subdivision (ii) of this subparagraph; or

(iv) Both constitute parts for items which are similar within the meaning of subdivisions (i) and (ii) of this subparagraph.

(3) *Acquire.* The term "acquire" means procure, purchase, or obtain in any manner, including transfer, or manufacture, or production at Government-owned or operated plants or facilities.

(c) *Restrictions and limitations*—(1) *General.* The application of exchange allowances or proceeds of sale in whole or part payment for personal property acquired is authorized only when:

(i) The items sold or exchanged are similar to the items acquired;

(ii) The items sold or exchanged are not excess, and the items acquired are needed in the conduct of approved programs;

(iii) The items acquired are to be used (whether or not intended for additional uses) in the performance of all or substantially all of the tasks or operations in which the items exchanged or sold would otherwise be used, but the items acquired need not be the same in number as the items sold or exchanged (Example: Two ½-ton dump trucks may be replaced with one 1-ton dump truck which performs tasks previously requiring the two trucks) *Provided, That:* The limitation prescribed in this subdivision shall not apply with respect to parts or containers; detailed cross-identification between old and new items will not be required in the absence of specific requirements of law, but in the absence of such cross-identification, sufficient accounting data to establish that the items acquired were similar to the items exchanged or sold shall be filed with the pertinent document(s) and held available for audit; any exchange allowances or proceeds of sale applied in whole or part payment of property acquired were in fact available for such application; and the transaction was otherwise in accordance with the procedures prescribed in this section.

(iv) There has been at the time of exchange or sale (or at time of acquisition if it precedes the sale) a written administrative determination to apply the exchange allowance or proceeds of sale in acquiring property in accordance with this section;

(v) The transaction will foster the economical and efficient accomplishment of an approved program.

(2) *Prohibited transactions.* The exchange or sale procedure outlined herein shall not be construed to authorize:

(i) The acquisition of personal property when such acquisition is not otherwise authorized by law;

(ii) The acquisition of personal property in contravention of (a) any restriction upon the procurement of a commodity or commodities, or (b) any replacement policy or standard prescribed by the Commandant;

(iii) The purchase or acquisition of personal property otherwise than under a consolidated purchasing or stores program or Federal Supply Schedule contract where procurement under such program or contract is required; except that an item or items acquired under and in accordance with such program or contract may be sold or exchanged and the allowance or proceeds of sale applied to the replacement as prescribed in this section;

(iv) The sale, transfer or exchange of excess or surplus property in connection with the purchase or acquisition of personal property except that items of excess or surplus property obtained under proper authority may thereafter be exchanged or sold and the exchange allowance or proceeds of sale applied to the replacement as prescribed in this section;

(v) The sale, transfer, or exchange of strategic and critical materials, except in accordance with Emergency Procurement Regulation No. 1, dated August 14, 1951, as supplemented;

(vi) The sale, transfer, or exchange of reserved materials (source materials), except in accordance with applicable regulations of the Atomic Energy Commission.

(vii) The sale or exchange of narcotics, except in accordance with General Services Administration Regulation 1-IV-102.00.

(viii) The sale of personal property in new or unused condition in connection with the purchase or acquisition of personal property.

(ix) The sale, transfer, or exchange of scrap in connection with the purchase or acquisition of personal property.

(3) *Availability of proceeds of sale*—(i) *Sale before purchasing replacement property.* Proceeds from the sale of personal property will be available for obligation for the acquisition of similar replacement items of personal property during the fiscal year in which the sale is made and for one fiscal year thereafter.

(ii) *Sale after purchasing replacement property.* When sale of the replaced property is made after acquisition of the replacement property, the proceeds of such sale shall be deposited as a direct reimbursement credit to the appropriation previously charged for the replacement of similar items of personal property.

(4) *Dangerous property.* No property which is dangerous to public health or safety shall be exchanged or sold pursuant to the authority granted herein without first rendering such property harmless or providing adequate safeguards therefor. When the sale or exchange of property requiring demilitarization has been authorized by the Commandant, the demilitarization shall be accomplished in such a manner as to preserve as far as possible any civilian utility or commercial value of the property.

(5) *Books and periodicals.* Notwithstanding any other provision of this section, unclassified books and periodicals not needed for permanent use may be exchanged, without monetary appraisal or detailed listing or reporting, for other books and periodicals.

(d) *Solicitation of bids*—(1) *General.* In exercising the authority granted herein, responsible officers shall at all times consider the interest of the Government in obtaining the maximum return from items exchanged or sold. In disposing of personal property hereunder, both cash and trade-in bids shall be solicited; except that:

(i) Items may be exchanged or transferred between the Coast Guard and other Federal agencies, when the exchange or transfer has been approved by the Commandant (FS), without solicitation of bids;

(ii) Items may be exchanged without solicitation of bids when the personal property sought to be acquired may be procured without solicitation of bids under applicable laws and regulations;

(iii) Cash bids need not be solicited when the items sought to be sold or exchanged may be disposed of without solicitation of bids under applicable laws and regulations;

(iv) Only one type of bid (cash or trade-in) need be solicited when recent solicitation for identical items has produced only one type of offer under circumstances indicating the futility of further advertising for any other type of offer;

(v) Only one type of bid (cash or trade-in) need be solicited when such solicitation for the items to be sold or exchanged would clearly be ineffective in reducing the cost of the acquisition, e. g., by reason of the existing commercial practice with respect to exchange or sale of such items.

(2) *Sales contracts.* Standard Form 114, Sale of Government Property Invitation, Bid, and Acceptance, and Standard Form 114a, Continuation Sheet, will be used to document sales of property pursuant to this section. Additional special terms and conditions may be used if not inconsistent with the terms and conditions of Standard Form 114. All invitations for bids for property offered in accordance with this section shall include the following notation:

This property is being offered in accordance with the exchange/sale provisions of the Federal Property and Administrative Services Act of 1949, as amended.

(3) *Exchange.* All agreements providing for the acceptance of personal property in exchange ("trade-in") for the purchase of similar items authorized by the act shown in paragraph (a) of this section shall be referenced in the purchase document. The appropriation paying for the new item(s) will be charged the net amount after deduction of the exchange allowance.

(e) *Records.* Each transaction carried out under the authority granted herein shall be evidenced in writing (i. e., purchase order, sales contract, quotation, etc.) which shall indicate the amount of "trade-in" allowance or proceeds of sale, if any, involved, and show full compliance with the provisions of this section.

8. Section 116.01-155 is amended to read as follows:

§ 116.01-155 *Procurement of office labor-saving devices*—(a) *Authority.* District commanders and commanding officers of Headquarters units will procure office labor-saving devices within authorized allowances from allotted funds. Each procurement of typewriters for other than replacement purposes must be approved by the Commandant (FS). This authority does not permit the rental of office labor-saving devices since the rental of all such equipment requires prior approval of the Secretary of the Treasury. Rental requests will be sent to the Commandant (FS) and must be supported by a justification, including a comparison of rental and procurement costs.

(b) *Procurement procedure*—(1) *Manually-operated typewriters.* District commanders, except in the 14th and 17th Districts, and commanding officers

of Headquarters units will submit requests for purchase of manually-operated typewriters to replace nonoperative or obsolete models on the allowance list on Form CG-2557 (Purchase Order) in duplicate, to the appropriate regional office of the General Services Administration (hereinafter referred to as "GSA"). The GSA will furnish suitable typewriters from excess stocks, when available, priced in accordance with the current "Excess Typewriter Fair Value List" issued by GSA. When GSA does not furnish machines from its stock of excess typewriters, the purchase order will be returned with a "Certificate of Unavailability." Procurement may then be made from Federal Supply Schedule contracts. District commanders of the 14th and 17th Districts will procure typewriters from local agencies or representatives of U. S. typewriter manufacturing companies without obtaining a "Certificate of Unavailability." Where purchase orders are covered by a GSA clearance, the following notation will be placed thereon: "This order is covered by GSA Certificate of Unavailability No. TC-...."

(2) *Electrically operated typewriters.* District commanders and commanding officers of Headquarters units are authorized to procure electrically-operated typewriters for replacement of electrically-operated typewriters previously authorized by the Commandant. Requests for procurement of additional electrically-operated typewriters will be submitted to the Commandant (OSU) and must include a complete justification therefor. Electrically-operated typewriters will be procured from applicable Federal Supply Schedule contracts.

(3) *Adding machines and calculators.* District commanders and commanding officers of Headquarters units will procure adding machines and calculators from applicable Federal Supply Schedule contracts. The procurement of the lowest priced model which will serve the purpose intended is mandatory.

(4) *Other office labor-saving devices.* Other office labor-saving devices will be procured from (i) other Government sources of supply or (ii) Federal Supply Schedule contracts. If no Federal Supply Schedule contract exists, the request will be submitted to Commandant (FS).

(c) *Exchange or sale of devices replaced*—(1) *General.* It is the policy of the Coast Guard to exchange (trade in) or sell office labor-saving devices and apply the proceeds to the cost of replacement in accordance with § 116.01-90. District commanders and commanding officers of Headquarters units procuring office labor-saving devices will exchange or sell the replaced devices.

(2) *Typewriters purchased from GSA.* Typewriters replaced from excess stocks of the General Services Administration will be sold.

(3) *Manual typewriters purchased from commercial sources.* Manual typewriters replaced from a Federal Supply Schedule contract may be exchanged at the trade-in value set forth in the Contractor's price list provided that experience indicates the trade-in value to be

commensurate with the expected return from sale. This experience shall be gained by offering manual typewriters for sale at least once a year and comparing the sales price with the trade-in value.

(4) *Other devices purchased from commercial sources.* Other devices replaced from commercial sources may be exchanged or sold in accordance with § 116.01-90.

(5) *Disposition of devices outside continental United States.* District commanders of the 14th and 17th Coast Guard Districts and the Commanding Officer, Greater Antilles Section are authorized to dispose of replaced office labor-saving devices by competitive bid sale without recourse to obtaining exchange allowances from the supplier of the new devices. Awards will be determined on the basis of cash offers of the highest responsible bidders.

(6) *Surrender of exchanged items.* When procurement includes exchange, the payment for new devices will be withheld until the exchanged machines have been picked up by the contractor. Accordingly, exchanged machines shall be promptly released by notifying the contractor's local representative when they are available for pick-up.

(7) *Joint inspection of exchanged items.* All devices exchanged shall be inspected jointly by the contractor's representative and a responsible Coast Guard representative at the time of pick-up. This inspection should primarily verify the serial number and the condition of the devices. The contractor's representative shall be requested to certify the receipts as to the condition of the machines.

9. Section 116.01-159 is amended to read as follows:

§ 116.01-159 *Marine fuel purchases on credit cards.* District commanders and commanding officers of Headquarters units may authorize the purchase of marine fuels and lubricants for small craft on credit cards when Government refueling facilities are not readily accessible. The above officers will procure credit cards required for small craft under their command and issue appropriate instructions for the proper use and control of such cards, following the provisions of § 116.01-160 insofar as practicable.

10. Section 116.01-160 is amended by adding a new paragraph (d) reading as follows:

§ 116.01-160 *Service station purchases on credit cards.* * * *

(d) *Tax exemption certificates.* Tax exemption certificates (Standard Form 1094) will be issued by the paying office when contractors' invoices are processed for payment.

11. Section 116.01-169 is amended by revising the introductory sentence of subparagraph (c) (2) (i) to read as follows:

§ 116.01-169 *Procurement of public utility services.* * * *

(c) *Coast Guard contracts.* * * *

(2) *Requirements for contracts.* * * *

(1) *Electricity, gas, water sewerage, and steam services.* Contracts need not be executed for these utility services when the supplier's rates are regulated by a Federal, State, or other public regulatory body, except as follows:

12. Section 118.02-1 *Separate award type contracts* is amended by deleting the present paragraph (b) (3) *Standard Form 40, Contract for Telephone Service* and redesignating paragraph (b) (4) *Coast Guard Contract for Professional Services* as paragraph (b) (3)

13. Section 118.03-4 *Other Coast Guard contracts* is amended by deleting the present paragraph (e) *Telephone service* and redesignating paragraph (f) *Sales contracts* as paragraph (e)

(62 Stat. 21; 41 U. S. C. 151-161)

Dated: June 27, 1955.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 55-5345; Filed, July 1, 1955;
8:48 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 13—ADDRESSES

CORRECTION OF MAILING LISTS

Section 13.5 *Correction of mailing list addressees* is amended to read as follows:

§ 13.5 *Correction of mailing lists—*
(a) *Service available.* Mailing lists submitted by departments of State governments, municipalities, religious, fraternal, and recognized charitable organizations and mailing lists used by concerns or persons for the solicitation of business by mail will be corrected as frequently as requested, at the expense of the owners of the lists. Postal employees must not compile mailing lists including occupant lists.

(b) *Name and address lists—*(1) *Method of submission.* Lists should be submitted to the post office which serves the addresses, on cards, one name and address to a card. Cards should be approximately the size and quality of a postal card. The owner of the list must place his name in the upper left corner of each card. Lists should be submitted by mail only, except in the case of local firms presenting large lists for correction.

(2) *Type of corrections made.* Names to which mail cannot be delivered or forwarded will be crossed off; incorrect house, rural, or post office box numbers will be corrected; initials will be corrected where apparently the name is known to the owner of the list; and the head of the family will be indicated, if known, when two or more names are shown for the same address. New addresses for patrons who have moved will be furnished when permanent forwarding orders are on file. If no change is necessary an x will be marked in the upper right corner of the card. New names will not be added to a list.

(c) *Occupant lists—*(1) *Method of submission.* (i) Lists may be submitted

on cards (as described in paragraph (b) (1) of this section) or in sheet form. If the lists are submitted in sheet form they must be arranged as stated below and as shown in the illustration.

(a) Sheets shall be approximately 8 x 10½ inches in size and divided into three columns. In each column the number 0 to 99 shall be listed vertically in three parts: 0-33 at the left, 34-67 in the center, and 68-99 at the right.

(b) The mailer will enter the name and address of the person or firm submitting the list on the first line of the form. The post office will complete the other items.

(c) One sheet will cover three blocks of a route. The postmaster must be informed of the area to be covered and supplied with sufficient sheets to cover all territory embraced in the corrections desired.

(ii) *Illustration:*

OCCUPANT MAILING LIST

Name and address of firm -----

Post Office and State ----- Route No. -----
Street ----- Street ----- Street -----
Inclusive numbers in block: Inclusive numbers in block: Inclusive numbers in block:
First No. ----- First No. ----- First No. -----
Last No. ----- Last No. ----- Last No. -----

0	34	68	0	34	68	0	34	68
1	35	69	1	35	69	1	35	69
2	36	70	2	36	70	2	36	70
3	37	71	3	37	71	3	37	71
4	38	72	4	38	72	4	38	72
5			5			5		
29	63	97	29	63	97	29	63	97
30	64	98	30	64	98	30	64	98
31	65	99	31	65	99	31	65	99
32	66		32	66		32	66	
33	67		33	67		33	67	

(2) *Type of corrections made.* Lists for mail addressed to "occupant" and street address will be corrected. Numbers representing incorrect or nonexistent street addresses will be crossed off, but none will be added. Business addresses will be indicated by inserting B opposite the number. Addresses on a rural route will be indicated by R. The number of separate family units will be indicated opposite addresses of apartment houses or other multiple dwellings. Carriers will make corrections for their own routes. All completed cards or sheets will be grouped by routes when returned to the applicant. It is expected that mailers will handle and label their mailings by routes.

(d) *Charges.* Payment when required, must be made in advance by cash or money order including return postage for corrections to name and address lists or occupant lists as follows:

(1) No charge is made for corrections to lists submitted by members of Congress and Federal agencies.

(2) No charge is made where rural routes have been consolidated or changed to another post office if the lists submitted contain only names of persons residing on the route or routes involved.

(3) Except as stated in subparagraphs (1) and (2) of this paragraph, a minimum charge of 25 cents is made for lists of less than 25 addresses whether submitted by the mailer in card or sheet form. For lists containing more than 25 addresses the following charges are made:

(i) 1 cent for each card submitted for correction.

(ii) 1 cent for each number on lists submitted in sheets, except where the numbers 0 to 99 do not correctly indicate the inclusive numbers in a block, a charge of 1 cent each will be made only

for the inclusive numbers. For example, if 805 is the first actual number in the block and 890 is the last number, a charge of 86 cents would be made for checking the numbers 805 to 890, inclusive, in that block. No charge would be made for the numbers 800 to 804 and 891 to 899. Also, no extra charge shall be made for indicating the number of separate units in apartment houses or other multiple dwellings.

(e) *Postage on lists.* Lists prepared in handwriting or typewriting are subject to postage at the first-class rate. Those prepared by stencil, mimeograph, printing, or similar process may be mailed at the third- or fourth-class rate depending on the weight. Postage for return of corrected lists is at the same rate chargeable for submission, as the changes do not affect the rate. Lists will not be returned until the necessary postage has been paid.

(R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369.)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor

[F. R. Doc. 55-5344; Filed, July 1, 1955;
8:47 a. m.]

**TITLE 43—PUBLIC LANDS:
INTERIOR**

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

[Circular 1012]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

PAYMENT OF RENTALS

Section 191.12 is amended to read as follows:

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 3—RADIO BROADCAST SERVICES

DATA REQUIRED WITH APPLICATIONS FOR DIRECTIONAL ANTENNA SYSTEMS; CORRECTION

In the matter of amendment of § 3.150 of the Commission's rules and regulations.

1. The Commission on June 22, 1955, adopted a Report and Order (FCC 55-703) amending § 3.150 (a) (3) of the rules. The section as adopted contains a typographical error in the next to the last sentence. The expression "slotted" should have read "polar or."

2. The correct wording of the amendment is as follows:

(3) Calculated field intensity vs. azimuth patterns for every 5 degrees of elevation through 60 degrees in those instances where radiation at angles above the horizontal plane is a pertinent factor in station allocation. These patterns may be plotted in polar or rectangular coordinates but shall be submitted one to a page. Minor lobe and null detail occurring between the 5 degree intervals need not be submitted.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5350; Filed, July 1, 1955;
8:49 a. m.]

§ 191.12 *Payment of rentals.* (a) Unless otherwise directed by the Secretary, rentals and royalties under all leases and permits issued under the act shall be paid to the Manager of the land office in the State in which the lands are located or, if there is no land office in such State, to the Director, Bureau of Land Management, Washington 25, D. C., except that for lands in the following States, payments must be made in the land office named herein; North or South Dakota, the land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico. All remittances to Bureau of Land Management offices shall be made payable to the Bureau of Land Management.

(b) All rentals and royalties on producing oil and gas leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable, and all payments under subsurface storage agreements and easements for directional drilling are to be paid to the Regional Oil and Gas Supervisor of the United States Geological Survey. Rentals and royalties on producing mining leases are to be paid to the Regional Mining Supervisor. All remittances to Survey offices shall be made payable to the United States Geological Survey.

(Sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301; 30 U. S. C. 189, 271)

CLARENCE A. DAVIS,
Acting Secretary of the Interior

JUNE 28, 1955.

[F. R. Doc. 55-5326; Filed, July 1, 1955;
8:45 a. m.]

§ 1.1501-1 *Privilege to file consolidated returns.* For regulations relating to the privilege of filing consolidated returns, see § 1.1502-0 and following. For convenience, the several sections of the regulations under section 1502 have to the extent practicable, been given numbers corresponding, respectively, to the section numbers of prior consolidated returns regulations but preceded by the code number 1.1502.

§ 1.1502 *Statutory provisions; regulations.*

SEC. 1502. *Regulations.* The Secretary or his delegate shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability.

§ 1.1502-0 *Introductory.* The regulations prescribed under section 1502 of the Internal Revenue Code of 1954 are applicable in the case of all corporations (with certain statutory exceptions) to taxable years beginning after December 31, 1953, and ending after August 16, 1954, and with respect to such taxable years, the regulations under section 1502 supersede 26 CFR Part 24 (Regulations 129) Any provision of the regulations under such section, the applicability of which is stated in terms of a specific date (occurring after December 31, 1953) or in terms of taxable years ending after a specific date (occurring after December 31, 1953) shall apply to taxable years ending after such specific date. Each such provision shall in the case of a taxable year subject to 26 CFR Part 24 (Regulations 129) be deemed included in 26 CFR Part 24 (Regulations 129) but shall be applicable only to taxable years ending after such specific date. The provisions of 26 CFR Part 24 (Regulations 129) superseded by provisions of the regulations under section 1502, the applicability of which is stated in terms of a specific date (occurring after December 31, 1953) shall be deemed to be included in the regulations under such section but shall be applicable only to the period prior to the taking effect of the corresponding provision of the regulations under such section.

§ 1.1502-1 *Privilege of making consolidated returns.* (a) Section 1501 gives to the corporations of an affiliated group the privilege of making a consolidated income tax return for the taxable year in lieu of separate returns. This privilege is given, however, upon the condition that all corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to the regulations under section 1502 applicable to such taxable year and any amendments thereof duly prescribed prior to the last day prescribed by law for the filing of the return; and the making of the consolidated return is considered as such consent.

PROPOSED RULE MAKING

TREASURY DEPARTMENT

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953; RETURNS AND PAYMENT OF TAX (CONSOLIDATED RETURNS)

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that, pursuant to the Administrative Procedure Act, approved June 11, 1946, 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:R, 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 sections 1502, 1552, and 7805 of the Internal

Revenue Code of 1954 (68A Stat. 367, 371 and 917; 26 U. S. C. 1502, 1552, and 7805).

[SEAL] PAUL K. WEBSTER,
Acting Commissioner
of Internal Revenue.

The following regulations are hereby prescribed under chapter 6 of the Internal Revenue Code of 1954:

§ 1.1501 *Statutory provisions; privilege to file consolidated returns.*

SEC. 1501. *Privilege to file consolidated returns.* An affiliated group of corporations shall, subject to the provisions of this chapter, have the privilege of making a consolidated return with respect to the income tax imposed by chapter 1 for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed under section 1502 prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) With respect to a taxable year to which 26 CFR Part 24 (Regulations 129) as amended by the regulations under section 1502 is applicable, the regulations to which consent is made are those in 26 CFR Part 24 (Regulations 129) as amended, and as further amended by the regulations under such section. With respect to a taxable year to which the regulations under section 1502 are applicable, the regulations to which consent is made are the regulations under such section as changed to the extent that portions of 26 CFR Part 24 (Regulations 129) are applicable. For example, in the case of a fiscal year ending October 31, 1954, the Internal Revenue Code of 1939 and 26 CFR Part 24 (Regulations 129) are applicable to a consolidated return filed for such year. In such case, if the first distribution in pursuance of a plan of complete liquidation of a member of the affiliated group occurs on or after June 22, 1954, § 1.1502-38 is applicable in lieu of 26 CFR 24.38. On the other hand, if such a distribution occurs before June 22, 1954, 26 CFR 24.38 is applicable. Similarly in the case of a return filed for the calendar year 1954, the Internal Revenue Code of 1954 and the regulations under section 1502 are applicable. In such case, if the first distribution in pursuance of a plan of complete liquidation of a member of the affiliated group occurs prior to June 22, 1954, 26 CFR 24.38 is applicable in lieu of § 1.1502-38. If such distribution occurs on or after June 22, 1954, § 1.1502-38 is applicable.

(c) The last day prescribed by law for the filing of the return includes the last day of the period of any extension of time granted by the Commissioner.

(d) The tax liability of the members of the affiliated group for the taxable year involved will be determined in accordance with the provisions of the regulations to which consent is given and without regard to any changes of the rules therein prescribed made subsequent to the last day prescribed by law for the filing of the return for such year.

§ 1.1502-2. *Definitions* — (a) *Code*. The term "Code" means the Internal Revenue Code of 1954 and the sections of statutory law referred to in the regulations under section 1502 unless otherwise stated, are sections of that Code.

(b) *Affiliated group*. (1) The term "affiliated group" is defined in section 1504 and includes the common parent corporation and every other corporation for the period during which such corporation is a member of the affiliated group within the meaning of such section. It does not include any corporation which is not an "includible corporation" as defined by section 1504 (b). An includible corporation is defined by such section to mean any corporation, except—

(i) A corporation exempt under section 501 from the taxes imposed by subtitle A,

(ii) An insurance company subject to taxation under section 802 or 821 (except as provided in section 1504 (c))

(iii) A foreign corporation (except as provided in section 1504 (d))

(iv) A corporation entitled to the benefits of section 931 by reason of receiv-

ing a large percentage of its income from sources within possessions of the United States;

(v) A corporation organized under the China Trade Act, 1922;

(vi) A regulated investment company subject to tax under subchapter M of chapter 1, and

(vii) An unincorporated business enterprise subject to tax as a corporation under section 1361.

The consolidated income tax return must include every includible corporation which, under the provisions of section 1504, is a member of the affiliated group. No corporation which is connected by stock ownership with an affiliated group of includible corporations through a nonincludible corporation may be included in the consolidated return of such group. In no case may a consolidated return be filed by subsidiary corporations as an affiliated group unless the common parent corporation through which the subsidiaries are connected is a member of the group. For instance, there will not be recognized as an affiliated group two domestic industrial corporations, the common parent corporation of which is a regulated investment company subject to tax under subchapter M of chapter 1.

(2) An insurance company subject to tax under section 831 is an includible corporation and may be included in an affiliated group, together with corporations other than insurance companies taxable under section 802 or 821. Insurance companies subject to tax under section 802 or 821 are not includible corporations under section 1504 (b). Under section 1504 (c) however, a domestic insurance company taxable under section 802 may be included in an affiliated group comprised solely of other domestic insurance companies taxable under section 802; it may not be included in an affiliated group with other corporations. An affiliated group of domestic insurance companies taxable under section 802 may not include a domestic insurance company taxable under section 821 or 831.

(3) In the case of a domestic corporation owning or controlling, directly or indirectly, 100 percent of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of Canada or of Mexico and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for income tax purposes as a domestic corporation. The option to treat such foreign corporation as a domestic corporation so that it may be included in a consolidated return must be exercised at the time of making the consolidated return, and cannot be exercised at any time thereafter. If the election is exercised to treat such foreign corporation as a domestic corporation, it must be included in the consolidated return of the affiliated group of which it is a member for each consecutive year thereafter for which such group makes or is required to make a consolidated return.

(4) An affiliated group of corporations, within the meaning of section 1504 of the Code, is formed at the time that the common parent corporation, which is an includible corporation, becomes the owner directly of stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends) of another includible corporation; a corporation becomes a member of such an affiliated group at the time that one or more members of such group become the owners directly of stock possessing at least 80 percent of the voting power of all classes of its stock and at least 80 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends) and a corporation ceases to be a member of such an affiliated group at the time that the members of such group cease to own directly stock possessing at least 80 percent of the voting power of all classes of its stock, or at least 80 percent of each class of its nonvoting stock (not including nonvoting stock which is limited and preferred as to dividends)

(c) *Consolidated return period*. The term "consolidated return period" means the taxable year 1929, or any subsequent taxable year, for which a consolidated return is made or is required, income tax return, excess profits tax return, or both, including the period during which a subsidiary corporation is engaged in distributing its assets in liquidation.

(d) *Subsidiary*. The term "subsidiary" means a corporation (other than the common parent corporation) which is a member of the affiliated group during any part of the consolidated return period.

(e) *Tax*. The term "tax" means any tax imposed by chapter 1 of subtitle A, and includes any interest, penalty, additional amount, or addition to the tax, payable in respect thereof.

(f) *Terms defined in Internal Revenue Code*. Terms which are defined in the Code shall, when used in the regulations under section 1502 have the meaning assigned to them by the Code, unless specifically otherwise defined.

(g) *Regulated public utility*. (1) The term "regulated public utility" means a corporation described in section 1503 (c). It includes a corporation (i) whose operations are an integral part of the furnishing or sale of a product or service described in such section by an interconnected and coordinated public utility system or systems and (ii) whose rates for furnishing products or services to the system or systems are established or approved by a regulatory body described in section 1503 (c) (1). For the purpose of determining whether or not 80 percent of the gross income of the corporation is from the furnishing or sale of such product or service, income received in consideration for the product or service described shall include only income received directly therefrom and income from the furnishing or sale of byproducts and residual products which are directly necessary

and incidental to the furnishing of such product or service. In determining under (1) whether the operations of a particular corporation constitute an integral part of the "furnishing or sale" of a product or service described in section 1503 (c) the income of a corporation shall be deemed to be from such source only to the extent that it is in consideration for necessary processing of either the product described in section 1503 (c) or the essential facilities used in making available to customers such product or service.

§ 1.1502-3 *Applicability of other provisions of law.* Any matter in the determination of which the provisions of the regulations under section 1502 are not applicable shall be determined in accordance with the provisions of the Code or other law applicable thereto.

ADMINISTRATIVE PROVISIONS

§ 1.1502-10 *Exercise of privilege—*
(a) *When privilege must be exercised.* The privilege of making a consolidated return under section 1502 for any taxable year of an affiliated group must be exercised at the time of making the return of the common parent corporation for such year. For this purpose, the return is considered as made on the due date of such return (including any extensions of time granted by the Commissioner) regardless of the actual previous date of filing. Under no circumstances can such privilege be exercised at any time thereafter. The filing of separate returns for a taxable year does not constitute an election binding upon the corporation in subsequent years. If the privilege is exercised at the time of making the return, separate returns cannot thereafter be made for such year. (See, however, § 1.1502-18, relating to failure to comply with the regulations under section 1502.)

(b) *Effect of tentative returns.* In no case will the privilege under paragraph (a) of this section be considered as exercised at the time of making a so-called "tentative return" (made, for example, in order to obtain an extension of time for making the return required by law). However, if any such tentative return is made upon the basis of a consolidated return or a separate return, the return required by law must be made upon the same basis, unless upon the making of the return required by law (either a separate return or a consolidated return, as the case may be) the payments theretofore made and to be made are adjusted in a manner satisfactory to the Commissioner.

(c) *Estimated tax.* The provisions of section 6016 (relating to declarations of estimated tax by corporations) shall be applicable to the several members of an affiliated group in the same manner and to the same extent as in the case of corporations filing separate returns, whether or not such affiliated group files a consolidated return, except that if a consolidated return is filed, the amounts of any payments made with respect to the consolidated return period shall be credits against the tax liability shown on the consolidated return. See, however, § 1.1502-15 (relating to liability for

tax), and § 1.1502-49 (relating to additions to tax for failure to pay estimated tax)

§ 1.1502-11 *Consolidated returns for subsequent years—*(a) *Consolidated returns required for subsequent years.* If a consolidated return is made under section 1502 for any taxable year, a consolidated return must be made for each subsequent taxable year during which the affiliated group remains in existence unless (1) a corporation (other than a corporation created or organized, directly or indirectly, by a member of the group) has become a member of the group during such subsequent taxable year, or (2) subsequent to the exercise of the election to make consolidated returns, subtitle A of the Code to the extent applicable to corporations, or the regulations under section 1502 which have been consented to, have been amended and any such amendment is of a character which makes substantially less advantageous to affiliated groups as a class the continued filing of consolidated returns, regardless of the effective date of such amendment, or (3) the Commissioner, prior to the time of making the return, upon application made by the common parent corporation and for good cause shown, grants permission to change. For the purpose of (2) of this paragraph, the expiration of a provision shall be considered as an amendment to the Code.

(b) *Effect of separate returns when consolidated return is required.* If the making of a consolidated return is required for any taxable year, the tax liability of the members of the affiliated group shall be computed in the same manner as if a consolidated return had been made, even though separate returns are made; amounts assessed upon the basis of separate returns shall be considered as having been assessed upon the basis of a consolidated return; and amounts paid upon the basis of separate returns shall be considered as having been paid by the common parent corporation. In such cases the making of separate returns shall not be considered as the making of a return for the purpose of computing any period of limitation or any deficiency. If a consolidated return for such taxable year is thereafter made, such return shall, for the purpose of computing periods of limitation and any deficiency, be considered as the return for such year.

(c) *When affiliated group remains in existence.* For the purpose of the regulations under section 1502, an affiliated group shall be considered as remaining in existence if the common parent corporation remains as a common parent and at least one subsidiary remains affiliated with it, whether or not such subsidiary was a member of the group at the time the group was formed and whether or not one or more corporations have become subsidiaries or have ceased to be subsidiaries at any time after the group was formed.

(d) *When affiliated group terminates.* For the purpose of the regulations under section 1502, an affiliated group shall be considered as terminated if the common parent corporation ceases to be the com-

mon parent or if there is no subsidiary affiliated with it.

§ 1.1502-12 *Making consolidated return and filing other forms—*(a) *Consolidated return made by common parent corporation.* A consolidated return shall be made on Form 1120 by the common parent corporation for the affiliated group. Such return shall be filed at the time and in the office of the director of internal revenue for the district prescribed for the filing of a separate return by such common parent corporation.

(b) *Authorizations and consents.* Each subsidiary must prepare duplicate originals of Form 1122, consenting to the regulations under section 1502 and authorizing the common parent corporation to make a consolidated return on its behalf for the taxable year and authorizing the common parent (or, in the event of its failure, the Commissioner or the district director) to make a consolidated return on its behalf (as long as it remains a member of the affiliated group), for each year thereafter for which, under § 1.1502-11 (a) the making of a consolidated return is required. One of such forms, as prepared by each subsidiary shall be attached to the consolidated return, as a part thereof; and the other shall be filed, at or before the time the consolidated return is filed, in the office of the director for the district prescribed for the filing of a separate return by such subsidiary. No such consent can be withdrawn or revoked at any time after the consolidated return is filed.

(c) *Affiliations schedule filed by common parent corporation.* The common parent corporation shall prepare Form 851 (Affiliations Schedule) which shall be attached to and made a part of the consolidated return.

(d) *Persons qualified to execute returns and forms.* Each return or form required to be made or prepared by a corporation must be executed by the person authorized under section 6062 to execute returns of separate corporations. In cases where receivers or trustees in bankruptcy are operating the property or business of corporations, each return or form required to be made or prepared by such corporation must be executed by the receiver or trustee, as the case may be, pursuant to an order or instructions of the court, and be accompanied by a copy of such order or instructions.

(e) *Signatures in case subsidiary has left affiliated group.* Since Form 1122 is required even though, during the taxable year of the common parent corporation, the subsidiary (because of a dissolution or sale of stock, or otherwise) has ceased to be a member of the affiliated group, it may be advisable for the common parent to obtain the proper signatures to the form prior to the time the subsidiary ceases to be a member of the group.

§ 1.1502-13 *Change in affiliated group during taxable year—*(a) *General rule.* Except as hereinafter pro-

¹This section has no bearing upon the question whether a consolidated return may or must be made, but relates only to the effect of changes in the affiliated group during the taxable year.

vided, a consolidated return must include the income of the common parent corporation and of each subsidiary for the entire taxable year of the affiliated group.

(b) *Formation of affiliated group after beginning of year* If an affiliated group is formed after the beginning of the taxable year of the corporation which becomes the common parent corporation, the consolidated return must include the income of the common parent for its entire taxable year (excluding any portion of such year during which its income is included in the consolidated return of another affiliated group) and the income of each subsidiary from the time it became a member of the affiliated group.

(c) *Complete termination of affiliated group prior to close of taxable year* If an affiliated group is terminated prior to the close of the taxable year of the group, the consolidated return must include the income of the common parent corporation for its entire taxable year (excluding any portion of such year during which its income is included in the consolidated return of another affiliated group) and of each subsidiary for the period prior to the termination. (See paragraphs (c) and (d) of § 1.1502-11 in determining whether the group has terminated.)

(d) *Addition to affiliated group of a subsidiary during year* If a corporation becomes a member of the affiliated group during the taxable year of the group, the consolidated return must include its income from the time when it became a member of the group.

(e) *Elimination from affiliated group of a subsidiary during year* If a subsidiary ceases to be a member of the affiliated group during the taxable year of the group, the consolidated return must include its income for the period during which it was a member of the group.

(f) *Period of 30 days or less may be disregarded.* A subsidiary may at its option be considered as having been a member of the affiliated group during the entire taxable year of the group (or during the entire period of the existence of the subsidiary, whichever is shorter) if the period during which it was not a member of such group does not exceed 30 days. If a corporation has been a member of the affiliated group for a period of less than 31 days during the taxable year of the group, it may at its option be considered as not having been a member of the group during the taxable year. An option under this paragraph must be exercised at the time the consolidated return is made.

(g) *Separate returns for periods not included in consolidated return.* If a corporation, during its taxable year (determined without regard to the affiliation) becomes a member of an affiliated group, its income for the portion of such taxable year not included in the consolidated return of such group must be included in a separate return (or, if a member of another affiliated group which makes a consolidated return for such period, then in such consolidated return) If a corporation ceases to be a member of the affiliated group during the taxable year of the group, its income

for the period after the time when it ceased to be a member of the group must be included in a separate return (or, if it becomes a member of another affiliated group which makes a consolidated return for such period, then in such consolidated return)

(h) *Time for making separate returns for periods not included in consolidated return.* If a corporation, during its taxable year (determined without regard to the affiliation) becomes a member of an affiliated group, the separate return required for the portion of such taxable year during which it was not a member of the group must be made on or before the 15th day of the third month following the close of its taxable year (determined without regard to the affiliation) For example, Corporation P reporting its income on a calendar year basis, acquires on January 1, 1954, all the stock of Corporation S, which reports its income on a fiscal year basis ending March 31. P and S elect to make a consolidated return for the calendar year 1954. The separate return of S for the taxable period April 1, 1953, to December 31, 1953, should be made on or before June 15, 1954.

§ 1.1502-14 *Accounting period of an affiliated group.* (a) The taxable year of an affiliated group which makes a consolidated return shall be the same as the taxable year of the common parent corporation; and, upon having elected to file a consolidated return, each subsidiary corporation shall, not later than the close of the first consolidated taxable year ending thereafter, adopt an annual accounting period, fiscal year or calendar year as the case may be, in conformity with that of the common parent.

(b) If a change of accounting period is necessary in order to conform the accounting periods of the common parent and of its subsidiaries, Form 1128 shall be submitted at or before the time of filing the consolidated return for the taxable year in which the subsidiary has first adopted the parent corporation's annual accounting period.

(c) With respect to computations for years involved in the change to the consolidated basis, see § 1.1502-32.

§ 1.1502-15 *Liability for tax—(a) Several liability of members of affiliated group.* Except as provided in paragraphs (b) and (c) of this section, the common parent corporation and each subsidiary, a member of the affiliated group during any part of a consolidated return period, shall be severally liable for the tax (including any deficiency in respect thereof) computed as provided in § 1.1502-30, and for any addition to the tax computed as provided in § 1.1502-49 for underpayment of estimated tax for the consolidated return period.

(b) *Liability of a corporation in bankruptcy or receivership.* If, at the time of filing a consolidated return, one or more, but not all, of the members of the affiliated group are in bankruptcy under the laws of the United States or in receivership in any court of the United States or of any State, Territory, or the District of Columbia, then the liability under paragraph (a) of this section of each

such member of the group with respect to the period covered by such return shall not exceed such portion of the consolidated tax liability for such period as the several corporations included in the consolidated return may, subject to the approval of the Commissioner, agree upon, or, in the absence of such an agreement, an amount equal to its liability for such year computed as if a separate return had been filed.

(c) *Liability of subsidiary after withdrawal.* If a subsidiary has ceased to be a member of the affiliated group, its liability under paragraph (a) of this section shall remain unchanged, except that if such cessation occurred prior to the date upon which any deficiency is assessed and resulted from a bona fide sale of stock for fair value, the Commissioner may, if he believes that the assessment or collection of the balance of the deficiency will not be jeopardized, make assessment and collection of such deficiency from such former subsidiary in an amount not exceeding the portion thereof allocable to it upon the bases of income used in the computations, respectively, of the normal tax, the surtax, and any other tax imposed by chapter 1 of subtitle A included in such deficiency.

(d) *Effect of intercompany agreements.* Any agreement entered into by one or more members of the affiliated group with any other members of such group or with any other person shall in no case have the effect of reducing the liability prescribed under this section.

(e) *Liability of transferee not affected.* This section shall not be considered as extinguishing or diminishing any liability, at law or in equity, of a transferee of property of a taxpayer, including any liability under any provision of law, State or Federal, relating to liabilities pursuant to corporate dissolution or transfer or distribution of assets, whether or not in connection with a merger or consolidation.

§ 1.1502-16 *Common parent corporation agent for subsidiaries—(a) Scope of agency of common parent corporation.* Except as provided in paragraphs (b) and (c) of this section—The common parent corporation shall be for all purposes (other than the making of the subsidiary consent required by § 1.1502-12 (b)) in respect of the tax for the taxable year for which a consolidated return is made or is required, the sole agent, duly authorized to act in its own name in all matters relating to such tax, for each corporation which during any part of such year was a member of the affiliated group. The corporations, other than the common parent, shall not have authority to act for or to represent themselves in any such matter. For example, all correspondence will be carried on directly with the common parent; notices of deficiencies will be mailed only to the common parent, and the mailing to the common parent shall be considered as a mailing to each such corporation; notice and demand for payment of taxes will be given only to the common parent, and such notice and demand shall be considered as a notice and demand to each such corporation;

the common parent will file petitions and conduct proceedings before The Tax Court of the United States, and any such petition shall be considered as having also been filed by each such corporation; the common parent will file claims for refund or credit; refunds will be made directly to and in the name of the common parent and will discharge any liability of the Government in respect thereof to any such corporation; and the common parent in its name will give waivers, give bonds, and execute closing agreements, offers in compromise, and all other documents, and any waiver or bond so given, or agreement, offer in compromise, or any other document so executed, shall be considered as having also been given or executed by each such corporation. Notwithstanding the provisions of this paragraph, however, any notice of deficiency, in respect of the tax for a consolidated return period, will name each corporation which was a member of the affiliated group during any part of such period, and any assessment (whether of the original tax or of a deficiency) will be made in the name of each such corporation (but a failure to include the name of any such corporation will not affect the validity of the notice of deficiency or the assessment as to the other corporations) any notice and demand for payment will name each corporation which was a member of the affiliated group during any part of such period (but a failure to include the name of any such corporation will not affect the validity of the notice and demand as to the other corporations) and any levy (or warrant or notice in respect thereof), any notice of a lien, or any other proceeding to collect the amount of any assessment, after the assessment has been made, will name the corporation from which such collection is to be made. The provisions of this paragraph shall apply whether or not a consolidated return is made for any subsequent year, and whether or not one or more subsidiaries have become or have ceased to be members of the group at any time. Notwithstanding the provisions of this paragraph, the Commissioner may, if he deems it advisable, deal directly with any member of the group in respect of its liability, in which event such member shall have full authority to act for itself.

(b) *Effect of withdrawal of subsidiary.* For the purpose of the assertion, assessment, and collection of any deficiency, and of a credit or refund of any amount paid by a former subsidiary as a deficiency determined under § 1.1502-15 (c) but for no other purpose, the agency of the common parent corporation in respect of any subsidiary which has ceased to be a member of the affiliated group shall be terminated upon the expiration of 30 days (or prior thereto if the Commissioner consents) from the date upon which such subsidiary files written notice with the Commissioner that it has ceased to be a member of the affiliated group and that it is terminating such agency. For example, if a subsidiary has ceased to be a member of the group (and if the 30-day period has expired)

prior to the mailing of a notice of deficiency to the common parent, a separate notice of deficiency will be mailed in due course to the subsidiary in respect of its deficiency if it becomes necessary to enforce its liability.

(c) *Effect of dissolution of common parent corporation.* If the common parent corporation contemplates dissolution, or is about to be dissolved, or if for any other reason its existence is about to terminate, it shall forthwith notify the Commissioner of such fact and designate, subject to the approval of the Commissioner, another member of the affiliated group to act as agent in its place to the same extent and subject to the same conditions and limitations as are applicable to the common parent. If the notice thus required is not given by the common parent, the remaining members of the group may, subject to the approval of the Commissioner, designate another member of the group to act as such agent, and notice of such designation shall be given to the Commissioner. Until a notice in writing designating a new agent has been received by the Commissioner, any notice of deficiency or other communication mailed to the common parent shall be considered as having been properly mailed to the agent of the group; or, if the Commissioner has reason to believe that the existence of the common parent has terminated, he may, if he deems it advisable, deal directly with any member of the group in respect of its liability.

§ 1.1502-17 *Waivers*—(a) *Effect of waiver given by common parent corporation.* Any consent given by the common parent corporation (or by an agent in accordance with paragraph (c) of § 1.1502-16) extending the time within which an assessment may be made or levy or proceeding in court begun, in respect of the tax for a consolidated return period, shall be applicable (1) to each corporation which was a member of the affiliated group during any part of such period (whether or not any such corporation has ceased to be a member of the group) and (2) to each corporation the income of which was included in the consolidated return, or which filed Form 1122, for such period, even though it is subsequently determined that such corporation was not a member of the group.

(b) *Acceptance of waivers from common parent corporation and alleged subsidiary.* In no case will a separate waiver be accepted from a corporation the income of which was included in the consolidated return (for example, a corporation which the Commissioner determines was not a member of the affiliated group) or which filed Form 1122, unless a waiver is also obtained from the common parent, or unless the Commissioner is dealing directly with such corporation to enforce its liability.

§ 1.1502-18 *Failure to comply with regulations*—(a) *Exclusion of a subsidiary from consolidated return.* If there has been a failure to include in the consolidated return the income of any subsidiary, or a failure to file any of the forms required by these regulations, notice thereof shall be given the common

parent corporation by the Commissioner, and the tax liability of each member of the affiliated group shall be determined on the basis of separate returns unless such income is included or such forms are filed within the period prescribed in such notice, or any extension thereof, or unless under § 1.1502-11 a consolidated return is required for such year.

(b) *Common parent corporation incorrectly designated in consolidated return.* If a consolidated return includes a corporation as the common parent and such corporation was not (under the provisions of section 1502) the common parent, the tax liability of each corporation included in the return will be computed in the same manner as if separate returns had been made, unless, upon application, the Commissioner approves the making of a consolidated return, or unless under § 1.1502-11 a consolidated return is required for such year.

(c) *Inclusion of one or more subsidiaries not members of affiliated group.* If a consolidated return includes a corporation as a subsidiary and such corporation was not a member of the affiliated group during the consolidated return period, the tax liability of such corporation will be determined upon the basis of a separate return (but see paragraph (a) of this section), and the consolidated return shall be considered as including only the corporations which were members of the group during such period. If the consolidated return includes two or more corporations which are not members of the group but which constitute a separate affiliated group, the tax liability of the corporations constituting the separate group will be computed in the same manner as if separate returns had been made by such corporations, unless the Commissioner, upon application, approves the making of a consolidated return for the separate group, or unless under § 1.1502-11 a consolidated return is required for the separate group.

(d) *Effect of authorization and consent filed pursuant to notice.* If Form 1122 is filed by any corporation, pursuant to a notice under paragraph (a) of this section, such corporation shall be considered for all purposes as having joined in the making of the consolidated return.

(e) *Allocation of payments in the event of change by one or more corporations to separate returns.* In any case in which amounts have been assessed and paid upon the basis of a consolidated return and the tax liability of one or more of the corporations included in the consolidated return is to be computed in the same manner as if separate returns had been made, the amounts so paid shall be allocated between the affiliated group composed of the corporations properly included in the consolidated return and each of the corporations the tax liability of which is to be computed on a separate basis, in such manner as the corporations included in the consolidated return may, subject to the approval of the Commissioner, agree upon, or, in the absence of an agreement, upon the bases used in the respective computations of the normal tax, the surtax and any other

tax imposed by chapter 1 of subtitle A, as shown upon the consolidated return.

§ 1.1502-19 *Tentative carryback adjustments*—(a) *Groups with constant membership; consolidated returns only.* In the case of an affiliated group the membership of which remains unchanged and for which consolidated returns are made or are required for the taxable years involved, any statement filed under section 6164 of the Code with respect to an expected carryback and any application for a tentative carryback adjustment filed under section 6411 shall be filed by the common parent corporation and shall disclose all material facts and circumstances relating to the group as a whole. Such statement or application shall be filed on the appropriate form prescribed for such purpose, Form 1138 or Form 1139, as the case may be. Any refunds allowable under any such application will be made directly to and in the name of the common parent. The making of any such refund will discharge any liability of the Government in respect thereof to the several affiliated corporations. The common parent corporation and its several subsidiaries shall be severally liable for any amounts assessed pursuant to section 6213 (b) (2) together with any interest or penalty assessed in connection therewith.

(b) *Groups with changing membership; cases involving a separate return period.* (1) The membership of an affiliated group may change during a taxable year for which a net operating loss arises, or in the preceding taxable year affected by such net loss. Or an affiliated group making a consolidated return for the year of such net loss may have made separate returns for the preceding year or a group making separate returns for the year of the net loss may have made a consolidated return for the preceding year. In any such case, the statement provided for in section 6164 of the Code and the application for the tentative carryback adjustment provided for in section 6411 shall be a joint statement or application concurred in and executed by each corporation which was a member of the group at any time during either of the taxable years involved in the deferment or adjustment sought. The time for the payment of taxes shall be extended under section 6164 and the adjustment provided for in section 6411 shall be made only in accordance with an agreement of the several corporations involved to be made a part of such statement or application. Any refund allowable under any such application with respect to a consolidated return period will be made directly to and in the name of the common parent corporation, and the making of any such refund will discharge any liability of the Government in respect thereof to the several affiliated corporations. The common parent corporation and its several subsidiaries shall be severally liable for any amounts assessed pursuant to section 6213 (b) (2) together with any interest or penalty assessed in connection therewith.

(2) In the absence of an agreement between the several corporations, or in

the event of their failure to set forth the provisions of such an agreement as a part of their statement or application, no extension of time for the payment of any tax under the provisions of section 6164 shall be granted, and no tentative adjustment shall be made under section 6411.

(3) Notwithstanding any agreement between the several affiliated corporations, no tentative adjustment shall be made with respect to either a consolidated or a separate return period in disregard of the several liability of the several corporations with respect to any taxable year for which a consolidated return was made or was required.

COMPUTATION OF TAX, RECOGNITION OF GAIN OR LOSS, AND BASIS

§ 1.1502-30 *Computation of tax*—(a) *General rule.* In the case of an affiliated group which makes, or is required to make, a consolidated return for any taxable year, the tax liability of each corporation for the period during such year that it was a member of such group shall be computed, subject to the provisions of paragraph (b) upon the consolidated taxable income and the consolidated taxable income plus the aggregate of the deductions of the several affiliated corporations allowable under section 242, or, in the case of the taxes imposed by section 531, section 541 (except as provided in paragraph (b) (4) of this section) and section 802, upon the consolidated accumulated taxable income, the consolidated undistributed personal holding company income, the consolidated life insurance company taxable income, the consolidated life insurance company taxable income plus the aggregate of the deductions of the several affiliated corporations allowable under section 242, or the consolidated 1954 life insurance company taxable income, as the case may be, determined in each case in accordance with the regulations under section 1502. In the case of an affiliated group realizing long-term capital gains and computing its tax under the alternative tax provisions of section 1201, the tax shall be computed with reference to the consolidated taxable income, and the excess of the consolidated net long-term capital gain over the consolidated net short-term capital loss. The tax imposed under section 11 (c) or section 831 shall be increased for any taxable year for which an affiliated group makes or is required to make a consolidated return by 2 percent of the consolidated taxable income (computed without regard to the deduction, if any, provided in section 242 for partially tax-exempt interest)

(b) *Special rules.* The general rule prescribed in paragraph (a) of this section is subject to the following special rules:

(i) *In the case of Western Hemisphere trade corporations and regulated public utilities.* If the affiliated group filing a consolidated return includes a Western Hemisphere trade corporation, as defined in section 921, or a regulated public utility as defined in section 1503 and § 1.1502-2 (g) the increase of 2 percent provided in section 1503 (a) in

the corporation surtax rate shall be applied only on that portion of the consolidated taxable income attributable to the members of the group other than the Western Hemisphere trade corporation or the regulated public utility without any increase with respect to any partially tax-exempt interest of such Western Hemisphere trade corporation or such regulated public utility.

(2) *In case of mutual savings banks conducting life insurance business.* If the parent corporation of an affiliated group is a mutual savings bank which, if a separate return were filed, would be subject to the alternative tax of section 594 (a) (relating to a mutual savings bank conducting a life insurance business) the provisions of section 594 (a) shall apply to such group and the alternative tax of such group under section 594 (a) shall be computed with reference to the consolidated taxable income of the group attributable to such parent corporation determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, and with reference to the income of such life insurance department determined under the provisions of section 594 (a) (2) and § 1.1502-31 (b)

(3) *Changes in methods of accounting.* In any case in which a member of the affiliated group changes its method of accounting, if the year of the change is a year for which a consolidated return is filed (or is required to be filed) and if the requirements of section 481 (b) are met, then the tax under chapter 1 attributable to the increase in consolidated taxable income required by § 1.1502-44 (c) shall not be greater than the tax under chapter 1 (or the corresponding provisions of prior law) which would result if the provisions of section 481 (b) were applied to the corporation required to make the change in accounting method, but with the taxes for any year determined on the basis of the regulations under section 1502 (or prior consolidated returns regulations) if the income of such corporation was included in a consolidated return for such year, or on the basis of a separate return, if the income of such corporation was reported in a separate return for such year.

(4) *Personal holding companies.* In the case of an affiliated group which makes or is required to make a consolidated return for any taxable year, the tax liability of each corporation for the period during such year that it was a member of such group shall not be computed in the case of the tax imposed by section 541 upon the consolidated undistributed personal holding company income if—

(i) The affiliated group is an ineligible affiliated group as defined in section 542 (b) (2),

(ii) The affiliated group includes as a member (including the common parent corporation) an excluded corporation within the meaning of section 542 (c),

(iii) The consolidated personal holding company income is less than 80 percent of the consolidated section 542 gross income, or

(iv) At no time during the last half of the taxable year more than 50 percent in value of the outstanding stock of the parent corporation was owned directly or indirectly by or for not more than 5 individuals within the meaning of section 542 (a) (2)

If the tax liability of each corporation under section 541 is not computed upon the consolidated undistributed personal holding company income solely by reason of the application of (iii) or (iv) of this subparagraph (or both) no member of the affiliated group shall be subject to the tax under section 541 for such year or part thereof that it was a member of the affiliated group. If the tax liability of each corporation under section 541 is not computed upon the consolidated undistributed personal holding company income by reason of the application of (i) or (ii) of this subparagraph (whether or not (iii) or (iv) of this subparagraph, or both, are applicable) then such liability shall be computed by reference to the tax liability of the several members of the affiliated group which are personal holding companies within the meaning of section 542 (a) in the same manner as if such corporations had filed separate returns except that § 1.1502-31 (b) (1) (i) shall be applicable (except with respect to dividends received from other members of the group) in the computation of gross income, personal holding company income, and undistributed personal holding company income, and section 562 (d) shall be applicable in the computation of dividends paid.

§ 1.1502-31 *Bases of tax computation.* In the case of an affiliated group of corporations which makes, or is required to make a consolidated return for any taxable year, and except as otherwise provided in the regulations under section 1502, the tax liability determined under § 1.1502-30 shall be determined subject to the definitions and rules of computation set forth in paragraphs (a) and (b) of this section.

(a) *Definitions*—(1) *Consolidated taxable income.* The consolidated taxable income shall be the combined taxable income of the several affiliated corporations—

(i) Minus the sum of—

(a) Any consolidated net operating loss deduction,

(b) Any consolidated section 1231 net loss, relating to net losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231,

(c) Any consolidated charitable contribution deduction, but not in excess of 5 percent of the consolidated taxable income computed without regard to such consolidated charitable contribution deduction, any deductions under Part VIII (except section 248) of subchapter B, any consolidated net operating loss carry-backs, and any deduction under section 922 (special deduction for Western Hemisphere trade corporations)

(d) Any consolidated dividends received deduction.

(e) Any consolidated section 922 deduction,

(f) Any consolidated section 175 deduction, but not in excess of 25 percent

of the consolidated section 175 gross income, and

(g) Any consolidated section 247 deduction,

(ii) Plus any consolidated net capital gain, or

(iii) Minus, in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 831, the combined additional capital loss deductions of such corporations authorized by section 832 (c) (5) (but in an amount not in excess of the consolidated net capital loss)

(2) *Consolidated net operating loss deduction.* The consolidated net operating loss deduction shall be an amount equal to the aggregate of the consolidated net operating loss carry-overs and of the consolidated net operating loss carry-backs to the taxable year.

(3) *Consolidated net operating loss carry-overs.* The consolidated net operating loss carry-overs to the taxable year shall consist of

(i) The consolidated net operating losses, if any, for the five preceding taxable years (not including as a fifth preceding taxable year any taxable year beginning prior to 1950, unless such preceding taxable year began in 1949 and ended in 1950, and unless all members of the group for such preceding taxable year commenced business in 1949; and in such case the amount of the consolidated net operating loss for such fifth year shall not be treated as a carry-over except to the extent that such consolidated net operating loss is allocable to 1950) to the extent that the consolidated net operating loss for any such preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year and was not absorbed as a carry-over or carry-back for preceding or intervening taxable years.

and, with respect to a net operating loss sustained by a corporation in a taxable year for which a separate return was filed, or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b) (3) of this section—

(ii) The amount of the net operating losses, if any, of such corporation for the five preceding taxable years (not including as a fifth preceding taxable year any taxable year beginning prior to 1950 unless such preceding taxable year began in 1949 and ended in 1950, and unless such corporation commenced business in 1949) to the extent that the net operating loss for any such preceding taxable year was not absorbed as a carryover or carryback for preceding or intervening taxable years.

See, however, paragraph (b) (21) of this section in any case in which a member of the group is an acquiring corporation in a transaction described in section 381 (a) or any member of the group is subject to the limitations provided in section 382.

(4) *Consolidated net operating loss carrybacks.* The consolidated net operating loss carrybacks to the taxable year shall consist of—

(i) The amount of the consolidated net operating loss, if any, for the first succeeding taxable year (to the extent not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year) reduced to the extent absorbed as a carry-back, consolidated or separate, as the case may be, for the first preceding taxable year;

(ii) The amount of the consolidated net operating loss, if any, for the second succeeding taxable year to the extent not attributable to those corporations making separate returns in the taxable year;

and, with respect to a net operating loss sustained by a corporation which, for either of the two succeeding taxable years, files a separate return or joins in a consolidated return filed by another affiliated group, but subject to the limitations prescribed in paragraph (b) (3) of this section,

(iii) The amount of the net operating loss, if any, sustained by such corporation for the first succeeding taxable year reduced to the extent absorbed by such corporation for the first preceding taxable year or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, reduced to the extent absorbed by such consolidated return; and

(iv) The amount of the net operating loss, if any, sustained by such corporation for the second succeeding taxable year.

See, however, paragraph (b) (21) of this section in any case in which a member of the group is an acquiring corporation in a transaction described in section 381 (a) or any member of the group is subject to the limitations provided in section 382.

(5) *Consolidated net operating loss.* The consolidated net operating loss shall be an amount equal to the excess of the sum of—

(i) The combined net operating losses of the several affiliated corporations having net operating losses,

(ii) The consolidated section 175 deduction,

(iii) The consolidated section 1231 net loss, and

(iv) The aggregate of the deductions of the several affiliated corporations under sections 243, 244, and 245 (computed without regard to the limitation contained in section 246 (b)) and under section 247 (computed without regard to the limitation of (a) (1) (B) of such section),

over the sum of—

(v) The combined taxable income of the several affiliated corporations having taxable income, computed without regard to any deductions under section 242 (relating to partially tax-exempt interest), and

(vi) The consolidated net capital gain.

(6) *Consolidated section 1231 net loss.* The consolidated section 1231 net loss shall be the excess of the aggregate of the recognized losses of the character described in section 1231 sustained by the several affiliated corporations over the

aggregate of the recognized gains of the character described in section 1231 realized by the several affiliated corporations.

(7) *Consolidated charitable contribution deduction.* The consolidated charitable contribution deduction shall be the aggregate of the amount of the deductions of the several affiliated corporations allowable under section 170 for the taxable year (determined without regard to the 5 percent limitation of section 170 (b) (2)) and an amount equal to the aggregate of the consolidated charitable contribution carry-overs to the taxable year.

(8) *Consolidated charitable contribution carry-overs.* The consolidated charitable contribution carry-overs to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated charitable contribution deduction (computed without regard to any charitable contribution carry-overs) for the two preceding taxable years over the limitation of subparagraph (1) (i) (c) of this paragraph for such years to the extent that the consolidated charitable contribution deduction for any such preceding taxable year was not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year and was not absorbed as a carry-over by the consolidated or separate net income or taxable income for the separate net income or taxable income for the intervening taxable year

and, with respect to any excess of charitable contributions over the applicable 5 percent limitation of a corporation in a taxable year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group—

(ii) The amount of such excesses of such corporation for the two preceding taxable years to the extent that such excess for the second preceding taxable year was not absorbed as a carry-over by consolidated or separate net income or taxable income for the first preceding taxable year.

(9) *Consolidated net capital gain.* The consolidated net capital gain shall be the excess of the sum of—

(i) The aggregate of the capital gains of the several affiliated corporations, and

(ii) The consolidated section 1231 net gain, over the sum of—

(iii) The aggregate of the capital losses of such corporations, and

(iv) The aggregate of the consolidated net capital loss carry-overs to the taxable year.

(10) *Consolidated section 1231 net gain.* The consolidated section 1231 net gain shall be the excess of the aggregate of the recognized gains of the character described in section 1231 realized by the several affiliated corporations over the aggregate of the recognized losses of the character described in section 1231 sustained by the several affiliated corporations.

(11) *Consolidated net capital loss carry-over.* The consolidated net capital loss carry-overs to the taxable year shall consist of—

(i) The consolidated net capital losses, if any, for the 5 preceding taxable years to the extent that such losses were not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year, and were not absorbed by net capital gains for intervening taxable years pursuant to the provisions of section 1212 or corresponding provisions of prior law, consolidated or separate, as the case may be,

and, with respect to net capital losses sustained by a corporation for taxable years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group—

(ii) The net capital losses, if any, sustained by such corporation for its 5 preceding taxable years to the extent that such losses were not absorbed by the net capital gains of such corporation (or, if the income of such corporation was included in a consolidated return, by the consolidated net capital gain) for intervening taxable years pursuant to the provisions of section 1212 or corresponding provisions of prior law.

(12) *Consolidated net capital loss.* The consolidated net capital loss shall be the excess of the aggregate of the capital losses of the several affiliated corporations over the sum of—

(i) The aggregate of the capital gains of such corporations, and

(ii) The consolidated section 1231 net gain,

reduced, in the case of an affiliated group including as members one or more corporations subject to the tax imposed by section 831, but only for the purpose of net capital loss carry-over computations, by whichever of the following amounts is the lesser,

(iii) The combined additional capital loss deductions of such corporations authorized by section 832 (c) (5) or

(iv) The consolidated taxable income computed without regard to capital gains and losses and without regard to any deduction for partially tax exempt interest provided by section 242.

(13) *Consolidated dividends received deduction.* The consolidated dividends received deduction shall be the aggregate of the deductions of the several affiliated corporations allowable under sections 243, 244, and 245 (computed without regard to the limitation of section 246 (b)) but in an amount not greater than 85 percent of the consolidated taxable income computed without regard to the consolidated net operating loss deduction, the consolidated section 247 deduction, and without regard to any consolidated dividends received deduction. The limitation of the previous sentence shall not apply for any taxable year for which there is a consolidated net operating loss.

(14) *Consolidated section 247 deduction.* The consolidated section 247 deduction, relating to dividends paid by public utilities on preferred stock, shall be an amount computed as follows:

(i) First, determine the amount which is the lesser of—

(a) The aggregate of the dividends paid by members of the affiliated group

which are public utilities within the meaning of section 247 (b) (1) on preferred stock within the meaning of section 247 (b) (2) or

(b) The portion of the consolidated taxable income for the taxable year attributable to such members computed without regard to the consolidated section 247 deduction.

(ii) Then multiply the amount determined under subdivision (i) of this subparagraph by the fraction specified in section 247 (a) (2)

(15) *Consolidated section 922 deduction.* The consolidated section 922 deduction, relating to Western Hemisphere trade corporations, shall be that portion of the consolidated taxable income attributable to those members of the affiliated group which are Western Hemisphere trade corporations (computed without regard to the consolidated section 922 deduction) multiplied by the fraction specified in section 922 (2)

(16) *Consolidated net long-term capital gain.* The consolidated net long-term capital gain shall be the excess of the sum of—

(i) The aggregate of the long-term capital gains of the several affiliated corporations, and

(ii) The consolidated section 1231 net gain,

over

(iii) The aggregate of the long-term capital losses of such corporations.

(17) *Consolidated net short-term capital loss.* The consolidated net short-term capital loss shall be the sum of—

(i) The aggregate of the short-term capital losses of the several affiliated corporations, and

(ii) The consolidated net capital loss carryovers,

minus

(iii) The aggregate of the short-term capital gains of such corporations.

(18) *Consolidated accumulated taxable income.* The consolidated accumulated taxable income shall be the consolidated taxable income computed without regard to any capital loss carry-over, without regard to any charitable contribution deduction under section 170, without regard to any net operating loss deduction, and without regard to any deduction under part VIII (except section 248) of subchapter B of chapter 1, minus the sum of—

(i) The combined Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939, for taxable years beginning after December 31, 1940) and income, war-profits and excess-profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)) accrued during the taxable year by the several affiliated corporations, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law.

(ii) The consolidated charitable contribution deduction computed without regard to the limitation in section 170

(b) (2) except that there shall not be included in the consolidated charitable contribution carry-over any amount which has previously been used in the determination of consolidated accumulated taxable income or separate accumulated taxable income.

(iii) The excess of the sum of the capital losses of the several affiliated corporations (computed without regard to any capital loss carry-over) over the sum of the capital gains of such corporations,

(iv) The excess of the consolidated net long-term capital gain over the consolidated net short-term capital loss (computed without regard to any capital loss carry-over) minus the taxes imposed by subtitle A attributable to such excess.

(v) In the case of an affiliated group including one or more holding company affiliates of a bank, as defined in section 2 of the Banking Act of 1933, the consolidated section 601 deduction, relating to earnings or profits devoted to the acquisition of readily marketable assets, other than bank stock.

(vi) The consolidated accumulated earnings credit, and

(vii) The consolidated section 561 dividends paid deduction.

(19) *Consolidated accumulated earnings credit.* The consolidated accumulated earnings credit shall be—

(i) In the case of an affiliated group which is not a mere holding or investment group, an amount equal to such part of the aggregate of the earnings and profits for the taxable year of the several members of the group as are retained for the reasonable needs of the business of the group, minus the deduction allowed by subparagraph (18) (iv) of this paragraph, but not less than the amount (if any) by which \$60,000 exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year, or

(ii) In the case of an affiliated group which is a mere holding or investment group, the amount (if any) by which \$60,000 exceeds the aggregate of the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year.

For the purpose of (i) of this subparagraph, the amount of the earnings and profits for the taxable year of the several members of the group which are retained is the amount by which the aggregate of the earnings and profits of the several members of the group for the taxable year exceed the consolidated section 561 dividends paid deduction for such year. For the purpose of the preceding sentence and (ii) of this subparagraph, the accumulated earnings and profits of the several members of the group at the close of the preceding taxable year shall be reduced by the dividends paid to other than members of the group under section 563 (a) (relating to dividends paid after the close of the taxable year) which are considered as paid during such taxable year.

(20) *Consolidated section 561 dividend paid deduction.* The consolidated section 561 dividends paid deduction shall be the sum of—

(i) The aggregate of the deductions allowable to the several members of the group with respect to dividends under section 561 (a) (1) and (2) determined without regard to any deductions attributable to payments made or considered to be made of dividends to other members of the group, and

(ii) In case the affiliated group is subject to tax on its consolidated undistributed personal holding company income, the consolidated dividend carry-over.

(21) *Consolidated section 542 gross income.* The consolidated section 542 gross income shall be the combined gross income of the several members of the affiliated group computed without regard to any gross income from other members of the group and by including only the excess of the gains of the several members of the group over the losses of the several members of the group from transactions in stocks or securities as described in section 543 (a) (2) and by including only the excess of the gains of the several members of the group over the losses of the several members of the group with respect to commodity transactions as described in section 543 (a) (3)

(22) *Consolidated personal holding company income.* The consolidated personal holding company income shall be that part of the consolidated section 542 gross income from the sources described in section 543.

(23) *Consolidated undistributed personal holding company income.* The consolidated undistributed personal holding company income shall be the consolidated taxable income computed without regard to any deductions under part VIII (except section 248) of subchapter B of chapter 1, without regard to any charitable contribution deduction under section 170, without regard to any net operating loss deduction, and without regard to deductions disallowed by section 545 (b) (8) minus the sum of—

(i) The combined Federal income and excess profits taxes (other than the excess-profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war-profits and excess-profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)) accrued during the taxable year by the several affiliated corporations but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law.

(ii) In lieu of the deduction provided by subparagraph (1) (i) (c) of this paragraph, the consolidated charitable contribution deduction limited as provided in section 170 (b) (1) (A) and (B) except that the 10 and 20 percent limitations therein shall be applied with respect to the consolidated adjusted gross income; and except that there shall not be included in the consolidated charitable contribution carry-over any amount which has been previously used in the determination of consolidated undis-

tributed personal holding company income or separate undistributed personal holding company income.

(iii) The amount of the consolidated net operating loss for the preceding taxable year to the extent not attributable to corporations making a separate return, or joining in a consolidated return filed by another affiliated group for the taxable year, and, with respect to a corporation which filed a separate return or joined in a consolidated return filed by another affiliated group for the preceding taxable year, the net operating loss of such corporation for such preceding taxable year, but not in excess of the portion of the consolidated personal holding company income attributable to such corporation for the taxable year.

(iv) The excess of the consolidated net long-term capital gain for the taxable year over the consolidated net short-term capital loss for such year minus the taxes imposed by subtitle A attributable to such excess;

(v) The aggregate amount subject to the provisions of section 545 (b) (7) used or irrevocably set aside by the several affiliated corporations to pay or retire indebtedness incurred prior to January 1, 1934, not including such portion of any such indebtedness as was owned on January 1, 1934, or at any time thereafter, directly or indirectly, by another member of the group;

(vi) The sum of the amounts deductible by the several members of the affiliated group allowable under section 545 (b) (9) but there shall be added to the consolidated taxable income any amount required to be included in taxable income under such section;

(vii) The consolidated section 561 dividends paid deduction; and

(viii) In the case of an affiliated group including one or more holding company affiliates of a bank, as defined in section 2 of the Banking Act of 1933, the consolidated section 601 deduction, relating to earnings or profits devoted to the acquisition of readily marketable assets, other than bank stock.

(24) *Consolidated adjusted gross income.* The consolidated adjusted gross income shall be the consolidated taxable income computed without regard to any charitable contributions deductions, any deductions under part VIII (except section 248), any net operating loss carry-back to the taxable year, any deductions under section 922, and without deduction of the amount disallowed by section 545 (b) (8)

(25) *Consolidated deficiency dividends deduction.* The consolidated deficiency dividends deduction shall be the aggregate of the amounts determined as provided in section 547 with respect to dividends distributed by the several members of the affiliated group pursuant to a determination of liability for personal holding company tax described in section 547, with respect to the consolidated undistributed personal holding company income of the affiliated group for the taxable year of the group computed without regard to any dividends distributed to members of the affiliated group.

(26) *Consolidated dividend carryover* The consolidated dividend carryover to the taxable year shall be the sum of—

(i) The excess of—

(a) The consolidated section 561 dividends paid deduction for the first preceding taxable year, determined without regard to any consolidated dividend carryover, over

(b) The consolidated undistributed personal holding company income for such year, determined without regard to any dividends paid deduction and dividend carryover,

to the extent that such deduction and such income are not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group, for the taxable year.

(ii) The amount of the consolidated section 561 dividends paid deduction (determined as provided in subdivision (i) (a) of this subparagraph) for the second preceding taxable year reduced by the consolidated undistributed personal holding company income for such year (determined as provided in subdivision (i) (b) of this subparagraph) and further reduced by the amount of the consolidated undistributed personal holding company income for the first preceding taxable year determined without regard to any dividend carryover from the second preceding taxable year to the extent that any such consolidated section 561 dividends paid deduction and any such consolidated undistributed personal holding company income are not attributable to a corporation making a separate return, or joining in a consolidated return filed by another affiliated group for the taxable year,

and, with respect to taxable years for which a member of the affiliated group filed a separate return or for which such member joined in a consolidated return filed by another affiliated group—

(iii) The excess of the deduction allowable to such corporation under section 561 for dividends paid for the first preceding taxable year (determined without regard to any dividend carryover) over the taxable income of such corporation for such year computed with the adjustments provided in section 545 (or if its income was included in the consolidated return of another affiliated group, that portion of the excess of the consolidated section 561 dividends paid deductions (determined as provided in subdivision (1) (a) of this subparagraph) for the first preceding taxable year, over the consolidated undistributed personal holding company income (determined as provided in subdivision (i) (b) of this subparagraph) for such year attributable to such corporation) and

(iv) The excess of the deduction allowable to such corporation under section 561 (determined without regard to any dividend carryover) for the second preceding taxable year over the taxable income of such corporation for such year computed with the adjustments provided in section 545 (or if its income was included in the consolidated return of another affiliated group, that portion of the excess of the consolidated section 561 dividends paid deduction (deter-

mined as provided in subdivision (i) (a) of this subparagraph) for the second preceding taxable year, over the consolidated undistributed personal holding company income (determined as provided in subdivision (i) (b) of this subparagraph) for such year, attributable to such corporation) and reduced by—

(a) The excess of the amount of its taxable income so computed for the first preceding taxable year over its dividends paid deduction under section 561, determined without regard to any dividend carryover from the second preceding taxable year (or, if its income was included in the consolidated return of another affiliated group, that portion of the amount of such deduction absorbed in such consolidated return of another affiliated group) or

(b) If the income of such corporation is included in the consolidated return for the first preceding taxable year, the excess, if any, of the consolidated undistributed personal holding company income (determined without regard to any dividends paid deduction and dividend carryover) for the first preceding taxable year over the consolidated section 561 dividends paid deduction for such year, determined without regard to any dividend carryover.

(27) *Consolidated section 601 deduction.* The consolidated section 601 deduction relating to bank affiliates, shall be an amount equal to the aggregate of the earnings or profits of members of the group which are holding company affiliates of a bank as defined in section 2 of the Banking Act of 1933 devoted to the acquisition of readily marketable assets other than bank stock (not including any asset acquired, directly or indirectly, from another member of the group), subject, in the case of each such affiliate, to the limitations imposed by section 601 determined without regard to the qualifications expressed in paragraph (b) (1) (ii) and (iii) of this section.

(28) *Consolidated life insurance company taxable income.* The consolidated life insurance company taxable income in the case of an affiliated group consisting of corporations subject to the tax imposed by section 802 shall be the consolidated taxable income minus the consolidated section 804 deduction and plus the consolidated section 806 adjustment.

(29) *Consolidated section 804 deduction.* The consolidated section 804 deduction relating to the reserve and other policy liabilities shall be the consolidated taxable income multiplied by a figure to be determined and proclaimed by the Secretary for each taxable year pursuant to section 804.

(30) *Consolidated section 806 adjustment.* The consolidated section 806 adjustment relating to certain reserves provided in section 806 shall be an amount equal to 3¼ percent of the combined unearned premiums and unpaid losses of the several affiliated corporations on contracts other than life insurance or annuity contracts computed in the case of each corporation pursuant to the provisions of section 806 but the combined unearned premiums shall not be considered to be less than 25 percent of the combined net premiums on such

other contracts written during the taxable year.

(31) *Consolidated 1954 life insurance company taxable income.* The consolidated 1954 life insurance company taxable income in the case of an affiliated group consisting of corporations subject to the tax imposed by section 802 (b) for taxable years beginning in 1954 shall be the consolidated taxable income plus eight times the consolidated section 806 adjustment and minus the consolidated reserve interest credit, if any.

(32) *Consolidated reserve interest credit.* The consolidated reserve interest credit shall be the aggregate of the reserve interest credits of the several members of the affiliated group.

(33) *Consolidated section 175 deduction.* The consolidated section 175 deduction shall be the aggregate of the amount of the deductions of the several affiliated corporations allowable under section 175 for the taxable year (determined without regard to the 25 percent limitation of section 175 (b)) and an amount equal to the aggregate of the consolidated section 175 carry-overs to the taxable year.

(34) *Consolidated section 175 gross income.* The consolidated section 175 gross income shall be the combined gross income derived from farming of the several affiliated corporations engaged in the business of farming and having expenditures of the type described in section 175 (a). For this purpose, there shall be eliminated profits and losses on intercompany transactions; and proper adjustment shall be made to eliminate any distortion in the amount of gross income attributable to transactions between members of the affiliated group at markedly fictitious values.

(35) *Consolidated section 175 carryovers.* The consolidated section 175 carryovers to the taxable year shall consist of—

(i) The excess, if any, of the amount of the consolidated section 175 deductions over 25 percent of the consolidated section 175 gross income of preceding taxable years to the extent that such consolidated section 175 deduction for any preceding taxable year was not attributable to a corporation making a separate return or joining in a consolidated return filed by another affiliated group for the taxable year and was not absorbed as a carryover by the consolidated section 175 gross income for preceding taxable years

and, with respect to any excess of deductions under section 175 over the 25 percent limitation of section 175 (b) of a corporation in a taxable year for which a separate return was filed or for which such corporation joined in a consolidated return filed by another affiliated group, but subject to the limitation prescribed in paragraph (b) (16) of this section.

(ii) The amount of such excesses of such corporation for preceding taxable years to the extent that such excesses were not absorbed as carry-overs for preceding taxable years.

(b) *Computations.* In the case of affiliated corporations which make, or are required to make, a consolidated return,

and except as otherwise provided in the regulations under section 1502—

(1) *Taxable income.* The taxable income of each corporation shall be computed in accordance with the provisions covering the determination of taxable income of separate corporations, except—

(i) There shall be eliminated unrealized profits and losses in transactions between members of the affiliated group and dividend distributions from one member of the group to another member of the group (referred to in the regulations under section 1502 as intercompany transactions)

(ii) No net operating loss deduction shall be taken into account;

(iii) No capital gains or losses shall be taken into account;

(iv) There shall be disregarded all gains and losses from involuntary conversions and from sales and exchanges of property subject to the provisions of section 1231,

(v) In the computation of the deduction under section 171, relating to amortizable bond premium, there shall be disregarded the bonds of one member of the group owned by another member of the group during the taxable year;

(vi) In the computation of the taxable income of a corporation for the taxable year in which it became the common parent corporation of the affiliated group filing a consolidated return, the aggregate deductions of such corporation for such year otherwise allowable in excess of the gross income of such corporation for such year shall be excluded to the extent that such excess is attributable to that portion of such year preceding the date upon which such corporation became the common parent corporation of the group. Any amount excluded under this paragraph shall, to the extent that it constitutes a net operating loss within the provisions of section 172 or a net capital loss within the provisions of section 1222, be considered as a net operating loss or a net capital loss, as the case may be, separately sustained by such corporation and subject to the provisions of paragraph (a) (3) (ii) or (11) (ii) of this section;

(vii) In the case of a corporation which became a member of the affiliated group after the date of enactment of this title, common parent corporation or subsidiary, as the case may be, allowable deductions shall be determined subject to the qualifications prescribed in subparagraph (9) of this paragraph;

(viii) No deduction under section 170 with respect to charitable or other contributions shall be taken into account;

(ix) In the case of the deduction provided in section 615 (relating to mine exploration expenditures) the allowable deduction shall be determined subject to the qualifications prescribed in subparagraph (12) of this paragraph;

(x) In the case of a distribution of inventory to which section 311 (b) is applicable, or in the case of a distribution of property to which section 311 (c) is applicable by one member of the group to another member of the group,

the gain recognized under such sections shall be eliminated;

(xi) No deductions under section 243, 244, 245, or 247 (relating to deductions with respect to dividends received and dividends paid) or under section 922 (relating to the special deduction for Western Hemisphere trade corporations) shall be taken into account; and

(xii) No deductions under section 175 (relating to soil and water conservation expenditures) shall be taken into account by a member of an affiliated group to which the consolidated section 175 deduction is applicable.

Intercompany profits and losses which have been realized by the group through final transactions with persons other than members of the group, and intercompany transactions which do not affect the consolidated taxable income shall not be eliminated. For the purpose of this subparagraph gain includible in income pursuant to section 357 (c) with respect to transfers of assets other than the capital assets and other than assets to which section 1231 is applicable, shall not be eliminated. For the purpose of the regulations under section 1502, a transaction not involving a sale or exchange of a capital asset or of property subject to the provisions of section 1231 shall not be considered an intercompany transaction if such transaction occurs in the regular course of the trade or business of the members of the group and if such members adopt, with the consent of the Commissioner and subject to such conditions as he deems proper, a consistent accounting practice of taking into account in the computation of consolidated taxable income the gains and losses reflected in such transactions. As used in this paragraph, the term "taxable income" includes the case in which the allowable deductions of a member (not including any net operating loss deduction) exceed its gross income.

(2) *Other computations on separate basis.* The various other computations required by the regulations under section 1502 to be made by the several affiliated corporations shall be made in the case of each such corporation in the same manner and under the same conditions as if a separate return were to be filed, but with the following exceptions:

(i) *Taxable income.* The taxable income used in any such computation shall be the taxable income of the corporation determined in accordance with the provisions of this section.

(ii) *Dividends received.* In the computation of the dividends received, there shall be excluded all dividends received from other members of the affiliated group.

(iii) *Capital gains and losses.* Capital gains and losses, short-term capital gains and losses, long-term capital gains and losses, and the additional capital loss deduction authorized by section 832 (c) (5) shall be determined without regard to—

(a) Gains or losses arising in intercompany transactions (other than gains described in section 357 (c)) and gains recognized to the distributing corpora-

tion pursuant to section 311 (c) by reason of distributions by one member of the group to another member of the group,

(b) Gains or losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231,

(c) The net capital loss carryovers provided in section 1212, and

(d) In the case of a corporation which became a member of the affiliated group subsequent to January 1, 1954, common parent corporation or subsidiary, as the case may be, capital losses to the extent disallowed pursuant to the provisions of subparagraph (9) of this paragraph.

(iv) *Net operating loss.* In the computation of the net operating loss, as defined in section 172, the provisions of this section pertaining to the determination of taxable income shall apply

(v) *Dividends paid.* In the computation of dividends paid, there shall be excluded all dividends paid by one member of the group to another, except as provided in § 1.1502-30 (b) (4)

(vi) *Federal income tax.* In the computation of the Federal income tax, there shall be used the consolidated tax, or a proportionate part thereof, if the tax payable is properly computed on the basis of the consolidated return.

(vii) *Dividends paid by public utility.* In the computation of dividends paid on the preferred stock of a public utility, there shall be excluded all dividends paid by such public utility to another member of the group.

(viii) *Gains or losses under section 1231.* Gains and losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231 shall be determined without regard to—

(a) Gains and losses from intercompany transactions (other than gains described in section 357 (c)) and gains recognized pursuant to section 311 (c) upon the distribution of property subject to the provisions of section 1231 by one member of the group to another member of the group, and

(b) In the case of a corporation which became a member of the affiliated group subsequent to January 1, 1954, common parent corporation or subsidiary, as the case may be, such portion of any such loss as is disallowed pursuant to the provisions of subparagraph (9) of this paragraph.

(ix) *Mutual savings banks, domestic building and loan associations, and cooperative banks.* In the case of a mutual savings bank, a domestic building and loan association, and a cooperative bank—

(a) In the computation of total deposits or withdrawable accounts at the close of the taxable year for the purpose of section 593 (2) (relating to the deduction for bad debts) there shall be excluded the total deposits or withdrawable accounts of other members of the group, and

(b) In the computation of the deduction provided in section 591 (relating to dividends paid by banking corporations) there shall be excluded amounts paid to,

or credited to the accounts of, other members of the group.

(3) *Limitations on net operating loss carry-overs and carry-backs from separate return years.* In no case shall there be included in the consolidated net operating loss deduction for the taxable year as consolidated net operating loss carry-overs under paragraph (a) (3) (ii) of this section (relating to the net operating losses sustained by a corporation in years for which separate returns were filed, or for which such corporation joined in a consolidated return filed by another affiliated group) and as consolidated net operating loss carry-backs under paragraph (a) (4) (iii) and (iv) of this section (relating to a net operating loss sustained by a corporation which for either of the two succeeding taxable years files a separate return or joins in a consolidated return filed by another affiliated group) an amount exceeding in the aggregate the taxable income of such corporation included in the computation of the consolidated taxable income for the taxable year decreased by its deductions under sections 243, 244, 245, 247, and 922 (and in the case of a member of an affiliated group to which the consolidated section 175 deduction is applicable, the section 175 deduction) increased by its separate net capital gain, and increased or decreased, as the case may be, with respect to its separate gains or losses from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231. This subparagraph shall not be applicable to a carry-over under paragraph (a) (3) (ii) of this section of a net operating loss of a corporation attributable to a period for which it was included in a consolidated return filed by another affiliated group for a taxable year beginning prior to January 1, 1954, all of whose members are included in the consolidated return filed for the taxable year if all of the members of such other affiliated group would have been members of the affiliated group if the law applicable to the taxable year had been applicable to such prior taxable year.

(4) *Law applicable to computations of net operating loss carryovers and carrybacks.* (i) In determining the amount of any net operating loss carry-back or carryover, consolidated or separate, to any taxable year, the necessary computations involving any other taxable year shall be made under the law and regulations applicable to such other taxable year. The preceding sentence shall apply with respect to all taxable years whether they begin before, on, or after January 1, 1954.

(ii) In the case of a consolidated net operating loss for a taxable year beginning in 1953 and ending in 1954, the amount of such consolidated net operating loss which shall be carried to the second preceding taxable year shall be the amount which bears the same ratio to such consolidated net operating loss as the number of days in the loss year after December 31, 1953, bears to the total number of days in such year. In determining the amount carried to any other taxable year, the amount ab-

sorbed for the second taxable year preceding the loss year shall not exceed the portion of the consolidated net operating loss which is carried to the second preceding taxable year.

(iii) For purposes of section 141 of the Internal Revenue Code of 1939 and that part of the regulations promulgated thereunder which relate to subchapter D of chapter 1 of such Code, excess profits net income and consolidated section 433 (a) excess profits net income shall be computed as if the regulations under section 1502 did not apply and as if such section and such regulations continued to apply to taxable years beginning after December 31, 1953.

(iv) Except as provided in (i), (ii) and (iii) of this subparagraph the computation of net operating loss deductions for the transitional years described in section 172 (g) shall be determined under regulations 129 in any case in which, under such section, the rules of the Internal Revenue Code of 1939 are applicable, and under the regulations under section 1502 in any case in which, under such section, the rules of the Internal Revenue Code of 1954 are applicable.

(5) *Limitation on absorption of unused dividend carryovers.* If, in the computation of the consolidated dividend carryover for the second consolidated return period in respect of which the income of a corporation is included in the consolidated return of the group, there is involved a separate unused dividend carryover of such corporation for the second preceding taxable year together with a consolidated unused dividend carryover for the second preceding taxable year, or if, for the second consolidated return period in respect of which the income of two or more members of the group is included in the consolidated return of the group, there are involved, the separate unused dividend carryovers of such corporations for the second preceding taxable year, no portion of the excess of the consolidated undistributed personal holding company income (determined without regard to any dividends paid deduction and dividend carryover) over the consolidated section 561 dividends paid deduction (determined without regard to any dividend carryover) for the first preceding taxable year shall be taken into account more than once in giving effect to the provisions of paragraph (a) (26) (ii) and (iv) of this section (relating to the computation of that part of the consolidated dividend carryover attributable to the unused dividend carryovers of the second preceding taxable year)

(6) *Apportionment of consolidated net operating loss.* If an affiliated group filing a consolidated return sustains a consolidated net operating loss within the provisions of section 172, relating to the net operating loss deduction, and if there are included as members of such group one or more corporations which made separate returns, or joined in a consolidated return filed by another affiliated group, either in a preceding taxable year or in a succeeding taxable year, the portion of such consolidated net operating loss attributable to such corporations severally shall be deter-

mined, such portion in the case of any such corporation being determined in an amount proportionate to the net losses (capital net losses and ordinary net losses alike) of the several affiliated corporations having net losses, to the extent that such losses were taken into account in the computation of the consolidated net operating loss.

(7) *Apportionment of consolidated net capital loss.* If an affiliated group filing a consolidated return sustains a consolidated net capital loss, and if there are included as members of such group one or more corporations which make separate returns, or join in a consolidated return filed by another affiliated group, in a succeeding taxable year, the portion of such consolidated net capital loss attributable to such corporations severally shall be determined, such portion in the case of any such corporation being an amount which bears the same ratio to the consolidated net capital loss which the net capital loss of such corporation bears to the aggregate of the net capital losses for the taxable year sustained by the several affiliated corporations having net capital losses.

(8) *Limitation on net capital loss carryover from separate return year.* In no case shall there be included in the computation of the consolidated net capital gain for the taxable year as a consolidated net capital loss carryover under paragraph (a) (11) (ii) of this section (relating to net capital losses separately sustained) an amount exceeding in the aggregate the net capital gains of such corporation (determined without regard to any net capital loss carryover) included in the computation of the consolidated net capital gain for the taxable year increased with respect to its separate net gains from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231.

(9) *Qualifications on deductions where group membership changed after January 1, 1954.* In the case of an affiliated group formed at any time after January 1, 1954, or having among its members in the taxable year one or more subsidiaries which became members of the group subsequent to January 1, 1954, the consolidated taxable income for the taxable year, and for prior and subsequent taxable years to the extent affected by carrybacks and carryovers from the taxable year, shall be determined subject to the following qualifications:

(1) There shall be excluded in the case of the common parent corporation and in the case of any subsidiaries which were members of the group on January 1, 1954, those deductions from gross income otherwise allowable with respect to—

(a) Sales or exchanges of capital assets,

(b) Involuntary conversions and sales or exchanges of property subject to the provisions of section 1231,

(c) Securities subject to the provisions of section 165 (g) (3), or

(d) Debts subject to the provisions of section 166,

to the extent that such deductions otherwise allowable exceed in the aggregate—

(e) In the case of capital losses, the excess of the aggregate capital gains over the aggregate capital losses of such corporations for the taxable year, or

(f) In the case of ordinary losses, the aggregate of the ordinary taxable income of such corporations for the taxable year, increased in an amount equal to any excess of aggregate capital gains over aggregate capital losses of such corporations,

such capital gains and losses and such ordinary taxable income being determined pursuant to the provisions of the regulations under section 1502 but without regard to the provisions of subparagraphs (1) (iv) and (2) (iii) (b) of this paragraph and without regard to the losses in question:

(i) There shall be excluded in the case of a subsidiary corporation which became a member of the affiliated group subsequent to January 1, 1954, those deductions from gross income otherwise allowable with respect to—

(a) Sales or exchanges of capital assets,

(b) Involuntary conversions and sales or exchanges of property subject to the provisions of section 1231,

(c) Securities subject to the provisions of section 165 (g) (3) or

(d) Debts subject to the provisions of section 166,

to the extent that such deductions otherwise allowable are attributable to events preceding the date upon which such corporation became a member of the group, and

(e) Being capital losses, exceed (1) the capital gains reduced by all other capital losses of such corporation for the taxable year, in the case in which such corporation was not, on January 1, 1954, a member of an affiliated group within the meaning of section 1504, or (2) in case such corporation was a member of an affiliated group on January 1, 1954, an amount which together with like losses computed subject to the provisions of the regulations under section 1502 in the case of other members of the group during the taxable year which were affiliated with such corporation on January 1, 1954, within the meaning of section 1504 is equal to the aggregate capital gains reduced by the aggregate of all other capital losses of such corporation and of such other members of the group, or

(f) Being ordinary losses excess (1) the ordinary taxable income of such corporation for the taxable year increased in an amount equal to any excess of capital gains over capital losses for the taxable year, in the case in which such corporation was not, on January 1, 1954, a member of an affiliated group within the meaning of section 1504, or (2) in case such corporation was a member of an affiliated group on January 1, 1954, an amount which, together with like losses computed subject to the provisions of the regulations under section 1502 in the case of other members of the group during the taxable year which were affiliated with such corporation on January 1, 1954, within the meaning of section 1504, is equal to the ordinary

taxable income of such corporation for the taxable year increased by the aggregate of the ordinary taxable income and decreased by the aggregate of the ordinary net losses of other members of the affiliated group during the taxable year which were affiliated with such corporation on January 1, 1954, within the meaning of section 1504, and increased further in an amount equal to any excess of aggregate capital gains over aggregate capital losses of such corporations,

such capital gains and losses, and ordinary taxable income and net losses, as the case may be, being determined pursuant to the provisions of the regulations under section 1502 but without regard to the provisions of subparagraphs (1) (iv) and (2) (iii) (b) of this paragraph, and without regard to the losses in question.

(iii) The portion of any loss otherwise allowable as a deduction for the taxable year which is disallowed pursuant to the provisions of (i) and (ii) of this subparagraph shall, to the extent that it constitutes a net capital loss or a net operating loss be considered as a net capital loss or a net operating loss, as the case may be, in respect of those members of the group by reference to which the amount of the deduction disallowed under (i) and (ii) of this subparagraph was determined, originating, for the purpose of the carryback provisions, in a taxable year subsequent to the last taxable year in respect of which their income was included in a consolidated return, and, for the purpose of the carryover provisions, in a taxable year prior to the first taxable year in respect of which their income was included in a consolidated return;

(iv) The provisions of (i) and (ii) of this subparagraph shall not apply with respect to the common parent corporation of an affiliated group formed subsequent to January 1, 1954, or to the common parent corporation or subsidiaries of a group in existence on January 1, 1954, acquiring new members subsequent to January 1, 1954, or with respect to subsidiaries becoming members of the group subsequent to January 1, 1954—

(a) If the group consists solely of the common parent corporation and one or more subsidiaries created, directly or indirectly, by the common parent corporation or by other members of the group;

(b) If, immediately after the corporation involved became a member of the group, common parent corporation or subsidiary, as the case may be, stock possessing at least 80 percent of the voting power of all classes of its stock then outstanding and at least 80 percent of each class of its nonvoting stock then outstanding is owned, directly or indirectly, by substantially the same interests by which such stock was owned on January 1, 1954;

(c) If the affiliated group involved was formed, or the new subsidiary became a member of the group, as an incident to an involuntary conversion or to a transfer made pursuant to an order of the Securities and Exchange Commission, the Federal Communications Commission, the Interstate Commerce

Commission, or a similar regulatory body of State or Federal Government; or

(d) To the extent to which, upon consideration of the facts or circumstances presented by the particular case, the Commissioner determines that a consolidated taxable income computed with respect to the affiliated group but without regard to those paragraphs will not serve to distort the income tax liability of the group or of any of its members.

(10) *Loss to group of investment in an affiliate.* In the case of a loss to one or more members of an affiliated group sustained during the taxable year as the result of the worthlessness of the investment of such members in another affiliate, whether such investment was reflected in the stock, bonds, or open account advances to such other affiliate—

(i) Such losses shall be taken into account in the computation of consolidated taxable income for the year of the loss in an amount not greater in the aggregate than the excess of the consolidated taxable income for such year computed without regard to any such loss over that portion of such consolidated taxable income so computed attributable to such other affiliate; and

(ii) The portion of any such loss otherwise allowable as a deduction for the taxable year which is disallowed pursuant to the provisions of (i) of this subparagraph shall be considered as a consolidated net operating loss to be taken into account as a consolidated carryback to the two preceding taxable years and as consolidated carryovers to succeeding taxable years, but in an amount not greater for any such year than the excess of the consolidated taxable income for such year, computed without regard to such carryback or carryover, as the case may be, over that portion of such consolidated taxable income so computed for such year attributable to such other affiliate.

(11) *Disposal of timber or coal—(i) Intercompany transactions.* Section 631 (b) or (c) (relating to the disposal of timber or coal) shall apply to an amount received by a member of the group only to the extent such amount is received by the member of the group as a party to a transaction described in section 631 (b) or (c) with persons not members of the group.

(ii) *Application of sections 531 and 541 to coal royalties.* For the purpose of determining the consolidated accumulated taxable income and the consolidated undistributed personal holding company income the provisions of 631 (c) shall not apply to any amount received by a member of the group upon the disposal of coal.

(12) *Mine exploration expenditures—(i) Limitation under section 615 (a)* If the aggregate of the deductions, computed without regard to this sentence, allowable under section 615 (a) to the several members of the group exceeds \$100,000,

(a) The deduction under that section allowable to any member of the group shall be an amount which bears the same ratio to \$100,000 as its deduction computed without regard to this sentence bears to the aggregate of such deduc-

tions so computed for the members of the group, except that,

(b) If all the members of the group consent in writing, the deduction under that section allowable to such member shall be the deduction under that section computed without regard to this sentence, or such part thereof as the common parent corporation shall determine at the time the consent is filed, provided, however, that the aggregate of the deductions so allowable for all members of the group shall not exceed \$100,000.

(ii) *Limitation under 615 (c)* If the limitation provided in section 615 (c) is applicable to any member of the group, such limitation shall be deemed applicable to all members of the group.

(13) *Apportionment of unused dividend carryover and allowance of consolidated deficiency dividends deduction—*

(i) *Apportionment of unused dividend carryover* If an affiliated group filing a consolidated return has an unused consolidated dividend carryover and if there are included as members of such group one or more corporations which make separate returns, or join in a consolidated return filed by another affiliated group or if any member of the group computes its tax liability under section 541 pursuant to the last sentence of § 1.502-30 (b) (4) in a succeeding taxable year, the portion of such unused consolidated dividend carryover attributable to such corporations severally shall be determined for the purpose of the dividend carryover, such portion in the case of any such corporation shall be determined in an amount proportionate to the deduction for dividends paid and the taxable incomes of the several affiliated corporations (determined with the adjustments provided in section 545) to the extent that such deduction and such taxable income were taken into account in the computation of the consolidated dividend carryover and the consolidated and undistributed personal holding company income.

(ii) *Deficiency dividends deduction.* For the purpose of applying section 547, relating to deficiency dividends, in case the affiliated group is subject to tax on its consolidated undistributed personal holding company income for the taxable year to which the deficiency in personal holding company tax relates, the consolidated deficiency dividends deduction described in paragraph (a) (25) of this section shall be allowed.

(14) *Apportionment of consolidated charitable contribution deduction.* If an affiliated group filing a consolidated return has an excess of the consolidated charitable contribution deduction over the limitation of paragraph (a) (1) (i) (c) of this section for the taxable year, and if there are included as members of such group one or more corporations which make separate returns or join in a consolidated return filed by another affiliated group in a succeeding taxable year, the portion of such excess attributable to such corporations severally shall be determined, such portion in the case of any such corporation being determined in an amount proportionate to such excess as the contributions of each

such corporation bear to the aggregate of such contributions.

(15) *Limitation on section 175 carryovers from separate return years.* In no case shall there be included in the consolidated section 175 deduction for the taxable year as consolidated section 175 carryovers under paragraph (a) (36) (ii) of this section (relating to excess section 175 deductions of a corporation for years for which separate returns were filed or for which such corporation joined in a consolidated return filed by another affiliated group) an amount exceeding in the aggregate the amount by which 25 percent of the gross income of such corporation derived from farming included in the computation of the consolidated section 175 gross income for the taxable year exceeds the amount of the expenditures of such corporation of the taxable year deductible under section 175.

(16) *Apportionment of consolidated section 175 deduction.* If an affiliated group filing a consolidated return has an excess of the consolidated section 175 deduction over the limitation of 25 percent of the consolidated section 175 gross income for the taxable year, and if there are included as members of such group one or more corporations which make separate returns, or are joined in a consolidated return filed by another affiliated group, in a succeeding taxable year, the portion of such excesses attributable to such corporations severally shall be determined; such portion in the case of any such corporation being determined in an amount proportionate to such excess as the deductions of each such corporation bears to the aggregate of such deductions.

(17) *Applicability of consolidated section 175 deduction.* An affiliated group shall not be eligible to use the consolidated section 175 deduction unless all of the members of such group which are engaged in the business of farming during the taxable year have adopted, pursuant to section 175 (d), the method described in section 175. In the case of a corporation which is a member of an affiliated group which is not eligible to use the consolidated section 175 deduction, the deduction provided by section 175 shall be used in the computation of the taxable income of such corporation in the same manner and under the same conditions as if a separate return were to be filed, except that the gross income from farming of such corporation shall be determined without regard to profits or losses on intercompany transactions; and proper adjustment shall be made to eliminate any distortion in the amount of gross income attributable to transactions between members of the group at markedly fictitious values.

(18) *Computation of consolidated accumulated taxable income.* In the computation of consolidated accumulated taxable income no amount shall be taken into account with respect to any income or deductions attributable to members of the affiliated group which are subject to tax under section 541 as described in the last sentence of § 1.1502-30 (b) (4)

(19) *Law applicable to the computation of consolidated dividends carryover.* In the computation of the consolidated section 561 dividends paid deduction, the amount of the consolidated dividends carryover from a year to which subtitle A is not applicable to a taxable year to which such subtitle applies shall be determined under Regulations 129 if a consolidated return was filed for the year in which the dividends were paid or under the provisions of the Internal Revenue Code of 1939 if a separate return was filed for such year.

(20) *Law applicable to computation of deficiency dividends deduction.* If a deficiency is asserted with respect to a taxable year which began before January 1, 1954, the amount of any "deficiency dividend" shall include only amounts which would have been includible in the computation of the consolidated basic surtax credit, as defined in Regulations 129, or in the computation under the Internal Revenue Code of 1939 of the basic surtax credit for such taxable year, as the case may be.

(21) *Rules with respect to net operating losses under sections 381 and 382.* (i) If, in the computation of the consolidated net operating loss carryover, there is included an amount with respect to a net operating loss of a corporation, not a member of the affiliated group, which is a transferor or distributor of assets to a member of the affiliated group within the meaning of section 381 (a), the amount allowable as a carryover with respect to such transferor or distributor shall not exceed the amount of the taxable income of the acquiring corporation included in the computation of the consolidated taxable income for the taxable year. The computation shall be made as described in subparagraph (3) of this paragraph as though the acquiring corporation had sustained a net operating loss in a year for which separate returns were filed or for which the acquiring corporation had joined in a consolidated return filed by another affiliated group.

(ii) If, in addition to the amount described in (i) of this subparagraph, there is included an amount with respect to a net operating loss sustained by the acquiring corporation in a year for which it filed separate returns or for which it joined in a consolidated return filed by another affiliated group, the losses sustained by both the acquiring corporation and the transferor or distributor corporation which may be taken into account as a net operating loss deduction in determining the consolidated taxable income may not exceed the taxable income of the acquiring corporation computed in a manner described in subparagraph (3) of this paragraph.

(iii) For purposes of (i) and (ii) of this subparagraph, if the transferor or distributor corporation was a member of another affiliated group which filed a consolidated return, the amount of the consolidated net operating loss of such affiliated group, if any, attributable to such transferor or distributor, shall be treated as the net operating loss of such corporation separately sustained.

(iv) In any case in which a consolidated net operating loss was sustained

by an affiliated group which includes a member whose net operating loss is subject to the limitations upon net operating losses provided by section 332, such section shall be applicable with respect to such member as if the portion of such consolidated net operating loss attributable to such corporation were a net operating loss of such corporation separately sustained.

(22) *Rules with respect to capital loss carryovers under section 381.* (i) If in the computation of the consolidated net capital loss carryovers for a taxable year there is included an amount with respect to a net capital loss of a corporation, not a member of the affiliated group, which is a transferor or distributor of property to a member of the affiliated group within the meaning of section 381 (a) the amount allowable with respect to such transferor or distributor shall not exceed the net capital gains of the acquiring corporation (determined without regard to any net capital loss carryover) included in the computation of the consolidated net capital gain for the taxable year increased with respect to its separate gains from involuntary conversions and from sales or exchanges of property subject to the provisions of section 1231.

(ii) If there is included under paragraph (a) (11) (ii) of this section an amount with respect to net capital losses separately sustained by such acquiring corporation in years for which separate returns were filed or for which such corporation joined in a consolidated return filed by another affiliated group, the limitation described in (i) of this subparagraph shall be applicable with respect to the aggregate of such losses and the losses of its transferor or distributor corporations.

(iii) For purposes of (i) and (ii) of this subparagraph if the transferor or distributor corporation was a member of another affiliated group which filed a consolidated return, the amount of the consolidated net capital loss of such affiliated group, if any, attributable to such transferor or distributor, shall be treated as the net capital loss of such corporation separately sustained.

(c) *Statements and schedules for subsidiaries.* The statement of gross income and deductions and the several schedules required by the instructions on the return must be prepared and filed by the common parent corporation in columnar form so that the details of the items of gross income, deductions, and credits, for each member of the affiliated group, may be readily audited. Such statements and schedules shall include in columnar form a reconciliation of surplus for each such corporation, together with a reconciliation of the consolidated surplus. Consolidated balance sheets as of the beginning and close of the taxable year of the group, taken from the books of the members of the group, shall accompany the consolidated return prepared in a form similar to that required for reconciliation of surplus. If any member of the affiliated group computes its tax under section 541 in the manner provided in § 1.1502-30 (b) (4) a personal holding company

schedule for such corporation shall be filed with the consolidated return.

(d) *Net operating loss deduction, excess charitable contributions, excess section 175 deductions, and dividend carryover before or after consolidated return period.* The consolidated net operating loss of an affiliated group, the excess of the consolidated charitable contributions over the 5 percent limitation of paragraph (a) (1) (i) (c) of this section, the excess of the deductions under section 175 over the limitation of 25 percent provided in paragraph (a) (1) (i) (f) of this section, or the unused consolidated dividend carryover shall be used in computing the consolidated net operating loss deduction, the consolidated charitable contribution carryover, the consolidated section 175 carryover, or the consolidated dividend carryover, as the case may be, notwithstanding that one or more corporations members of the group in the taxable year in which such loss or carryovers originate make separate returns (or join in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year) but only to the extent that such consolidated net operating loss, such excess charitable contribution, such excess section 175 deduction, or such unused consolidated dividend carryover is not attributable to such corporations; and such portion of such consolidated net operating loss, such excess charitable contributions, such unused section 175 deductions, or such unused consolidated dividend carryover as is attributable to the several corporations making separate returns or computing their tax liability under section 541 pursuant to the last sentence of § 1.1502-30 (b) (4) (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year (or in the case of a carryback computation for a preceding taxable year) shall be used by such corporations severally as carryovers or as carrybacks in such separate returns in such separate computations under section 541, or in such consolidated returns of the other affiliated group. Any unused dividend carryover of a corporation separately produced for a year prior to a taxable year in respect of which its tax liability under section 541 is computed upon the consolidated undistributed personal holding company income shall be used in computing the dividend carryover of such corporation (or the consolidated dividend carryover of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such unused dividend carryover was not absorbed in the computation of the consolidated section 561 dividends paid deduction for the intervening consolidated return period. Any net operating loss separately sustained by a corporation prior to a first taxable year in respect of which its income is included in the consolidated return of the group (or in either of the two years immediately following a consolidated return year) shall

be used in computing the net operating loss deduction of such corporation (or the consolidated net operating loss deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net operating loss was not absorbed (either as a carryover or as a carryback) in the computation of the consolidated net operating loss deduction for consolidated return periods. Any excess of charitable contributions of a corporation for the year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the charitable contribution deduction of such corporation (or the consolidated charitable contribution deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess charitable contribution was not absorbed as a carryover in the consolidated charitable contribution deduction for consolidated return periods. Any excess of section 175 deductions of a corporation for a year prior to a first taxable year in respect of which its income is included in the consolidated return of the group shall be used in computing the section 175 deduction of such corporation (or the consolidated section 175 deduction of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such excess section 175 deduction was not absorbed as a carryover in the computation of a consolidated section 175 deduction for consolidated return periods.

(e) *Taxable year of less than 12 months.* Any period of less than 12 months for which either a separate return or a consolidated return is filed under the provisions of § 1.1502-13 shall be considered as a taxable year.

§ 1.1502-32 *Method of computation of income for period of less than 12 months.* If a corporation, during the taxable year of the group, becomes a member or ceases to be a member of an affiliated group which makes or is required to make a consolidated return for such year, the income of such corporation to be included in the consolidated return shall be computed on the basis of its income as shown by its books if the accounts are so kept that the income for the period during which it is a member of the group can be clearly and accurately determined. If the accounts are not so kept, the income to be included in the consolidated return shall be computed on the basis of that proportion of its income (subject to the elimination of items exempt from taxation and the addition of items not allowable as deductions) for the full period covered by its books which the number of days for which its income is included in the consolidated return bears to the number of days in the full period covered by its

books; but, in the discretion of the Commissioner, there may be eliminated before the proration is made items of income or deduction clearly and accurately determined to be attributable to particular periods, and, after the proration is made, such eliminated items will be added to (if items of income) or deducted from (if deductible items) the income determined by proration for the period to which such items are applicable.

§ 1.1502-33 *Gain or loss from sale of stock, or bonds or other obligations.* Gain or loss from the sale or other disposition (whether or not during a consolidated return period) by a corporation which during any period of time has been a member of an affiliated group which makes or is required to make a consolidated return, of any share of stock or any bond or other obligation issued or incurred by another corporation which during any part of such period was a member of the same group, shall be determined, and the extent to which such gain or loss shall be recognized and shall be taken into account shall also be determined, in the same manner, to the same extent, and upon the same conditions as though such corporations had never been affiliated except—

(a) In the case of a disposition (by sale, or in complete or partial liquidation not involving cash in an amount in excess of the adjusted basis of both the stock and the bonds and other indebtedness liquidated, or otherwise) during a consolidated return period to another member of the group (§§ 1.1502-31 and 1.1502-37)

(b) That the basis for determining the gain or loss, in the case of shares of stock, or in the case of bonds or other obligations, held during any part of a consolidated return period, shall be determined in accordance with § 1.1502-34 and 1.1502-35; and

(c) As provided in § 1.1502-36 (imposing certain limitations upon losses otherwise allowable upon sales of stock, or bonds or other obligations)

§ 1.1502-34 *Sale of stock; basis for determining gain or loss—*(a) *Scope of section.* This section prescribes the basis for determining the gain or loss upon any sale or other disposition (hereinafter referred to as "sale") by a corporation which is (or has been) a member of an affiliated group which makes (or has made) a consolidated return for any taxable year, of any share of stock issued by another member of such group (whether issued before or during the period that it was a member of the group and whether issued before, during, or after the taxable year 1929) and held by the selling corporation during any part of a period for which a consolidated return is made or required under the regulations under section 1502. For the basis in the case of a sale of bonds, see § 1.1502-35.

(b) *Sales made while selling corporation is member of affiliated group.* If the sale is made within a period during which the selling corporation is a member of the affiliated group, whether or not during a consolidated return period, and whether or not, as a result of such

sale, the issuing corporation ceases to be a member of the group, the basis shall be determined as follows:

(1) The aggregate bases of all shares of stock of the issuing corporation held by each member of the affiliated group (exclusive of the issuing corporation) immediately prior to the sale, shall be determined separately for each member of the group, and adjusted in accordance with the other provisions of subtitle A, but without regard to any adjustment under the last sentence of section 1051 relating to losses of the issuing corporation sustained by such corporation after it became a member of the group.

(2) From the combined aggregate bases as determined in subparagraph (1) of this paragraph, there shall be deducted the sum of—

(i) All losses of such issuing corporation sustained during taxable years for which consolidated income tax returns were made or were required (whether the taxable year 1929 or any prior or subsequent taxable year) after such corporation became a member of the affiliated group and prior to the sale of the stock to the extent that such losses could not have been availed of by such corporation as net loss or net operating loss in computing its net income or taxable income, as the case may be, for such taxable years if it had made a separate return for each of such years,

(ii) With respect to each of such taxable years for which consolidated returns were made or were required both for income and for excess profits tax purposes, the excess, if any, of all losses of such issuing corporation for such year, properly adjusted in the computation of consolidated excess profits net income over the amount of such losses for such year computed under (i) of this subparagraph to the extent that such excess could not have been availed of by such corporation as a net operating loss in computing its excess profits net income for such taxable years if it had made a separate return for each of such years, and

(iii) With respect to each of such taxable years for which consolidated returns were made or were required for excess profits tax purposes only, all losses of such issuing corporation for such year, properly adjusted in the computation of consolidated excess profits net income, to the extent that such losses could not have been availed of by such corporation as a net operating loss in computing its excess profits net income for such taxable years if it had made a separate excess profits tax return for each of such years,

reduced by any losses of the issuing corporation apportioned under this section to its stock sold or otherwise disposed of in a prior transaction, disregarding any transaction between members of the affiliated group during a consolidated income or excess profits tax return period which did not constitute a partial liquidation of the issuing corporation. For any taxable year in which the group sustained a consolidated loss not availed of in prior or subsequent years as a deduction under net loss or net operating loss provisions, the amount deducted under

this subparagraph shall be further reduced by an amount equal to that proportion of such consolidated loss which the loss of the issuing corporation for the year in which such loss was sustained bears to the aggregate losses of the members of the group for such year.

(3) The sum of the aggregate bases of all shares of stock, after making the deduction under subparagraph (2) of this paragraph, shall then be apportioned among the members of the affiliated group which hold stock of the issuing corporation, by allocating to each such member that proportion of the sum of the aggregate bases so reduced which the aggregate basis of the stock in the issuing corporation held by such member bears to the sum of the aggregate bases.

(4) The aggregate basis as determined under subparagraph (3) of this paragraph for each member of the affiliated group shall then be equitably apportioned among the several classes of stock of the issuing corporation held by such member according to the circumstances of the case—ordinarily by allocating to each class of such stock that proportion of the aggregate basis which the basis of each class of such stock held by it at the time of the sale is to the sum of the bases of the several classes of such stock held by it.

(5) The basis of each share of stock of each class held by a member of the affiliated group shall then be determined by dividing the basis apportioned to such class under subparagraph (4) of this paragraph by the total number of shares of such class held by it.

(c) *Sales after selling corporation has ceased to be member of affiliated group.* If the sale is made after the selling corporation has ceased to be a member of the affiliated group, such basis shall be determined in accordance with paragraph (b) of this section, except that—

(1) The aggregate basis (under paragraph (b) (1) of this section) shall be determined for all shares of the issuing corporation held by each member of the group immediately prior to the time the selling corporation ceased to be a member of the group (rather than immediately prior to the sale),

(2) The reduction (under paragraph (b) (2) of this section) with respect to losses apportioned to stock sold or otherwise disposed of in prior transactions shall be determined without regard to the transaction which terminated the affiliation and all subsequent transactions;

(3) The allocation (under paragraph (b) (3) of this section) shall be made to each member of the group which held stock of the issuing corporation immediately prior to the time the selling corporation ceased to be a member of the group (rather than to the members holding such stock at the time of the sale), and

(4) The basis of each share of stock held by the selling corporation (determined, as above, as of the time the selling corporation ceased to be a member of the group) shall then be adjusted in accordance with the other provisions of subtitle A in order to determine the basis at the time of the sale.

(d) *Definition of "loss" "consolidated loss" "net loss" or "net operating loss", and "consolidated excess profits net income"* As used in this section the term "loss" means either the excess over the gross income of the issuing corporation of the sum of its allowable deductions (not including any net loss or net operating loss deduction) allowable in computing consolidated taxable income or the excess over the gross income of the issuing corporation of the sum of its allowable deductions (not including any net loss or net operating loss deduction), plus the proportionate part properly attributable to such corporation of the credits relating to interest on certain Government obligations and dividends received allowable in computing consolidated normal tax net income, the consolidated special class net income or consolidated net income subject to tax determined in accordance with the Internal Revenue Code of 1939 and provisions of consolidated returns regulations applicable to the period. The term "consolidated loss" means the excess of the sum of the losses, separately computed, over the sum of the normal tax net income, the special class net income, the net income subject to tax or the taxable income determined in accordance with the provisions of the Internal Revenue Code of 1939 or the Revenue Act or of subtitle A of the Internal Revenue Code of 1954 and pursuant to the provisions of consolidated returns regulations applicable to the period; the term "net loss" or "net operating loss" means the net loss or net operating loss, as the case may be, determined in accordance with the provisions of the Internal Revenue Code of 1939 or the Revenue Act or of subtitle A of the Internal Revenue Code of 1954 and pursuant to the provisions of consolidated returns regulations applicable to the period; and the term "consolidated excess profits net income" means the consolidated excess profits net income or consolidated section 433 (a) excess profits net income determined in accordance with the provisions of the Internal Revenue Code of 1939 or the Revenue Act and pursuant to the provisions of consolidated returns regulations applicable to the period.

§ 1.1502-35 *Sale of bonds or other obligations; basis for determining gain or loss.* In the case of a sale or other disposition by a corporation, which is (or has been) a member of an affiliated group which makes (or has made) a consolidated income tax or excess profits tax return for any taxable year, of bonds or other obligations issued or incurred by another member of such group (whether or not issued or incurred while it was a member of the group and whether issued or incurred before, during, or after the taxable year 1929) and held by the selling corporation during any part of a period for which a consolidated return is made or required under the regulations under section 1502, the basis of each bond or obligation, for determining the gain or loss upon such sale or other disposition, determined in accordance with the other provisions of subtitle A, but without regard to any adjustment under the last sentence of

section 1051, shall be decreased (except as otherwise provided in this section) by the excess, if any, of the aggregate of the deductions computed under § 1.1502-34 (b) (2) or (c) over the sum of the aggregate bases of the stock of the debtor corporation as computed under § 1.1502-34 (b) (1) or (c) as the case may be, held by the members of the group. The adjustment with respect to so much of such deductions as is based upon losses sustained during the taxable year 1929 and subsequent taxable years for which the last day prescribed by law for the filing of the return fell on or before March 1, 1945 (the date on which Treasury Decision 5441 was filed with the Division of the Federal Register) and availed of on consolidated returns filed for such years shall be made only in those cases in which the sales or other disposition of such bonds or other obligations resulted in a loss. See also § 1.1502-40 relating to disallowance of loss upon intercompany bad debts.

§ 1.1502-36 *Limitation on allowable losses on sale of stock, or bonds, or other obligations—(a) General rule.* No loss shall be allowed under §§ 1.1502-33, 1.1502-34, or 1.1502-35 upon the sale or other disposition of stock or bonds or obligations to the extent that such loss is attributable to—

(1) Transfers of assets within the affiliated group (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period in which the corporations were affiliated (whether or not a consolidated return was made), or

(2) A distribution during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group.

(b) *Qualification of general rule.* Paragraph (a) of this section shall not be considered as in any way limiting the operation of the provisions of subtitle A relating to the basis for determining gain or loss upon the sale or other disposition of property, but as being in amplification of and not in substitution for such provisions; subject, however, to this qualification; that to the extent that the transfers of assets referred to in paragraph (a) of this section are taken into account under the terms of subtitle A in making adjustments in the basis, such transfers will not be taken into account, in denying losses under paragraph (a) of this section.

§ 1.1502-37 *Liquidations; recognition of gain or loss—(a) During consolidated return period.* (1) Gain or loss shall not be recognized upon a distribution during a consolidated return period, by a member of an affiliated group to another member of such group, in cancellation or redemption of all or any portion of its stock, except—

(i) Where such distribution is in complete liquidation and redemption of all of its stock (whether in one distribution or a series) and of its bonds and other indebtedness, if any, and falls without the provisions of section 332, and is the result of a bona fide termination of the business and operations of such member

of the group, in which case the adjustments specified in §§ 1.1502-34 and 1.1502-35 shall be made, and § 1.1502-36 shall be applicable; or

(ii) Where such a distribution without the provisions of section 332 is one made in cash in an amount in excess of the adjusted basis of the stock, and bonds and other indebtedness, in which case gain shall be recognized to the extent of such excess.

(2) When the business and operations of the liquidated member of the affiliated group are continued by another member of the group, it shall not be considered a bona fide termination of the business and operations of the liquidated member. With respect to the acquisition of its bonds by the issuing company, see § 1.1502-41 (b)

(3) For the purpose of determining whether an affiliated corporation receiving property in a liquidating distribution qualifies under the provisions of section 332 (b) (1), the aggregate amount of the stock of the liquidated corporation owned by the several members of the affiliated group on the date of the adoption of the plan of liquidation and at all times, subsequent thereto and prior to the receipt of the property in liquidation shall be considered as owned by the distributee.

(b) *After consolidated return period.* In case any such distribution is made after a consolidated return period, whether in complete or partial liquidation, except a complete liquidation within the provisions of section 332 (b) with respect to stock and with respect to bonds, debentures, notes, certificates, and other indebtedness of the liquidated corporation acquired prior to or during any taxable year subsequent to 1928 for which a consolidated income or excess profits tax return was filed, the adjustments specified in §§ 1.1502-34 and 1.1502-35 shall be made, and § 1.1502-36 will be applicable.

§ 1.1502-38 *Basis of property—(a) General rule.* Subject to the provisions of paragraphs (b) and (c) of this section and except as otherwise provided in §§ 1.1502-34, 1.1502-35 and 1.1502-39 the basis during a consolidated return period for determining the gain or loss from the sale or other disposition of property, or upon which exhaustion, wear and tear, obsolescence, amortization, and depletion are to be allowed, shall be determined and adjusted in the same manner as if the corporations were not affiliated, whether such property was acquired before or during a consolidated return period. Except as otherwise provided in § 1.1502-39 such basis immediately after a consolidated return period (whether the affiliation has been broken or whether the privilege of making a consolidated return is not exercised) shall be the same as immediately prior to the close of such period.

(b) *Intercompany transactions.* The basis prescribed in paragraph (a) of this section shall not be affected by reason of a transfer during a consolidated return period, other than upon liquidation as provided in paragraph (c) of this section (whether by sale, gift, dividend, or otherwise) from a member of the

affiliated group to another member of such group.

(c) *Basis after liquidation.* (1) Where property is acquired upon a distribution described in § 1.1502-37 (a) in which gain or loss is recognized to the distributee, the basis of such property shall be its fair market value at date of acquisition.

(2) Where property is acquired upon a liquidation to which section 332 is applicable and if the first distribution in pursuance of the plan of liquidation occurs on or after June 22, 1954—

(i) Unless (ii) of this subparagraph is applicable, the basis of such property shall be the same as it would be in the hands of the transferor;

(ii) The basis of such property shall be determined pursuant to section 334 (b) (2) if such liquidation meets the requirements of such section and

(a) There have occurred no transactions between such corporation and other members of the group during the period such corporation was included in a consolidated return of the affiliated group, or

(b) If such transactions have occurred, it is established to the satisfaction of the Commissioner prior to the first distribution in liquidation that there will be no distortion of income and no substantial variation in basis of property from the basis such property would have had if there had been no such transactions.

(3) Where property is acquired upon a distribution (not a complete liquidation within the provisions of section 332 (b)) in which gain or loss to the distributee is not recognized as provided in § 1.1502-37 (a) the basis of such property shall be the same as the basis of the stock and the bonds and other obligations exchanged therefor, adjusted for—

(i) The transfer of assets within the affiliated group by the distributing corporation (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period for which the corporations were affiliated (whether or not a consolidated return was made)

(ii) Distributions during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group; and

(iii) Cash received in the distribution.

(4) Where property was acquired upon a distribution in which gain or loss to the distributee was recognized pursuant to the provisions of section 333 (a) or the corresponding provisions of the Internal Revenue Code of 1939 or the Revenue Act of 1938, the basis of such property shall be the same as the basis of the stock exchanged therefor, adjusted for—

(i) The transfer of assets within the affiliated group by the distributing corporation (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period for which the corporations were affiliated (whether or not a consolidated return was made),

(ii) Distribution during a consolidated return period of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group;

(iii) Cash received in the distribution; and

(iv) The amount of gain recognized to the distributee in the liquidation.

(d) *Basis not affected by acquisition or sale of stock.* Neither the acquisition of stock of a corporation nor its sale or other disposition shall affect the basis of the property of such corporation for determining gain or loss or upon which exhaustion, wear and tear, obsolescence, amortization, and depletion are to be allowed.

§ 1.1502-39 *Inventories*—(a) *Consolidated return for first year of affiliation.* If the income of an affiliated corporation is included in a consolidated return for the period immediately following the date upon which such corporation became a member of the affiliated group, the value of its opening inventory to be used in computing the consolidated taxable income shall be the proper value of the closing inventory used in computing its taxable income for the preceding taxable year.

(b) *Consolidated return after separate return by affiliates.* If—

(1) A corporation which is a member of the affiliated group for the first consolidated return period was a member of the group in the preceding taxable year, or

(2) A corporation which filed a separate return for its previous taxable year was not a member of the affiliated group within the meaning of section 141 of the Internal Revenue Code of 1939, at any time during the last taxable year of the group not subject to section 1502, but which would have been a member of the group during such period if section 1504 had been applicable and is a member of the affiliated group filing a consolidated return for the first taxable year to which section 1502 is applicable,

the value of its opening inventory to be used in computing the consolidated taxable income for the first consolidated return period shall be the proper value of the closing inventory used in computing its taxable income for the preceding taxable year, decreased in the amount of profits or increased in the amount of losses reflected in such inventories which arose in transactions between members of the affiliated group and which have not been realized by the group through final transactions with persons other than members of the group.

(c) *Separate returns made after consolidated returns.* If a corporation which was a member of an affiliated group in a consolidated return period makes or is required to make a separate return for the succeeding taxable year, the value of its opening inventory to be used in computing its taxable income for such succeeding taxable year shall be the proper value of its closing inventory used in computing consolidated taxable income for the last consolidated return period increased in the amount of profits or decreased in the amount of

losses eliminated in the computation of such inventory as profits or losses arising in transactions between members of the affiliated group, but in an amount not exceeding, in the case of profits, either the amount of profits arising from such intercompany transactions reflected in the closing inventory of such corporation for such succeeding taxable year or the amount of such intercompany profits eliminated from its opening inventory for its first consolidated return period pursuant to the provisions of paragraph (b) of this section, and not exceeding, in the case of losses, either the amount of losses arising from intercompany transactions reflected in the closing inventory for such corporation for such succeeding taxable year or the amount of such intercompany losses eliminated from its opening inventory for its first consolidated return period pursuant to the provisions of paragraph (b) of this section.

§ 1.1502-40 *Bad debts*—(a) *Deduction during consolidated return period.* No deduction shall be allowed during a consolidated return period to any member of the affiliated group on account of worthlessness in whole or in part of any obligation (including accounts receivable, bonds, notes, debts, and claims of whatsoever nature) of any other corporation which was a member of the group as of the last day of the taxable year or which was liquidated by the group during such year, except as a loss resulting from a bona fide termination of the business and operations of such other corporation, whether in liquidation or otherwise, in which case the loss shall be computed subject to the adjustments specified in § 1.1502-35 and the provisions of § 1.1502-36 shall be applicable.

(b) *Limitation of allowance after consolidated return period.* With respect to obligations (including accounts receivable) of a member of an affiliated group acquired in any way by another member of the group prior to or during any taxable year subsequent to 1928 for which a consolidated income or excess profits tax return was filed, the adjustments prescribed with respect to the allowance of losses upon the sale of bonds shall be applicable to the allowance of any bad debt deduction for any period subsequent to the consolidated return period. See § 1.1502-35.

§ 1.1502-41 *Sale and retirement by corporation of its bonds*—(a) *Issued at discount or premium.* If a corporation which during any taxable year has been a member of an affiliated group which makes or is required to make a consolidated return, has issued its bonds at a discount or premium (whether or not during a consolidated return period), deduction will be allowed for the amortization of the discount, and income included for the amortization of the premium, in the same manner, to the same extent, and upon the same conditions as if the corporation had never been affiliated, except that no deduction for amortization of discount shall be allowed, and no income shall be included for amortization of premium, during a period for which a consolidated return is

made, on bonds of one member of the group owned by another member of the group.

(b) *Acquisition of bonds by issuing company.* If a corporation which has been a member of an affiliated group which makes or is required to make a consolidated return, acquires its bonds (whether or not from another member of such group and whether or not during a consolidated return period), gain or loss shall be recognized in the same manner to the same extent and upon the same conditions as if the corporation had never been affiliated, except that, if such bonds are acquired from another member of the group during a consolidated return period, and in a transaction other than a distribution in a liquidation in which gain or loss to the distributee is recognized pursuant to § 1.1502-37 (a) in determining the gain or loss to the issuing company from such acquisition, the basis thereof to such other member of the group shall be deemed the purchase price.

§ 1.1502-42 *Capital loss limitations and carryover.* (a) The provisions of sections 165, 832 (c) (5) 1211, 1212, and 1231 with respect to gains and losses from sales or exchanges of capital assets shall be applied, in respect of such gains and losses sustained during a consolidated return period as if the affiliated group were the taxpayer.

(b) With respect to a net capital loss sustained by a corporation in a taxable year prior to the first consolidated return period in respect of which its income is included in a consolidated return, such loss (in an amount not in excess of the net capital gain of such corporation for succeeding consolidated return periods) shall, for the purposes of section 1212, relating to net capital loss carryovers, be treated as if such net capital loss had been sustained by the affiliated group.

(c) A consolidated net capital loss of an affiliated group for a consolidated return period shall be considered as a consolidated short-term capital loss in subsequent consolidated return periods notwithstanding that one or more corporations, members of the group in the taxable year in which such loss was sustained, make separate returns for subsequent taxable years (or join in a consolidated return made by another affiliated group) but only to the extent that such consolidated net capital loss is not attributable to such corporations; and such portion of such consolidated net capital loss as is attributable to the several corporations making separate returns (or joining in a consolidated return made by another affiliated group) for a subsequent taxable year shall be considered as a short-term capital loss in such separate returns, or in such consolidated return of the other affiliated group, but only to the extent that such portion of such consolidated net capital loss was not absorbed in intervening taxable years by net capital gains, consolidated or separate, as the case may be. Any net capital loss sustained by a corporation prior to the first taxable year in respect of which its income is included in the consolidated return shall

be considered as a short-term capital loss in the separate return of such corporation (or the consolidated return of another affiliated group of which it becomes a member) for a subsequent taxable year for which it makes a separate return or joins in a consolidated return of another group, but only to the extent that such net capital loss was not absorbed in intervening taxable years by net capital gains, consolidated or separate, as the case may be.

§ 1.1502-43 *Credit for foreign taxes.* The credit allowed to an affiliated group for taxes paid or accrued under section 901 and for taxes deemed to have been paid under section 902 during the consolidated return period to any foreign country or to any possession of the United States, shall be computed and allowed as if the affiliated group were the taxpayer and as if the aggregate taxes paid or deemed to have been paid by the several members of the group and the credits allowed with respect to such payments were payments made and deemed to have been made by, and credits allowed to, the group.

§ 1.1502-44 *Methods of accounting—*
(a) *In general.* All members of the affiliated group shall adopt that method of accounting which clearly reflects the consolidated taxable income. A method of accounting which does not treat with reasonable consistency all items of gross income and deductions of the various members of the group shall not be regarded as clearly reflecting the consolidated taxable income. For example, one member of the group will not be permitted to report items of income or deductions on the cash method of accounting while another member of the same group reports the same or similar items on the accrual method. The provisions of this paragraph are subject to the exceptions stated in paragraph (b) of this section.

(b) *Combination of methods.* If the members of an affiliated group have established different methods of accounting, each member may retain such method with the consent of the Commissioner: *Provided,* That the consolidated taxable income is clearly reflected: *And provided further,* That intercompany transactions affecting such consolidated taxable income shall be eliminated and adjustments on account of such transactions shall be made with reference to a uniform method of accounting to be elected by the members of the group with the consent of the Commissioner.

(c) *Adjustments required by changes in method of accounting.* In any case in which a member of an affiliated group changes its method of accounting the provisions of section 481 (a) shall be applicable.

§ 1.1502-45 *Mine exploration expenditures.* For the purpose of applying the limitation provided in section 615 (c) (whether during a consolidated return period or during a period for which a separate return is made), if during a preceding taxable year for which a consolidated return was made or was required to be made any member of the

affiliated group for such preceding taxable year was allowed the deduction provided in section 615 (a) or made the election provided in section 615 (b) each member of the affiliated group for such preceding taxable year shall be deemed to have been allowed such deduction or to have made such election, as the case may be.

§ 1.1502-46 *Depreciation.* In the computation of the deduction for depreciation under section 167, the status of property in the hands of one member of the group for the purposes of such section shall continue in the hands of any other member of the group if such property is transferred to such other member of the group during a consolidated return period.

§ 1.1502-47 *Election to deduct accrued taxes.* If all members of the affiliated group were taxpayers which, for each taxable year in which they were subject to the tax imposed by section 500 of the Internal Revenue Code of 1939 deducted Federal income and excess profits taxes when paid for the purpose of computing subchapter A net income under such Code, the affiliated group shall, if the tax liability under section 541 is computed upon the consolidated undistributed personal holding company income, deduct taxes under section 545 when paid unless a member of the common affiliated group elects in its return or the common parent elects in a consolidated return for the group of which it is the common parent for a taxable year ending after June 30, 1954, to deduct the taxes described in section 545, when accrued. In any case in which the common parent corporation or any member of the affiliated group has, prior to the taxable year, elected to deduct such taxes when accrued, each member of the group shall be deemed to have so elected in the first year thereafter in which its income is included in the consolidated personal holding company income. If an election is made by the common parent corporation with respect to a year for which the tax liability under section 541 is computed upon the consolidated undistributed personal holding company income, each member of the group shall be deemed to have made such election in such year. Any such election made or deemed to have been made shall be applicable to each member of the group for the taxable year for which the election is made and for all subsequent taxable years. Any election so made shall be irrevocable.

§ 1.1502-48 *Liability for tax under section 531.* In any case in which an affiliated group computes the tax liability under section 541, upon the consolidated undistributed personal holding company income, the tax imposed by section 531 shall not be applicable.

§ 1.1502-49 *Additions to tax for failure to pay estimated tax.* In determining any addition to the tax for underpayment of estimated tax provided by section 6655 of a member of an affiliated group which files a consolidated return for the taxable year, the amount of tax of such group for the taxable year shall be allocated to the several members of the affiliated group in the manner pro-

vided by § 1.1552-1 (a) (1). In the application of section 6655 (d) (1) with respect to a member of the group which was included in a consolidated return for the immediately preceding taxable year (whether of this or another affiliated group) the tax of such corporation for such preceding taxable year shall be the portion of the consolidated tax liability apportioned as provided in § 1.1552-1 (a) (1), and in the application of section 6655 (d) (2) the "facts shown on the return" shall be the facts shown on the consolidated return of the affiliated group for the immediately preceding taxable year attributable to such corporation.

§ 1.1502-50 *Gain on sale of bonds and other evidences of indebtedness.* In the application of section 1232 (a) if one member of the affiliated group acquires a bond or other evidence of indebtedness from another member of the affiliated group during a consolidated return period, the determination of the amount which is treated as gain from the sale or exchange of property which is not a capital asset shall be made by including in the period of time during which such bond or other evidence of indebtedness was held, the period of time during which it was held by any other corporation which transferred it in a transaction to which § 1.1502-31 (b) (1) (i) (or the corresponding provision of prior consolidated returns regulations) is applicable without regard to any period of time before the last sale or exchange of such instrument to which such section is not applicable. In the application of section 1232 (c) if a bond or other evidence of indebtedness was acquired from another member of an affiliated group during a consolidated return period, then the bond or other evidence of indebtedness shall be deemed to have been purchased at the time of, and as having a market value with coupons attached, determined by reference to the earliest date of purchase by any other corporation which transferred it in a transaction to which § 1.1502-31 (b) (1) (i) (or the corresponding provision of prior consolidated returns regulations) is applicable without regard to any purchase prior to the last purchase to which such section is not applicable.

§ 1.1503 *Statutory provisions; computation and payment of tax.*

SEC. 1503. *Computation and payment of tax—(a) General rule.* In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under section 1502 prescribed prior to the last day prescribed by law for the filing of such return; except that the tax imposed under section 11 (c) or section 831 shall be increased for any taxable year by 2 percent of the consolidated taxable income of the affiliated group of includible corporations. For purposes of this section, the term "consolidated taxable income" means the consolidated taxable income computed without regard to the deduction provided by section 242 for partially tax-exempt interest.

(b) *Limitation.* If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 921) or one or more regulated public utilities (as defined in subsection (c)), the increase

of 2 percent provided in subsection (a) shall be applied only on the amount by which the consolidated taxable income of the affiliated group exceeds the portion (if any) of the consolidated taxable income attributable to the Western Hemisphere trade corporations and regulated public utilities included in such group.

(c) *Regulated public utility defined—(1) In general.* For purposes of subsection (b), the term "regulated public utility" means—

(A) A corporation engaged in the furnishing or sale of—

(i) Electric energy, gas, water, or sewerage disposal services, or

(ii) Transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) Transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipeline, if subject to the jurisdiction of the Federal Power Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Interstate Commerce Commission, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Interstate Commerce Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Civil Aeronautics Board.

(F) A corporation engaged in the furnishing or sale of transportation by common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933.

(2) *Limitation.* For purposes of subsection (b), the term "regulated public utility" does not (except as provided in paragraph (3)) include a corporation described in paragraph (1) unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in paragraph (1). If the taxpayer establishes to the satisfaction of the Secretary or his delegate that—

(A) Its revenue from regulated rates described in paragraph (1) (A) or (D) and its revenue derived from unregulated rates are derived from its operation of a single interconnected and coordinated system or from the operation of more than one such system, and

(B) The unrelated rates have been and are substantially as favorable to users and consumers as are the regulated rates, such rev-

enue from such unregulated rates shall be considered, for purposes of this paragraph, as income derived from sources described in paragraph (1) (A) or (D).

(3) *Certain railroad corporations—(A) Lessor corporation.* For purposes of subsection (b), the term "regulated public utility" shall also include a railroad corporation subject to part I of the Interstate Commerce Act, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into prior to January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in paragraph (1). For purposes of the preceding sentence, an agreement for lease of railroad properties entered into prior to January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into prior to January 1, 1954.

(B) *Common parent corporation.* For purposes of subsection (b), the term "regulated public utility" also includes a common parent corporation which is a common carrier by railroad subject to part I of the Interstate Commerce Act if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in paragraph (1). For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (A), received from a regulated public utility shall be considered as derived from sources described in paragraph (1) if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

§ 1.1503-1 *Computation and payment of tax—(a) General rule.* In any case in which a consolidated return is filed or required to be filed, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations prescribed under section 1502 promulgated prior to the last date prescribed by law for the filing of such return.

(b) *Limitation.* If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 921) or one or more regulated public utilities (as defined in section 1503 (c)) the increase in tax described in section 1503 (a) shall be applied in a manner provided in the regulations under section 1502.

(c) *Regulated public utilities.* For regulations relating to the definition of "regulated public utility", see § 1.1502-2 (g)

§ 1.1504 *Statutory provisions; definitions.*

SEC. 1504. *Definitions—(a) Definition of "affiliated group."* As used in this chapter, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

(1) Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the non-voting stock of each of the includible corporations (except the common parent cor-

poration) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(b) *Definition of "includible corporation"* As used in this chapter, the term "includible corporation" means any corporation except—

(1) Corporations exempt from taxation under section 501.

(2) Insurance companies subject to taxation under section 802 or 821.

(3) Foreign corporations.

(4) Corporations entitled to the benefits of section 931, by reason of receiving a large percentage of their income from sources within possessions of the United States.

(5) Corporations organized under the China Trade Act, 1922.

(6) Regulated investment companies subject to tax under subchapter M of chapter 1.

(7) Unincorporated business enterprises subject to tax as corporations under section 1361.

(c) *Includible insurance companies.* Despite the provisions of paragraph (2) of subsection (b), two or more domestic insurance companies each of which is subject to taxation under the same section of this subtitle shall be considered as includible corporations for the purpose of the application of subsection (a) to such insurance companies alone.

(d) *Subsidiary formed to comply with foreign law.* In the case of a domestic corporation owning or controlling, directly or indirectly, 100 percent of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this subtitle as a domestic corporation.

§ 1.1504-1 *Definitions.* The privilege of filing consolidated returns is extended to all includible corporations constituting affiliated groups as defined in section 1504. See the regulations under § 1.1502 for a description of an affiliated group and the corporations which may be considered as includible corporations.

§ 1.1505 *Statutory provisions; cross references.*

Sec. 1505. *Cross references.* (1) For suspension of running of statute of limitations when notice in respect of a deficiency is mailed to one corporation, see section 6503 (a) (1).

(2) For allocation of income and deductions of related trades or businesses, see section 482.

§ 1.1551 *Statutory provisions; disallowance of surtax exemption and accumulated earnings credit.*

Sec. 1551. *Disallowance of surtax exemption and accumulated earnings credit.* If any corporation transfers, on or after January 1, 1951, all or part of its property (other than money) to another corporation which was created for the purpose of acquiring such property or which was not actively engaged in business at the time of such acquisition, and if after such transfer the transferor corporation or its stockholders, or both, are in control of such transferee corporation during any part of the taxable year of such transferee corporation, then such transferee corporation shall not for such taxable year (ex-

cept as may be otherwise determined under section 269 (b)) be allowed either the \$25,000 exemption from surtax provided in section 11 (c) or the \$60,000 accumulated earnings credit provided in paragraph (2) or (3) of section 535 (c), unless such transferee corporation shall establish by the clear preponderance of the evidence that the securing of such exemption or credit was not a major purpose of such transfer. For purposes of this section, control means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of the corporation. In determining the ownership of stock for the purpose of this section, the ownership of stock shall be determined in accordance with the provisions of section 544, except that constructive ownership under section 544 (a) (2) shall be determined only with respect to the individual's spouse and minor children. The provisions of section 269 (b), and the authority of the Secretary under such section, shall, to the extent not inconsistent with the provisions of this section, be applicable to this section.

§ 1.1551-1 *Disallowance of surtax exemption and accumulated earnings credit—(a) In general.* If one corporation transfers on or after January 1, 1951, all or part of its property (other than money) to another corporation, neither the \$25,000 exemption from surtax provided in section 11 (c) nor the \$60,000 accumulated earnings credit provided in paragraph (2) or (3) of section 535 (c) shall be allowed the transferee if:

(1) The transferee was created for the purpose of acquiring such property, or

(2) The transferee was not actively engaged in business at the time of the acquisition, and

(3) After such transfer, the transferor or its stockholders, or both, are in control of the transferee during any part of the taxable year of the transferee, unless—

(4) The transferee establishes by the clear preponderance of the evidence that the securing of either such exemption or credit or both was not a major purpose of such transfer, or

(5) The Commissioner allows such exemption or credit pursuant to the authority provided in section 1551 and section 269 (b).

(b) *Purpose of section 1551.* (1) The purpose of section 1551 is to prevent avoidance or evasion of the surtax imposed by section 11 (c) or of the accumulated earnings tax imposed by section 531. It is not intended, however, that section 1551 be interpreted as delimiting or abrogating any principle of law established by judicial decision, or any existing provisions of the Internal Revenue Code, such as sections 269 and 482, which have the effect of preventing the avoidance or evasion of income taxes. Such principles of law and such provisions of the Code, including section 1551 are not mutually exclusive, and in appropriate cases they may operate together or they may operate separately.

(2) The provisions of section 269 (b) and the authority of the Commissioner thereunder, to the extent not inconsistent with the provisions of section 1551 are applicable to cases covered by sec-

tion 1551. Pursuant to the authority provided in section 269 (b) the Commissioner may allow to the transferee any part of a surtax exemption or accumulated earnings credit for a taxable year for which such exemption or credit would otherwise be disallowed under section 1551, or he may apportion such exemption or credit among the corporations involved. For example, Corporation A transfers on January 1, 1955, all its property to Corporations B and C in exchange for all the stock of such corporations. Immediately thereafter, Corporation A is dissolved and its stockholders become the sole stockholders of Corporations B and C. Assuming that Corporations B and C are unable to establish by the clear preponderance of the evidence that the securing of the surtax exemption provided in section 11 (c) or the accumulated earnings credit provided in section 535 or both, was not a major purpose of the transfer, the Commissioner, nevertheless, has authority under sections 1551 and 269 (b) to allow one such exemption and credit and to apportion such exemption and credit between Corporations B and C.

(3) For the purpose of section 1551 and this section, a corporation maintaining an office for the purpose of preserving its corporate existence is not considered to be "actively engaged in business" even though such corporation may be deemed to be "doing business" for other purposes. Similarly, for the purpose of section 1551 and this section, a corporation engaged in winding up its affairs, prior to an acquisition to which section 1551 is applicable, is not considered to be "actively engaged in business."

(c) *Meaning and application of the term "control."* (1) For the purpose of section 1551 and this section, the term "control" means the ownership of stock possessing either (i) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or (ii) at least 80 percent of the total value of shares of all classes of stock of the corporation. In determining whether stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote is owned, all classes of such stock shall be considered together; it is not necessary that 80 percent of each class of voting stock be owned. Likewise, in determining whether stock possessing at least 80 percent of the total value of shares of all classes of stock is owned, all classes of stock of the corporation shall be considered together; it is not necessary that 80 percent of the value of shares of each class be owned. The fair market value of a share shall be considered as the value to be used for the purpose of this computation. The ownership of stock shall be determined in accordance with the provisions of section 544 and the regulations thereunder, except that constructive ownership under section 544 (a) (2) shall be determined only with respect to the individual's spouse and minor children. For example, in addition to stock held directly or under an option to purchase, an individual is deemed to own stock held directly or indirectly by or for his spouse or minor children, and also to own a proportion-

ate part of the stock owned by a corporation, partnership, estate, or trust in which he holds an interest as a shareholder, partner, or beneficiary.

(2) Disallowance of the exemption and credit under section 1551 is not limited to the taxable year of the transferee corporation in which the transfer of property occurs. Section 1551 provides for the disallowance of the exemption and credit for any taxable year whether the taxable year in which the transfer of property occurs or any subsequent taxable year of the transferee corporation, if, during any part of such year, the transferor corporation or its stockholders, or both, are in control of the transferee corporation. Thus, if Corporation D on January 1, 1955, transfers a part of its property to Corporation E, a corporation not actively engaged in business at the time of the acquisition of such property, in exchange for 60 percent of the voting stock of Corporation E, and, thereafter, during a later taxable year with respect to which section 1551 is applicable, acquires an additional 20 percent of the voting stock of Corporation E, Corporation D, by reason of such later acquisition, is considered to be in control of Corporation E as of the time of such acquisition for the purpose of section 1551. Accordingly, Corporation E will be disallowed the surtax exemption and accumulated earnings credit for the taxable year in which the later acquisition of stock occurred and for each taxable year thereafter in which the requisite control continues, unless Corporation E establishes by the clear preponderance of the evidence that the securing of such exemption or credit, or both, was not a major purpose of the transfer of the property in 1955.

(3) In determining, for the purpose of section 1551 whether a corporation, its stockholders, or both, are in control of a transferee corporation, it is not necessary that the stock be acquired on or after January 1, 1951. Thus, if Corporation F on June 1, 1950, owns 70 percent of the voting stock of Corporation G, and, thereafter, on January 2, 1955, Corporation F acquires an additional 10 percent of such stock, control within the meaning of section 1551 is acquired by Corporation F on January 2, 1955.

(d) *Nature of transfer.* A transfer made by any corporation of all or part of its assets, whether or not such transfer qualifies as a reorganization under section 368 is within the scope of section 1551 except that section 1551 does not apply to a transfer of money only. For example, the transfer of cash for the purpose of expanding the business of the transferor corporation through the formation of a new corporation is not a transfer within the scope of section 1551 irrespective of whether the new corporation uses the cash to purchase from the transferor corporation stock in trade or similar property.

(e) *Purpose of transfer.* In determining, for the purpose of section 1551 whether the securing of the exemption from surtax or the accumulated earnings credit constituted "a major purpose" of the transfer, all circumstances relevant

to the transfer shall be considered. For disallowance of the surtax exemption and accumulated earnings credit under section 1551, it is not necessary that the obtaining of either such credit or exemption or both have been the sole or principal purpose of the transfer of the property. It is sufficient if it appears, in the light of all the facts and circumstances, that the obtaining of such exemption or credit, or both, was one of the major considerations that prompted the transfer. Thus, the securing of the surtax exemption or the accumulated earnings credit may constitute "a major purpose" of the transfer, notwithstanding that such transfer was effected for a valid business purpose and qualified as a reorganization within the meaning of section 368. The taxpayer's burden of establishing by the clear preponderance of the evidence that the securing of either such exemption or credit or both was not "a major purpose" of the transfer may be met, for example, by a showing that the obtaining of such exemption, or credit, or both, was not a major factor in relationship to the other consideration or considerations which prompted the transfer.

§ 1.1552 *Statutory provisions; earnings and profits.*

Sec. 1552. *Earnings and profits.*—(a) *General rule.*—Pursuant to regulations prescribed by the Secretary or his delegate the earnings and profits of each member of an affiliated group required to be included in a consolidated return for such group filed for a taxable year beginning after December 31, 1953, and ending after the date of enactment of this title, shall be determined by allocating the tax liability of the group for such year among the members of the group in accord with whichever of the following methods the group shall elect in its first consolidated return filed for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities (determined without regard to the 2 percent increase provided by section 1503 (a)) based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary or his delegate.

(b) *Failure to elect.* If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a) (1).

§ 1.1552-1 *Earnings and profits.*—(a) *General rule.* For the purpose of determining the earnings and profits of each member of an affiliated group which is required to be included in a consolidated return for such group filed for a taxable year beginning after December 31, 1953, and ending after August 16, 1954, the tax liability of the group shall be allocated among the members of the group in accordance with whichever of the following methods the group shall elect in its first consolidated return for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities (determined without regard to the 2 percent increase provided by section 1503 (a) and § 1.1502-30 (a)) based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Commissioner.

(b) *Method of election.* The election under section 1552 (a) (1), (2) or (3) shall be made not later than the time prescribed by law for filing the first consolidated return of the group for a taxable year beginning after December 31, 1953, and ending after August 16, 1954 (including extensions thereof) If the group elects to allocate its tax liability in accordance with the method prescribed in section 1552 (a) (1), (2), or (3), a statement shall be attached to the return so stating. Such statement shall be a joint statement concurred in by all members of the group. In the event that the group desires to allocate its tax liability in accordance with any other method pursuant to section 1552 (a) (4), approval of such method by the Commissioner must be obtained within the time prescribed above. If such approval is not obtained in such time, the group shall allocate in accordance with the method prescribed in section 1552 (a)

(1) The request shall state fully the method which the group wishes to apply in apportioning the tax liability and shall be concurred in by all members of the

group. An election once made shall be irrevocable and shall be binding upon the group with respect to the year for which made and for all future years for which a consolidated return is filed or required to be filed unless the Commissioner authorizes a change to another method prior to the time prescribed by law for filing the return for the year in which such change is to be effective.

(c) *Failure to elect.* If a group fails to make an election in accordance with paragraph (b) of this section, the method prescribed under section 1552 (a) (1) shall be applicable and shall be binding upon the group in the same manner as if an election had been made to so allocate.

[F. R. Doc. 55-5348; Filed, July 1, 1955; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 916]

[Docket No. AO-247-RO1]

HANDLING OF MILK IN UPSTATE MICHIGAN MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order to regulate the handling of milk in the Upstate Michigan, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the proposed marketing agreement and order, as hereinafter set forth were formulated, was conducted at Traverse City, Michigan, September 15-19, 1953, pursuant to notice thereof which was issued on August 4, 1953 (18 F. R. 4677) and was reopened January 18-20, 1955, pursuant to notice thereof which was issued on December 28, 1954 (19 F. R. 9416)

On the basis of the evidence introduced at the first session of the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, included in the aforesaid notice of reopening of the hearing his recommendations based on the original hearing.

The material issues of record related to:

(1) Whether the handling of milk in the market is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

(2) Whether marketing conditions justify the issuance of a marketing agreement and order;

(3) Extent of the marketing area,

(4) What milk should be priced under an order;

(5) The classification of milk;

(6) Class prices;

(7) Payments to producers; and

(8) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof it is hereby found and concluded that:

(1) *Character of commerce.* All milk and milk products handled by handlers, as defined in the order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

The Upstate Michigan marketing area, defined in more detail in a later section, includes all of 11 counties and portions of two other counties in the northern sector of the Lower Peninsula of Michigan.

Handlers distributing milk in the marketing area supply fluid milk to boats out of Frankfort, Rogers City, Sault Sainte Marie which go to points outside of Michigan.

Because of the increased population during the summer resort season, handlers in the area generally require supplementary supplies of milk during July and August. Testimony showed that sources of such supplementary supplies have included plants supplying fluid milk to Detroit (an interstate market under Federal order regulation) and to other markets. Moreover, during all seasons of the year, substantial volumes of milk bottled in plants which are fully regulated under the Detroit order are distributed in the Upstate area.

Producers for the proposed marketing area are interspersed with dairy farmers selling milk to plants manufacturing dairy products. Since such manufactured products as butter, nonfat dry milk solids, cheese, and evaporated milk can be stored and shipped for long distances, market prices for each of them are closely related throughout the United States. It follows that the prices paid to farmers for milk to be manufactured are also substantially uniform throughout the nation. Changes in supply or demand conditions for any of the major dairy products in any region affect the national market for all of them.

The price recommended herein to be paid for milk for fluid use is directly related to prices paid for manufacturing milk. It is recognized that the price paid for milk of fluid quality must be enough higher than the manufacturing value to compensate producers for the extra care and investment involved in meeting more stringent sanitary requirements, producing a more even year-round supply, and defraying greater transportation costs. The price premium is achieved by establishing the fluid milk (Class I) price at a differential over a basic formula price

which is a measure of the value of milk for manufacturing purposes.

During certain seasons of the year milk from producers for the upstate area is in excess of fluid needs of the market and is processed into manufactured dairy products, in many cases in plants specializing in the manufacture of such products. The dairy products so made from producer milk include butter, nonfat dry milk solids, evaporated milk, cheese and specialty products. Substantial quantities of dairy products move directly into interstate commerce from such plants. Producer milk used for manufactured dairy products thus enters into direct competition with milk from out-of-state sources which is used for the same products and thus producer milk suffers or burdens interstate commerce in milk products.

(2) *Marketing conditions and need for regulation.* Marketing conditions in the upstate Michigan area indicate that the issuance of a marketing order, such as that set forth herein, will tend to effectuate the declared policy of the act with respect to milk produced for the upstate fluid milk market.

Stability of the marketing conditions together with a reasonable certainty that an adequate supply of pure and wholesome milk can be assured for the upstate marketing area only when all milk handlers in the area have substantially equal cost of milk according to use, and only when all farmers supplying milk to each handler in the market receive the same price per hundred-weight for milk of equal quality.

These conditions do not now exist. Most of the handlers distributing milk to consumers in the marketing area purchase their raw milk from farmers who are members of local cooperatives which are affiliated with the Michigan Milk Producers' Association. The Association has been unable to attain a satisfactory degree of uniformity of marketing conditions in the various localities with respect to the checking of weights and tests of milk delivered to handlers by producers, the utilization of milk by the handlers, bargaining for the price to be received by producers for the milk, and disposition of milk not needed for fluid purposes.

The Association sells milk to a majority of the handlers in Traverse City on the basis of an arrangement somewhat similar to a classified price plan. This is achieved by operating farm pick-up trucks and delivering to handlers only such quantities of milk as are needed for fluid purposes. Any quantities not so disposed of are transported by the Association to manufacturing plants. Milk delivered to handlers' plants is paid for at a fluid milk valuation. Milk disposed of to manufacturing plants is, of course, settled for at a manufacturing value. The producers are paid a blend price which reflects the composite value of the milk. Between the dates of the first and reopened sessions of the hearing the Association had negotiated similar arrangements with dealers in Manistee, Benzonia, Charlevoix, and Petoskey. Even in Traverse City this system has encountered difficulties

in accounting for milk used for non-fluid purposes in one of the plants, and in determining the price to be paid for milk used for fluid purposes. None of the other local producer associations in the marketing area have been able to negotiate a price for milk in accordance with its use by handlers, or to obtain reliable information on the relative quantities utilized by the handler for fluid and for manufacturing purposes. In the majority of instances handlers pay producers for "base" milk (the quantity produced during the short season) at a fluid price, and for "excess" milk at a manufacturing value. However, the proportions of base and excess milk are unilaterally determined by the handler and the producer is not notified of the quantity and percentage of excess until he receives payment for the milk. In many instances handlers have refused to meet with representatives of the producers to discuss marketing problems and prices. Changes in prices have occurred without advance notice to the producers.

The variation in price plans and in net prices paid to producers reflect different raw material costs to the various dealers who are selling milk in the marketing area. A condition of unequal costs among the dealers may cause them to attempt to economize by reducing prices to producers. This in turn would tend to stimulate successive price reductions by competitors. This development is contrary to the interests of producers and over a period of time may jeopardize an adequate supply of milk.

The very substantial influx of tourists during the summer months and during the fall hunting season creates an unusual situation in the Upstate Michigan marketing area. In July and August the average daily sales of some handlers are two to three times as large as in the remainder of the year.

During these months seasonal surpluses of milk are available in the central and southern portions of the Lower Peninsula. It is, therefore, uneconomical for handlers to develop local production of milk adequate for the July and August business. Instead, they attempt to maintain a production adequate only for normal demands, and rely upon supplementary downstate supplies in July and August. This avoids handling large surpluses during the remainder of the year. During the summer months substantial quantities of milk are also obtained in packaged form from downstate plants. Such plants commonly have seasonally excess milk available which otherwise would be converted into manufactured products. These plants commonly package the milk in paper containers and distribute it through grocery stores and similar retail outlets in the upstate marketing area.

The milk marketing order is needed to assure equality among handlers (including both the local handlers and the downstate suppliers) in the cost of milk distributed in the area during the summer months. Local producers should be assured that downstate supplies will not be made available at less than order prices. On the other hand the obvious advantages of obtaining the needed summer

supplies from downstate sources, either in bulk or in packaged form should not be jeopardized.

A marketing agreement and order program is needed to establish and maintain orderly marketing conditions throughout the marketing area. The auditing of the utilization of all milk received by handlers, the checking of butterfat tests and weights of all producer milk, and the publication of complete supply and use data for the market will aid in this objective by assuring producers that they will receive a proper accounting for their milk and by providing full information on market developments.

(3) *Marketing area.* The marketing area in which the handling of milk would be regulated by the Upstate Michigan order comprises all of the territory, including the incorporated cities and villages, within: the counties of Manistee, Benzie, Leelanau, Grand Traverse, Kalkaska, Antrim, Charlevoix, Emmett, Cheboygan, Otsego and Crawford; Presque Isle County, except for the townships of Krakow and Presque Isle; and the townships of Wexford, Springville and Hanover in Wexford County, all in the State of Michigan.

On the basis of the record of the September, 1953 session of the hearing, the Deputy Administrator, Agricultural Marketing Service, concluded that the marketing area should include only thirteen principal cities and townships in this general area. However, at the reopened hearing producers and handlers presented additional evidence to substantiate their position that the marketing area could be defined in terms of a continuous territory rather than being limited to cities. The population in the originally named cities and townships includes only about one-third of the population in the total marketing area, indicating that a major portion of the population lives outside the corporate limits of its principal centers. Moreover, the handlers serve the entire population. One of the largest handlers in the area estimates that of the total volume of sales made by his firm in the entire area only one-fourth are within the named cities. The distribution of the population outside these cities is such that handlers could readily avoid regulation by serving only the territory outside them. This would be particularly true of handlers who distributed milk in the area only during the resort season, however it was testified that a suburban type of settlement was developing in the environs of Traverse City in adjoining counties.

No one handler distributes milk throughout the entire marketing area, but there is such an extensive overlapping of distribution between individual handlers that the entire territory constitutes a single marketing area. The dairies located at Traverse City, the largest city in the area, distribute milk throughout Grand Traverse and Leelanau Counties and into Benzie, Kalkaska, Crawford, Wexford, Antrim, Charlevoix, Emmett and Otsego Counties. In the area served by the Traverse City handlers they compete directly with handlers whose plants are located in

these same counties and in Cheboygan and Manistee Counties, and with handlers whose plants are located outside the marketing area at such points as Carson City, Lake City, Cadillac, Big Rapids, and Grand Rapids. In Manistee, second largest city in the area, there are three dairies, yet a handler in Benzonia runs a wholesale route in Manistee, supplies milk to automobile ferries at Frankfort, and disposes of surplus milk in counties south of the marketing area.

Petoskey strikingly illustrates the competition between the various distributors. Handlers there obtain paper packaged milk from Charlevoix, are in direct competition in Petoskey and Boyne City with Traverse City handlers, and compete in Indian River with handlers from Traverse City and Cheboygan. From Charlevoix, in addition to the distribution of milk in paper packages, milk is delivered in Antrim County in competition with Traverse City and Kalkaska dairies. In the northern portion of the marketing area Cheboygan dairies distribute to Mackinaw City and Indian River. They also compete directly with a milk plant at Onaway which in turn competes directly with one of the three dairies located in Rogers City.

The developments which had occurred between the time of the initial session of the hearing and its reopening made it clear that the competition between handlers in the Upstate area had been increasing. For example smaller dairies which had purchased paper packaged milk had added packaging facilities of their own. It seems apparent that the elements which have already made this area a single market for fluid milk will continue to make marketing conditions still more uniform throughout the area in the future.

There is a rather clear line of demarcation between the Upstate area and other fluid milk markets in the State. Lake Michigan and Lake Huron set natural boundaries to the west, north, and east, leaving only the location of the southern boundary to be established. The handlers whose plants are located within the defined marketing area distribute by far the major portion of the fluid milk sold therein. Also they have only limited distribution in territories south of the defined area. In Manistee, Benzie, and Grand Traverse Counties there appears to be no year-around overlapping between Upstate and outside handlers. In Wexford County no outside handlers distribute milk in the townships of Wexford, Springville and Hanover which are included in the marketing area. One of the Traverse City handlers does distribute milk in Manton and Cadillac, but these centers are served primarily by an entirely different group of handlers and should not be included in the marketing area. The southern boundary of Presque Isle County forms a logical boundary between the Upstate and other markets at the eastern edge of the area, except that the two easternmost townships Krakow and Presque Isle should not be included. The Rogers City handlers competing with one another, cover most of the county with the exception of these two

townships, and do not distribute milk south into Alpena County. On the other hand Alpena handlers and others from as far south as Bay City and Saginaw distribute milk into Alpena and into the two townships in Presque Isle County which are outside the defined marketing area.

Marketing of fluid milk throughout the defined marketing area is covered by the uniform minimum State sanitary regulations which involve farm inspection, plant inspection and permits. Several of the individual cities impose additional sanitation requirements under local inspection.

(4) *Milk to be priced.* The milk to be regulated by the order should be that which is regularly delivered to plants from which milk is distributed in the marketing area. To be eligible for such distribution milk must be produced, processed, and distributed in conformity with applicable health regulations. The milk to be priced and pooled under the order should be that which constitutes the regular supply for the marketing area. This supply may be identified by providing appropriate definitions of the terms "handler", "producer", and fluid milk plant.

A "handler" should be defined as any person who operates a fluid milk plant, as hereinafter further defined, or who operates a plant which does not qualify as a fluid milk plant but from which any fluid milk product is distributed in the marketing area, or a cooperative association with respect to diverted milk.

The fluid milk plants are those at which the handling of milk is fully subject to regulation under the order. The definitions provide for two general types of fluid milk plants; the first is a plant from which milk is distributed on routes and commonly referred to as a "city" plant and the second is a plant supplying bulk milk to distributing plants, commonly referred to as a "country" plant. The definition should also include any cooperative association of producers with respect to that milk for which the cooperative is responsible under the order, as in the case of surplus milk diverted to a manufacturing plant for the account of the association.

This definition is sufficiently broad to cover all distributors of milk in the marketing area. All handlers are subject to regulation under the order, but specified categories of handlers are subsequently excused from all responsibilities except occasional reports to the market administrator. For example, producer-handlers are exempted from most of the regulatory provisions of the order since they do not purchase milk from other producers. Similarly, handlers operating plants which are subject to regulation under other Federal milk marketing orders need not also be subject to the pricing and detailed reporting of this order. Also, handlers operating plants from which less than 200 points per day are sold on routes wholly or partially within the marketing area are exempt from the pricing provisions of the order.

The term "producer" defines the dairy farmers to whom the minimum prices specified in the order must be paid. It

includes those whose milk is part of the regular supply for the market. These objectives can be met by determining producer status on the two bases of (1) approval by the appropriate health authority of the farm facilities for the production of milk for fluid use in the marketing area and (2) delivery of milk from the producer's farm to a fluid milk plant as hereinafter defined.

The producer definition should allow a cooperative association occasionally to divert the milk of some producers to unregulated plants if the association reports the milk as producer receipts at the fluid milk plant. This provision will facilitate interplant movements of milk for the purpose of adjusting to short-time variations in supply and requirements without depriving the farmers producing the milk of their status as producers.

The definition of "fluid milk plant" is the essential step in determining which dairy farmers are to receive minimum prices under the order. Likewise, of course, it defines the plants at which the pricing provisions of the order are fully effective. The definition should include all milk plants which are a regular part of the fluid milk market.

Producers originally proposed a marketwide pool with an equalization fund. However, on the basis of evidence in the record an individual-handler type of pooling is provided herein. Under this method of pooling, the producers delivering milk to each handler are paid the uniform price resulting from that specific handler's proportion of Class I and Class II use. The adoption of handler pooling explains the need for defining a regulated plant as a fluid milk plant rather than as a "pool" plant. Also, in the absence of an equalization fund, handlers with a lower than average percentage of Class I sales will have no incentive to participate in the pool. Consequently, the standards to be met by a regulated plant can be more inclusive and the problem of unpriced milk can be minimized.

All plants from which a significant quantity of milk is distributed in the marketing area for Class I purposes should qualify as fluid milk plants. This would include both the plants which are physically located in the Upstate area and which distribute milk on the year-round basis, and those downstate plants which distribute bottled milk in the marketing area only during the resort and hunting seasons. Those latter plants would, of course, qualify as fluid milk plants only in those months during which they distributed milk in the Upstate area.

The exemption of plants from which less than 200 points of Class I milk per day is disposed of on routes extending into the marketing area is designed to cover operators whose business in the area is so small as not to represent a significant competitive factor. (A point is one half pint of half-and-half or one quart of any other fluid milk product.)

A load of 200 points per day represents less than a normal-sized retail route, or small to medium combined retail and wholesale route.

The definition of fluid milk plant also should cover any plans which regularly supply supplementary milk in bulk or packaged form to distributing plants. During the summer months, for example, many of the distributing plants located in the marketing area regularly purchase large quantities of supplemental milk in bulk form. Such purchases also may become significant in November when local supplies are seasonally low and when demands are somewhat higher than normal as a result of the hunting season.

Some upstate plants receive supplemental packaged milk throughout the year, while others utilize such supplies only during the resort season.

The determination as to whether the plant delivering supplementary milk should be regulated can be based upon the number of days on which milk is delivered to a distributing plant. During the summer months of peak demand (July and August) and the fall months of normally lowest production (September, October, and November) a supply plant should be regulated if it delivers milk on eleven days or more in any given month.

During the remainder of the year a supplementary supply should be considered regular if it is received on six days or more in any month.

It is appropriate that the downstate plants supplying milk, either in bulk or in bottles, pay their producers not less than the order price on a class-use basis. In past seasons substantial quantities of such milk have been supplied by plants which are regulated under the Detroit order. The price applicable to such milk (either bottled or bulk) is the Class I price f. o. b. Detroit less the location differential to the point at which the plant is physically located. Such price normally would be higher than that required to be paid under an Upstate order since the Upstate marketing area is further from Detroit than any of the country supply plants presently regulated under the Detroit order. Supplies from markets not under Federal regulation would also normally be higher since the procurement and sale of milk throughout the Lower Peninsula, directly and indirectly, are affected by the Detroit market.

A definition of "other source" milk is included to distinguish it from the regular milk supply for the fluid market which is priced under the order. Since the definition of a fluid milk plant is comparatively broad, the other source milk is correspondingly limited. It includes distributors with less than 200 points per day, plants making sporadic shipments of supplemental milk in bulk to distributing plants, producer-handler milk, and milk from plants regulated under another Federal order. It is concluded that none of these categories of other source milk is likely to create any serious competitive problem in the absence of pricing or compensatory payment provisions under this order.

Standards should be established for determining which of two Federal orders should govern a given plant. Under most foreseeable circumstances a plant serving more than one marketing area

should be regulated in the market in which the major portion of Class I sales are made, except that Detroit country supply plants may not be shipping any milk to Detroit in months when they furnish some supplemental milk to the Upstate market. Their monthly average Class I sales to Detroit for the preceding 12 months should be used instead of their sales in the current month. Also, a specific determination by the Secretary should be reserved for cases in which those standards are not appropriate.

(5) *Classification of milk.* Milk should be classified in two classes reflecting the principal differences in the value and in the quality of milk required for different uses.

Class I should include all skim milk and butterfat disposed of for consumption as fluid milk products; namely, milk, skim milk, buttermilk, flavored milk, and half-and-half; contained in plant loss of producer milk in excess of 2 percent; or not accounted for in Class II utilization.

Class II should include skim milk and butterfat disposed of in fluid cream or cream mixtures containing 18 percent or more of butterfat; used to produce any of the manufactured dairy products, such as ice cream or ice cream mix, dried whole milk, nonfat dry milk solids, whole or skimmed evaporated or condensed milk, sweetened or unsweetened, in bulk or in hermetically sealed cans, butter, or cheese (including cottage cheese) in plant loss of producer milk not in excess of 2 percent and all plant loss of other source milk; and all skim milk dumped or disposed of as livestock feed.

The products named in Class I are those which health authorities in the area require to be derived from milk approved for fluid uses. Cream for fluid use is not required to be made from milk approved for fluid use, and is therefore classified as Class II utilization. During the hearing there was considerable discussion whether cream and milk mixtures, commonly referred to as "half and half" or "cereal mix" should be considered as milk or as cream. The product has, in fact, been made from fluid inspected milk by some plants in the area.

Also, it is competitive with homogenized milk in many households. It is defined in the State Milk Law as containing a minimum of 10 percent butterfat; cream is defined as containing a minimum of 18 percent butterfat. Accordingly the definition of cream and cream mixtures which qualify as Class II has been limited to those with butterfat of 18 percent or more.

Route returns and other milk disposed of for livestock feeding should be Class II, provided that verifiable evidence of such disposal is available. Also, any skim milk which may need to be dumped should be in Class II. However, this can be verified only by witnessing the action, since no independently verifiable record is available for audit purpose. Accordingly, the handler is required to give advance notice to the market administrator in order that he can have opportunity to have the dumping witnessed.

Milk used to produce fluid cream, manufactured dairy products, or any item not specifically named as Class I utilization should be in Class II. Any new milk product which may be introduced into the market will, therefore, be considered as Class II utilization. If competitive forces and sanitary requirements are such as to indicate that Class I would be a more appropriate classification these factors should be considered at a public hearing.

Since some handlers combine operations which utilize other source milk in the same plants as those which handle producer milk for the fluid market, it is necessary to provide a method for allocating such other source milk to the classes of utilization. Since producer milk is the milk which is regularly available for fluid consumption in the marketing area, the method of allocation provides that producer milk shall be allocated to Class I to the extent that such use is available.

Some of the other source milk purchased by regulated handlers may come from plants which are fully regulated under the Detroit order or some other Federal milk marketing order. With respect to purchases of supplemental milk in bulk form the Upstate Michigan order should give milk from local producers priority on Class I utilization over other source milk received from other Federal order markets in the same manner as it does on other source milk received from unregulated plants. However, the sections of the order dealing with allocation should specify that in any regulated plant obtaining other source milk both from unregulated and from other Federal order plants, the milk from the unregulated plant should have first allocation to Class II uses, then milk from other Federal sources be allocated to any remaining Class II use.

At the reopened hearing a handler whose plant is regulated under the Detroit order brought up a special case where the foregoing allocation is not applicable. This handler furnishes paper-packaged milk to handlers in the Upstate area. Some of these handlers purchase milk from local producers and bottle it in glass for distribution in the marketing area. However, they are not equipped to package milk in paper and purchase such milk as they require in this form from the Detroit handler. Under the allocation system proposed in the notice of hearing the seasonal and daily excess of producer milk under the Upstate order which would otherwise be assigned to Class II use would be allocated instead to Class I to the extent of the receipts of Detroit milk. Clearly, the seasonal and daily reserves of milk necessary to supply the exact quantities of paper-packaged milk bottled at the Detroit handler's plant was carried by Detroit producers. Yet, under the original proposal, the producers at the Upstate handler's plant would get Class I credit for milk which should be properly considered as reserve supply for the quantities of milk actually bottled at the Upstate plant for fluid distribution.

It is concluded that milk in bottled form classified and priced under another Federal order should be assigned to the

same utilization under the Upstate order as under the other order, as well as being exempted from the price provisions of the Upstate order.

Producers proposed that actual plant loss, but not to exceed 2 percent of producer milk received be allowed in the lowest price class, any in excess of this amount to be in Class I. With plant operation of average efficiency, losses normally should not exceed 2 percent. Unlimited allocation of plant loss to Class II would place a premium on unaccounted-for milk and encourage incomplete records of Class I utilization. Any plant losses of producer milk in excess of 2 percent should, therefore, be included in Class I. The standard provisions for prorating loss between producer and other source milk, and allowing for loss on diverted producer milk at the plant where actually received, should also be included in the order.

Provision is made for the classification of milk transferred between regulated fluid milk plants and between fluid milk plants and unregulated plants. In the case of transfers between fluid milk plants, transfer is permitted in any agreed upon class in which the transferee plant has utilization in an amount equal to or greater than the amount so transferred, after allocating any other source milk. Both handlers are required to report the transferred milk in the agreed classification; otherwise milk transfers are classified as Class I.

Milk transferred from a fluid milk plant to an unregulated plant should be in Class I unless Class II utilization can be demonstrated. To be classified as Class II, milk so transferred should be certified as utilized in Class II by the transferor handler in his regular monthly report to the market administrator, and the transferee plant or another plant to which the milk may be moved by the transferee plant must have an equivalent use in Class II and keep books and records which make it possible for the market administrator to verify such use.

(6) *Class prices.* Since the Upstate Michigan fluid milk market supply is obtained from a region in which large quantities of milk are delivered to plants which manufacture various milk products, it is necessary that the price for the fluid market be closely related to the level of prices being paid at competing manufacturing plants. There are some differences from time to time between the prices paid at plants manufacturing different products. Therefore, the Class I price should be related to that particular manufacturing milk price which represents the best outlet for manufacturing milk at any particular time. The method of accomplishing this has been to relate the Class I price to a series of basic formula prices which represent different kinds of manufacturing milk prices. A differential should be added to the highest of the prices determined by three separate alternate price formulas to determine the Class I price for each month.

(a) *Basic formula prices.* The basic formula price to be used in determining the Class I price should be the highest of the prices paid at 13 Midwestern con-

denseries; a formula based on market prices of butter and non-fat dry milk solids which measures the value of milk to be used for the manufacture of those products; and the average of prices paid by four milk manufacturing plants located in Michigan. The first two of these basic formula prices measure the value of milk used in each of three major manufactured dairy products, all of which are marketed nationally. The prices paid at the Michigan plants will reflect local manufacturing values whenever these are in excess of the national averages.

Use of the highest of the formula prices as the basic formula price would base the Class I price on the most favorable manufacturing use for milk in each month. In an area where all important dairy products are manufactured, fluid milk markets must compete for milk with plants making the highest valued products. The Class I price should therefore be based on the formula representing the highest value of milk for manufacturing.

(b) *Class I price.* The Class I price should be determined by adding a stated differential of \$1.15 to the basic formula price and modifying the result by the same amount as is added or subtracted by the supply-demand adjustment in the Detroit, Michigan, order.

Detroit is the primary fluid milk market in the Lower Peninsula of Michigan. The milkshed from which this large metropolitan area draws its supply of milk covers most of the Lower Peninsula and extends into Ohio. It surrounds or adjoins most of the milksheds of other cities in the Lower Peninsula including that for the Upstate marketing area. Prices paid for milk for fluid use in the various local markets do not necessarily follow every change in the Detroit Class I price. However, prices paid to local producers must be generally in line with the plant prices paid to Detroit shippers in the local areas if the local market is to maintain a supply of milk in competition with Detroit.

Prior to the reopening of the hearing Detroit receiving stations were in operation at Hillman and Evert. The location adjustment on Class I milk shipped to handlers and on payments to producers is 27 cents less than the Detroit price at Evert, and 32 cents less than Detroit at Hillman. Producers shipping to the Hillman plant are interspersed with producers shipping to plants located in the eastern portion of the proposed Upstate area. Apparently there is no actual overlapping of the Evert and Upstate supply territories. However, the Evert plant has furnished large quantities of supplemental milk to Upstate bottling plants during the resort season and is also a possible outlet for seasonal surpluses from the Upstate area.

The Detroit Class I differential, exclusive of the supply-demand adjustment, is \$1.43 for milk delivered to plants in the marketing area. It follows that the stated Class I differential at Hillman is \$1.11 and at Evert is \$1.16.

It appears that the stated differential of \$1.15 per hundredweight for the Upstate area will be appropriate in relationship to the Detroit market. The Class I price in the Upstate area should be suffi-

ciently high to develop and maintain an adequate supply of local milk in the months other than July and August and should continue to facilitate the obtaining of supplemental milk during the resort season. In the absence of complete data it is impossible to predict exactly how the blend prices under an Upstate order would compare with the prices paid to Detroit producers; also the Detroit shippers are paid on a base and excess plan which affects the returns of individual shippers. However, with a Class I differential of \$1.15 and the strong demand for milk during the resort season it is anticipated that blend prices in the Upstate area will maintain local supplies against the competition of the Detroit market. Upstate handlers would have to pay transportation costs plus 1 cent per hundredweight on any supplemental milk purchased from the Detroit plant at Evert, and the transportation minus 4 cents at Hillman unless the milk could be diverted directly from the farm pick-up routes to the Upstate handlers. The Class I differential of \$1.15 is also appropriate in relation to prices paid for Class I milk by Detroit handlers, such as the one at Carson City which distributes packaged milk in the Upstate area from a plant which is under the Detroit order. The amount of location adjustment to Detroit plus the cost of transporting milk to the Upstate market will approximate 28 cents.

The close relationship between the Detroit and Upstate markets in the procurement of milk from dairy farmers, in the obtaining of supplemental supplies during the resort season, and in the direct distribution of milk in the Upstate area by Detroit handlers has already been described. The two markets are, in fact, so closely related that the Upstate Class I price should be maintained at 28 cents less than the Detroit area price. This can be accomplished by using a stated Class I differential of \$1.15 over the basic formula price in the Upstate area, and by adopting the same supply-demand adjustment as is provided by the Detroit order. The supply-demand adjustment is a provision of the Detroit order which reduces the Class I price whenever an oversupply of milk is indicated and raises the Class I price when supplies are below normal in relation to market requirements in Class I milk. During 1953 and 1954 supplies were above normal in relation to sales in most months, and the supply-demand adjustment averaged minus 14 cents in 1953 and minus 24 cents in 1954. However, official notice is taken of the fact that supplies have been lower in relation to sales during recent months than a year ago. The Detroit supply-demand adjustment was minus 30 cents in January and February, minus 15 cents in March and April, and 0 in May, 1955, as compared with minus 45 cents for January, February and March, and minus 30 cents for April and May of 1954.

If, at some future date, experience in the Upstate market indicates that a more accurate measure of supply and demand changes in the local market can be computed from local data, appropri-

ate modifications could be proposed and considered at a public hearing.

Historical price comparisons are of limited value in determining an appropriate Class I price for the Upstate market. One limitation is that Class I prices are not sufficiently comparable to the plant requirement prices which have generally prevailed in the Upstate area. Moreover, the marketing of fluid milk in that section has been making rapid advances, and the area has only recently achieved an equality with other major markets in the State with respect to quality and dependability of supply. The distribution of paper-bottled milk by downstate distributors during the resort season and, to some extent at all times of the year is a comparatively recent development.

From June 1951 through August 1954 the plant requirements price at Traverse City remained constant at \$4.50, except for a time in October and November 1952 when some plants paid \$4.85. In September 1954, and a few months earlier in some other portions of the marketing area, the plant requirements price was reduced to \$4.15.

The Detroit order became effective in September 1951, and price comparisons can be made from that date on. Through December 1952, the prices proposed herein would have been above \$4.50 each month and would have averaged 44 cents higher for the period as the local prices failed to reflect the advance in manufacturing milk values. However, from January 1953 through August 1954, the order prices would have reflected declining manufacturing prices. They would have been below the \$4.50 in every month except October 1953, and would have averaged 29 cents below. In the last 4 months of 1954 the Class I order prices would have been \$4.20, \$4.26, \$4.15, and \$4.00, as compared with the negotiated plant requirements price of \$4.15. The Traverse City prices represented larger volumes of milk than were sold at any other prices. The considerable variation in prices of milk for fluid use in various portions of the marketing area is indicated by the fact that they ranged from \$3.90 at Onaway to \$4.50 at Rogers City at the time of the reopened hearing.

No seasonal difference is included in the Class I differential. Neither is a means of encouraging level seasonality of production being provided by the use of a base rating plan similar to those in effect in the Detroit and Muskegon markets. The greatly increased demand which characterizes the Upstate area in late June, July, and August minimizes the need for any such plan. In May and early June there is seasonally excess milk to be disposed of for manufacturing, but the flush of production does not occur until June, when such excess is consumed locally as soon as the resort season opens. In fact there was evidence at the hearing that a higher price might be appropriate in July and August than in the other months of the year. However, it appears that ample supplies of supplemental milk from other markets will be available at the order prices during these months.

(c) *Class II price.* The Class II price should reflect the value of milk for general manufacturing uses in the upstate milkshed. An appropriate price for this use is the average of the prices paid by four local dairy manufacturing plants. The plants are not physically located in the immediate proximity of the marketing area. However, they are in the northern portion of the Lower Peninsula, do sufficient volumes of business to furnish representative price quotations, are not operated by handlers under the order, and manufacture a variety of the principal dairy products. It has already been mentioned that prices paid for milk for manufacturing are substantially uniform throughout the United States. Within the State of Michigan, they are quite closely related, and the 4-plant price will provide a representative quotation for the upstate area. Two of the four plants are included in the 15 mid-west plants used in determining the basic formula price in most of the Federal milk marketing orders and recommended for such use herein.

(d) *Method of accounting for milk.* The classification and allocation of producer milk should be on a skim milk and butterfat basis. Because of the wide variation in the butterfat test of the various products, it is probable that the skim milk from producer milk will frequently be utilized in a different class than the butterfat from the same milk. Classification of skim milk and butterfat separately is necessary to accomplish complete classification according to use. It is also necessary to allocate producer skim milk and butterfat separately in order to give both skim milk and butterfat in producer milk preference over other source milk in the higher value uses. A continuation of the whole milk system of pricing is desirable. Class prices should be expressed as hundred-weight prices, and the price for each class should be adjusted to the actual butterfat test of the class by use of the butterfat differentials set forth below.

(e) *Handler butterfat differentials.* The butterfat differentials to be paid by handlers for each one-tenth of one percent that the butterfat content of producer milk used in Class I or Class II is above or below 3.5 percent should be 7 cents when the market price of Grade A (92-score) butter at Chicago ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

Producers proposed that this schedule be used for both Classes of milk and also in making payments for milk delivered by producers. This schedule has been widely used in the payment of producers at milk manufacturing plants in Michigan and has also been used in paying producers supplying milk for fluid use in the Upstate area. It should be applied to Class I prices in preference to a higher schedule of differentials in order to more adequately assess the growing consumer preference for solids-not-fat as indicated by increasing sales of low-fat milk and of skim milk drinks. The same schedule is directly applicable to Class II milk since it will facilitate the disposition of and settlement for seasonal

excess milk diverted to manufacturing plants for processing.

(f) *Handler location adjustments.* All Class I milk purchased from producers by regulated handlers whose plants are located within the marketing area carries the same Class I price. However, on milk supplied to the market from distant points the extra transportation costs must be recognized.

None of the handlers who have supplied such milk in the past or who might wish to do so in the future testified as to the appropriate rates of location adjustment. However, it appears that, with some modification, the location rates incorporated in the Detroit order will be appropriate. The Upstate Class I price itself is predicated on the Detroit rates. Also, the Detroit rates are minimum rates based on the efficient transportation of bulk milk in tank trucks. There is no single focal point in the Upstate area but, rather, a number of population centers throughout the area. However, the two cities of Traverse City and Gaylord furnish geographic focal points from which location adjustments may be appropriately measured. No location adjustment should be allotted at plants located at less than 90 miles from either of these two points. The somewhat elliptical area thus described includes all the plants located within and regularly serving the marketing area. Under the Detroit order the location adjustment at plants located more than 90 miles but not more than 100 miles from the center of the marketing area by shortest highway distance is 18 cents per hundred-weight, with one cent additional for each ten miles or fraction thereof. The same schedule should apply in the Upstate order except that mileage would be measured to the closest of the two designated focal points in the marketing area.

(7) *Payments to producers—(a) Type of pool.* The order should provide for the distribution of returns to producers on the basis of individual-handler pools instead of a marketwide pool.

Under this method of distributing returns to producers each handler's obligations are the same as under a marketwide pool. Each handler pays for milk at Class prices in accordance with the quantities utilized in each Class. However, the producers supplying each handler are paid the blend price resulting from that handler's utilization instead of being paid the blend price equal to the average utilization of all handlers in the market.

Handlers in the marketing area, not heretofore subject to an order, have been purchasing milk under procedures more nearly analogous to individual-handler than to marketwide pooling to the extent that they have had to compete directly with each other in the purchase of milk without sharing any differences in utilization through the mechanism of a marketwide pool and equalization fund. Also, the administrative simplicity of individual-handler pools will be particularly advantageous in a widespread marketing area. The uniform prices to be paid to producers supplying any particular handler can be computed and announced as

soon as that handler's report of receipts and utilization is received and verified. The details incident to obtaining reports from all of the handlers, computing a marketwide blend price, and equalizing payments between handlers (so that they can all pay the same uniform price to producers) are avoided.

In the past, the cooperative association has pooled the proceeds from the sale of milk of some of its members. The individual-handler pool will not interfere with the pooling or payment activities of a cooperative association. Provision is made for handlers to pay an authorized cooperative association, which so requests, the proceeds from the sale of milk supplied by its members. This provision should assist the cooperative association in carrying out an effective pooling and payment plan among its members.

(b) *Producer butterfat differential.* The butterfat differential to be paid producers for each one-tenth of 1 percent that the butterfat content of the milk they deliver during the month is above or below 3.5 percent should be 7 cents when the butter price ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

As explained above in connection with the handler butterfat differential this is the same system of butterfat differentials widely used in the payment of producers delivering milk to manufacturing and fluid milk plants in Michigan. It appears that this butterfat differential will result in a supply of producer milk of satisfactory butterfat test for the needs in the market.

(c) *Producer location differential.* The handler location adjustment at plants located more than the specified distance from the Upstate market applies only on that portion of their supply of milk which is supplied for fluid use. At plants from which milk is distributed directly on routes in the marketing area for fluid use the differential applies to all Class I sales. At country supply plants the location adjustment applies only to such milk as is physically moved to distributing plants serving the marketing area. In the seasons of short supply, practically all of the producer milk at both types of plants would be used for Class I purposes, and the producers would bear the cost of transporting such milk from the plant to the marketing area. During the flush periods substantial quantities of milk would be retained at these plants for conversion into dairy products. However, the potential value of all milk delivered by producers to those distant plants is the market value less the location adjustment, since its value to the market whenever it is needed for Class I purposes is reduced by the transportation cost from the distant plant to the marketing area. It is concluded that the uniform price paid to producers delivering milk to a plant to which Class I location differentials apply should be reduced at the same rate to reflect the lower value of such milk at the plant to which it is delivered.

(d) *Payments to individual producers and to members of cooperative associations.* Each handler should make payments to each producer for milk

delivered by such producer at the appropriate uniform price. Payments due any producer for milk should be paid by the handler to a cooperative association if the cooperative association makes a written request for such payments and if the producer has given the cooperative association written authorization, in the form of a contract or in any other form, to collect such payments. The association's request should also agree to indemnify the handler for any loss incurred because of an improper claim. In making such payments for producer milk to a cooperative association the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amount of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary so the cooperative association can make proper distribution of the money it collects to producers for whom it collects.

Unless a cooperative association can receive payment for the milk marketed on behalf of its producer members, it cannot re-blend the sales proceeds from milk sold in various outlets. This is particularly important under an individual-handler type of pooling. Such re-blending may also be desirable in connection with profits or losses on milk diverted by an association to nonpool plants or on milk sold for fluid use in other marketing areas.

(8) *Administrative provisions—(a) Administrative assessments.* The act provides that the costs of administering a milk marketing order shall be financed by assessments on handlers subject to the order. An assessment not to exceed 5 cents per hundredweight of milk received from producers was proposed for this purpose.

This rate is somewhat higher than the maximum rates provided under the Detroit and Muskegon orders. It reflects the additional expenses which will be incurred in administering an order in a less densely populated marketing area. It is, however, a maximum and may be reduced by the Secretary if experience shows that a lower rate is adequate. It is concluded that the proposed rate of not more than 5 cents per hundredweight should be adopted.

(b) *Market services.* To verify payments to producers at required rates, it is necessary to determine that butterfat tests and weights are accurate. To promote orderly marketing and encourage the production of an adequate supply of milk of satisfactory quality, it is necessary to furnish information regarding the market to individual producers. The cost of these market services should be paid by the producers who receive the benefits. Cooperative associations may be performing these services for members. It is provided, therefore, that in making payments to producers who are members of cooperatives determined by the Secretary to be performing such services, handlers shall be required to

deduct from payments to producers and pay to the cooperative such amounts as are authorized by the members of the cooperative. In the case of producers who are not receiving such services from their cooperative, the service should be performed by the market administrator with funds provided by a deduction from payments to such producers. It is provided, therefore, that a deduction of 5 cents per hundredweight be made from payments to producers not receiving market services from a cooperative of which they are members and paid to the market administrator to be used for performing such services, and that this rate of 5 cents may be lowered by the Secretary if experience proves a lesser amount to be sufficient.

(c) *Other administrative provisions.* The other provisions cover administrative procedures necessary to carry out the pricing and payment requirements of the order, and for the liquidation of accounts in the event of suspension or termination of the order. Appointment of a market administrator is provided for and his powers and duties are prescribed. The computations to be made by the market administrator in determining class prices and uniform prices are set forth.

Handlers are required to permit verification by audit of all utilization of milk and milk products. Handlers are required to preserve all necessary records to show receipts, utilization and payments for a period of 3 years. This is considered long enough to allow for all necessary verification and at the same time not burden handlers with an unreasonable volume of old records. Records involved in any litigation, however, must be retained until released by the market administrator.

The termination of any obligation of a handler regarding any payment required by the order or of the market administrator to pay any handler is provided at the end of the 2 years. Exceptions in the case of handler obligations are made in cases of notification of the obligation by the market administrator, failure or refusal of a handler to submit records, or transactions involving fraud or willful concealment of facts. A definite date for terminating obligations prevents the filing of claims which might extend back many years and involve substantial amounts. The resulting uncertainty could cause serious inequities and endanger the stability of the market. Handlers cannot always be forewarned as to contingent liabilities and it is extremely difficult and burdensome for them to make adequate provision therefor by setting up reserves or by taking other precautionary measures. It is concluded that in general a period of 2 years is a reasonable time in which the market administrator should complete his audits and render billings for money due under the order.

Payments to producers should be made as early as practicable in the month following the delivery month. It appears that this would be accomplished under the terms of the attached order by the 15th of the following month. The dates specified for announcement of class prices, submission of handler reports,

and announcement of uniform prices are so set as to permit payments to producers by such date.

(9) *Other provisions.* Producers are deprived of the use of money rightfully belonging to them if a handler refuses to pay an obligation when due. It is provided therefore that an added charge of one-half percent per month be added to overdue accounts which will compensate producers for being deprived of money due them and also remove the advantage which would accrue to a handler if he could delay payments and have the use of money due to producers at no cost.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of interested parties. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions heretofore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included because the regulatory provisions thereof would be identical with those contained in the order.

DEFINITIONS

§ 916.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.)

§ 916.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States authorized

PROPOSED RULE MAKING

to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 916.3 *U. S. D. A.* "U. S. D. A." means the United States Department of Agriculture.

§ 916.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 916.5 *Upstate Michigan marketing area.* "Upstate Michigan marketing area" hereinafter referred to as the "marketing area" means all of the territory, including all municipal corporations, within: the counties of Manistee, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Charlevoix, Emmett, and Cheboygan; all of Presque Isle County except for Krakow and Presque Isle Townships; and the Townships of Wexford, Springville, and Hanover in Wexford County.

§ 916.6 *Fluid milk plant.* "Fluid milk plant" means all the premises, buildings, and facilities of any milk receiving, processing, or packaging plant from which:

(a) Any fluid milk product is disposed of during the month in the marketing area either on the premises or to retail or wholesale routes, directly or through vendors; or

(b) Milk or skim milk is delivered to a plant(s) described in paragraph (a) of this section on 11 or more days in any of the months of July through November or on 6 or more days in any of the months of December through June; and all or a portion of the skim milk and butterfat in the milk or skim milk so delivered is assigned to Class I utilization in the transferee plant pursuant to § 916.46 or § 916.47.

§ 916.7 *Handler.* "Handler" means (a) a person who operates a fluid milk plant or any other plant from which fluid milk products are disposed of during the month in the marketing area, of (b) a cooperative association with respect to milk customarily received by a handler as described under paragraph (a) of this section, which is diverted to a non-handler for the account of the association.

§ 916.8 *Producer.* "Producer" means a person, other than a producer-handler, who produces milk in conformity with the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of a fluid milk product, which milk is received directly from the farm at a fluid milk plant or is diverted from such plant for the account of a cooperative association.

§ 916.9 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but receives no milk from other producers.

§ 916.10 *Producer milk.* "Producer milk" means milk delivered by one or more producers.

§ 916.11 *Other source milk.* "Other source milk" means all skim milk and butterfat received at a fluid milk plant in any form, other than that contained in producer milk.

§ 916.12 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(a) To be qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 916.13 *Fluid milk product.* "Fluid milk product" means milk, flavored milk, skim milk, buttermilk, or half-and-half.

MARKET ADMINISTRATOR

§ 916.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 916.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 916.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 916.72:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 916.73, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office

and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 916.30 and 916.31, or (2) payments pursuant to §§ 916.70, 916.72, 916.73, and 916.74;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part; and

(i) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th day of each month, the minimum class prices for the preceding month computed pursuant to §§ 916.51 and 916.52, and the handler butterfat differential computed pursuant to § 916.53, and

(2) On or before the 12th day of each month the uniform price for each handler for the preceding month, computed pursuant to § 916.61, and the producer butterfat differential computed pursuant to § 916.71.

REPORTS, RECORDS, AND FACILITIES

§ 916.30 *Monthly reports of receipts and utilization.* On or before the 5th working day of each month, each handler shall report to the market administrator for the preceding month, in the detail and on forms prescribed by the market administrator, the following with respect to (a) all producer milk received, (b) all skim milk and butterfat in any form received from other handlers, and (c) all other source milk (except any nonfluid milk product which is disposed of in the same form as received) received at a plant(s) described in § 916.6:

(1) The quantities of butterfat and skim milk contained in such receipts, and their sources;

(2) The utilization or disposition of such receipts; and

(3) Such other information with respect to such receipts and their utilization or disposition as the market administrator may prescribe.

§ 916.31 *Other reports.* (a) Each producer-handler and each handler shall make reports at such time and in such manner as the market administrator may request.

(b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show:

(1) The pounds of milk received from each producer and the percentage of butterfat contained therein;

(2) The amount and date of payment to each producer (or to a cooperative association) and

(3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 916.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator, during the usual hours of business, such ac-

counts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form, (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled, and (c) payments to producers and cooperative associations.

§ 916.33 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 916.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received at a handler plant (a) in milk from producers or from a cooperative association, (b) in any form from other handlers, and (c) in other source milk required to be reported pursuant to § 916.30, shall be classified (separately as skim milk and butterfat) in the classes set forth in § 916.41.

§ 916.41 *Classes of utilization.* Subject to the conditions set forth in §§ 916.42 and 916.43, the classes of utilization shall be:

(a) Class I utilization shall be all skim milk and butterfat (1) disposed of for consumption in fluid form as milk, flavored milk, skim milk, buttermilk, and half-and-half or other mixtures of cream and milk containing less than 18 percent butterfat; and (2) not accounted for as Class II utilization.

(b) Class II utilization shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraph (a) of this section; (2) disposed of as fluid cream or for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; (3) in shrinkage of producer milk up to 2 percent of receipts from producers; or (4) in shrinkage of other source milk.

§ 916.42 *Shrinkage.* (a) If producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and other source milk.

(b) Producer milk transferred by a handler to another handler without first

having been received for the purpose of weighing and testing in the transferor handler's plant shall be included in the receipts at the plant of the transferee handler for the purpose of computing his shrinkage and shall be excluded at the plant of the transferor handler in computing his shrinkage.

§ 916.43 *Transfers.* (a) Skim milk and butterfat disposed of from a fluid milk plant to another handler in the form of milk or skim milk shall be Class I utilization, unless Class II utilization is indicated by both handlers in their reports submitted pursuant to § 916.30: *Provided*, That in no event shall the amount so classified in Class II be greater than the amount of producer milk used in such class by the transferee handler after allocating other source milk in his plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk or skim milk from a fluid milk plant to a person not a handler shall be Class I utilization unless all of the following conditions are met:

(1) Class II utilization is indicated by the handler in his report submitted pursuant to § 916.30;

(2) The operator of the transferee plant had actually used in the month of such movement an equivalent amount of skim milk and butterfat in Class II, or moved such amount to another plant not operated by a handler which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in Class II.

(3) The operator of the transferee plant maintains books and records which are made available if requested by the market administrator and which are adequate for the verification of such Class II utilization.

(c) Skim milk and butterfat disposed of from a fluid milk plant to a producer handler shall be Class I utilization.

§ 916.44 *Responsibility of handlers and reclassification.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 916.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I and Class II utilization for such handler.

§ 916.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 916.41 (b) (3),

(b) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utiliza-

tion, the pounds of butterfat in other source milk received from a plant(s) other than those subject to another marketing agreement or order issued pursuant to the act;

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat in other source milk received in bulk from a plant(s) which is subject to another marketing agreement or order issued pursuant to the act;

(d) Subtract from the pounds of butterfat in each class the pounds of butterfat contained in milk or milk products received in packaged form which were classified and priced under another marketing agreement or order issued pursuant to the act and disposed of in the same form as received.

(e) Subtract from the remaining pounds of butterfat in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 916.43 (a) and

(f) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section;

(g) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series, beginning with the lowest-priced utilization.

§ 916.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 916.46.

MINIMUM PRICES

§ 916.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I utilization shall be the highest of the prices computed pursuant to paragraphs (a) (b) and (c) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A.:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one

price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

(c) The average price per hundred-weight computed by adding together the basic or field prices reported to have been paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants:

Beatrice Foods Co., Cadillac, Mich.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Kraft Cheese Co., Clare, Mich.

§ 916.51 *Class I milk price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his plant as described in § 916.7 for milk of 3.5 percent butterfat content received from producers or from cooperative associations, during the month, which is classified as Class I utilization shall be the basic formula price plus \$1.15, and plus or minus the amount determined pursuant to § 924.51 (b) of this chapter.

§ 916.52 *Class II milk price.* The minimum price per hundredweight to be paid by each handler, f. o. b. his plant as described in § 916.7 for milk of 3.5 percent butterfat content received from producers or from a cooperative association, during the month, which is classified as Class II utilization, shall be the price as computed by the market administrator pursuant to § 916.50 (c)

§ 916.53 *Handler butterfat differential.* There shall be added to or subtracted from, as the case may be, the prices of milk for each class as computed pursuant to §§ 916.51 and 916.52, for each one-tenth of one percent variation in the average butterfat test of the milk in each class above or below 3.5 percent an amount equal to the producer butterfat differential determined pursuant to § 916.71.

§ 916.54 *Handler location adjustments.* For milk which is received from producers at a fluid milk plant located more than 90 miles but not more than 100 miles, by shortest highway distance, as determined by the market administrator, from the court house in either Gaylord or Traverse City and utilized as Class I (prorating to such milk the utilization of all producer milk received at the plant) the price shall be the price effective pursuant to § 916.51, less 18 cents, and less 1 cent additional for each 10 miles or fraction thereof over 100 miles.

HANDLER'S OBLIGATION AND UNIFORM PRICE

§ 916.60 *Value of producer milk.* The value of producer milk received by each handler during the month shall be the

sum of money computed by the market administrator by multiplying the hundredweight of skim milk and butterfat in each class by the applicable class prices and adding together the resulting amounts, and adding or subtracting, as the case may be, the amount necessary to correct errors in classification for previous months as disclosed by audit of the market administrator: *Provided*, That, if a handler, after the subtraction of other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which on the basis of his reports for the month, pursuant to § 916.30, has been credited to his producers as having been received from them there shall be added to the value of his producer milk a further amount computed by multiplying the pounds in each class as subtracted pursuant to § 916.46 (g) and the corresponding step of § 916.47 by the applicable class price.

§ 916.61 *Computation of uniform price.* For each month the market administrator shall compute for each handler a "uniform price" per hundredweight of producer milk received by such handler by:

(a) Subtracting from the value of milk computed for such handler pursuant to § 916.60, if the weighted average butterfat test of all producer milk represented by such value is greater than 3.5 percent or adding, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such weighted average butterfat test from 3.5 percent, by the butterfat differential computed pursuant to § 916.71 multiplied by 10;

(b) Adjusting the resulting amount by the sum of money used in adjusting the uniform price, pursuant to paragraph (e) of this section for the previous month to the nearest cent;

(c) Dividing the result by the total hundredweight of producer milk represented by the amounts computed pursuant to § 916.60; and

(d) Adjusting the resulting figure to the nearest cent.

§ 916.62 *Notification.* On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing for such month:

(a) The amount and value of his producer milk in each class;

(b) The uniform price for such handler computed pursuant to § 916.61, and the butterfat differential computed pursuant to § 916.71, and

(c) The amounts to be paid by such handler pursuant to §§ 916.72 and 916.73.

PAYMENT FOR MILK

§ 916.70 *Time and method of payment.* (a) Except as provided in paragraph (b) of this section, on or before the 15th day after the end of each month each handler who received milk from producers shall pay for milk received during such month to each producer for milk received from him the uniform price as provided in § 916.61 adjusted by the

butterfat differential pursuant to § 916.71 and the location adjustment pursuant to § 916.72.

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the 16th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(2) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination.

§ 916.71 *Producer butterfat differential.* In making payments pursuant to § 916.70, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 916.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5-cent variance in such price of butter below 64.99 cents.

§ 916.72 *Producer location adjustments.* In making payments to producers or cooperative associations pursuant to § 916.70 a handler may deduct,

with respect to all milk received by him from producers at a plant located by shortest highway distance as determined by the market administrator, more than 90 miles from the court house in either Gaylord or Traverse City area the amount per hundredweight applicable to the plant as set forth in § 916.54.

§ 916.73 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 13th day after the end of each month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk from producers, including milk of such handler's own production.

§ 916.74 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 916.70 for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 916.70 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

§ 916.75 *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler,

(b) To such handler from the market administrator, or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 916.76 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 916.72, 916.73, and 916.74 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 916.77 *Termination of obligations.* (a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

APPLICATION OF PROVISIONS

§ 916.80 *Milk caused to be delivered by cooperative associations.* Milk referred to in this part as received from producers by a handler shall include milk of producers caused to be delivered to such handler by a cooperative association.

§ 916.81 *Producer-handler exemption.* A producer-handler shall be exempt from all provisions of this part except §§ 916.31, 916.32, and 916.33.

§ 916.82 *Handler exemption.* A handler who operates a plant located outside the marketing area from which an average of less than 200 points (one point being defined as one half-pint of half-and-half or one quart of any other fluid milk product) of Class I milk per day is disposed of during the delivery month on a route(s) operated wholly or partly within the marketing area shall, with respect to such plant, be exempted for such delivery period from all provisions of this subpart except §§ 916.31, 916.32, and 916.33.

§ 916.83 *Milk subject to other Federal orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area, either during the month or during the average of the 12 preceding months, exceeds that in the Upstate Michigan marketing area shall be exempted for such month from all the provisions hereof except §§ 916.31, 916.32, and 916.33 unless the Secretary determines that such plant is more appropriately regulated under this part.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 916.90 *Effective time.* The provisions of this part, or of any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 916.91 *When suspended or terminated.* The Secretary shall, whenever he finds that this part, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this part or any such provision thereof.

§ 916.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 916.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control,

including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distri-

bution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 916.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 916.101 *Separability of provisions.* If any provision of this part, or its ap-

plication to any person or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 29th day of June 1955.

[SEAL] ROY W LENNARTSON,
Deputy Administrator

[F. R. Doc. 55-5304; Filed, July 1, 1955; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SMALL TRACT CLASSIFICATION ORDERS NO. 1 TO 96, INCLUSIVE; GENERAL AMENDMENT

JUNE 27, 1955.

By virtue of the authority contained in the act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended and pursuant to the authority delegated to me by Bureau Order No. 541, it is ordered as follows:

1. All competitive Small Tract Classification Orders and amendments thereto issued between February 17, 1948 and February 25, 1955 by the Area Administrator, Area 4, Bureau of Land Management, as follows are hereby amended to conform to the provisions of the act of June 8, 1954 (68 Stat. 239; 43 U. S. C. 682a) as it relates to or amends the Small Tract Act of June 1, 1938, supra:

Small Tract Classification Order Numbers

1-6, inclusive;
8-18, inclusive;
19 and amendment No. 1;
20-27, inclusive;
29 and amendment No. 1;
30-32, inclusive;
33, as amended;
34-37, inclusive;
38 and amendment No. 1;
39-47, inclusive;
48 as corrected;
49;
50 and amendment No. 1;
51;
53-60, inclusive;
61 and amendment No. 1;
62;
63 and amendment No. 1;
64;
65 as corrected;
66 as corrected;
67-69, inclusive;
70 as amended;
71-73, inclusive;
74 and amendment No. 1;
75-76, inclusive;
77 as amended;
78-96, inclusive.

2. The provisions of the Classification Orders cited above are hereby subjected to the provisions of the amended regulations (Circular 1899) Notable changes provide that annual rentals in leases hereafter issued shall consist of a sum equal to 1/20th of the appraised price of the tract, however \$5.00 will be the

minimum annual rental charged, except that the annual rental on tracts leased for business purposes will be 1/20th or \$20.00 minimum to be adjusted at the end of the lease year in accordance with a percentage of the gross income as specified on lease form 4-776. An advance payment consisting of a sum equal to 2 years' rental is required with the filing of the application to lease. In addition, a \$10.00 filing fee is required. Small tracts may be purchased at any time during the lease period upon the satisfactory completion of the specified requirements.

ROGER R. ROBINSON,
Acting Area Administrator

[F. R. Doc. 55-5347; Filed, July 1, 1955; 8:48 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

ALASKA EMPLOYMENT SECURITY ACT

APPROVAL BY SECRETARY

The Employment Security Commission of the Territory of Alaska having duly submitted to the Secretary of Labor the Alaska Employment Security Act, Chapter 5, First Extraordinary Session Laws of Alaska, 1955 and

I, having considered the provisions of said law, find that:

(1) It includes all applicable provisions required by section 3304 (a) of the Internal Revenue Code; and

(2) Was in effect and included such provisions on and after the 8th day of April 1955.

Therefore, I, the Secretary of Labor, hereby approve the said law under section 3304 (a) of the Internal Revenue Code subject, however, to the provisions of subsections (c) and (d) of section 3304 of the Internal Revenue Code.

Pursuant to the provisions of section 3304 (b) of the Internal Revenue Code, I direct that the foregoing findings be transmitted to the Governor of the Territory of Alaska.

Dated: June 24, 1955.

JAMES P MITCHELL,
Secretary of Labor

[F. R. Doc. 55-5330; Filed, July 1, 1955; 8:45 a. m.]

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended April 19, 1955, 20 F. R. 2304)

Colonial Togs, 544 Leggett Street, Scranton, Pa., effective 6-22-55 to 6-21-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (snow suits, etc.).

Georgia Slacks Co., Lawrenceville, Ga., effective 6-27-55 to 6-26-56, 10 learners for normal labor turnover purposes (men's and boys' trousers).

Helena Garment Co., Ritmor Square, West Helena, Ark., effective 6-23-55 to 6-22-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (women's garments).

Minersville Dress Manufacturing Co., 117 Front Street, Minersville, Pa., effective 6-20-55 to 6-19-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (women's apparel).

Mylcraft Manufacturing Co., Inc., North Main Street, Rich Square, N. C., effective 7-5-55 to 7-4-56, 10 learners for normal labor turnover purposes (women's wearing apparel).

Mylcraft Manufacturing Co., Inc., South Main Street, Rich Square, N. C. effective 7-5-55 to 7-4-56, 10 learners for normal labor turnover purposes (women's wearing apparel).

Pioneer Manufacturing Co., Inc., 83 Waller Street, Wilkes-Barre, Pa., effective 7-15-55 to 7-14-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (children's dresses).
Sue-Ann Frocks, 200 East Noble Street, Nanticoke, Pa., effective 7-16-55 to 7-15-56, 10 learners for normal labor turnover purposes (ladies' dresses).

Shari Manufacturing Co., 35 New Bennett Street, Wilkes-Barre, Pa., effective 7-9-55 to 7-8-56, 10 learners for normal labor turnover purposes (ladies' dresses).

Strutwear, Inc., Glencoe, Minn., effective 6-27-55 to 6-26-56, 7 learners for normal labor turnover purposes in the production of women's blouses and women's lingerie from purchased woven fabric (women's lingerie and blouses).

Tropical Garment Manufacturing Co., Inc., 3108 Jefferson and 2514 Ivy Streets, Tampa, Fla., effective 6-27-55 to 6-26-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (work pants, shirts, etc.).

West Union Garment Co., Inc., West Union, W. Va., effective 7-2-55 to 7-1-56, 10 learners for normal labor turnover purposes (brassieres, etc.).

Whiteville Manufacturing Co., Wilmington Road, Whiteville, N. C., effective 7-8-55 to 7-7-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (work clothing).

J. H. Wood Manufacturing Co., Inc., 226 South 6th Street, Waco, Tex., effective 6-27-55 to 6-26-56, 10 percent of the total number of factory production workers for normal labor turnover purposes (work clothing).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended April 19, 1955, 20 F. R. 2304)

Acca Hosiery Mills, Henderson, N. C., effective 7-5-55 to 7-4-56, 5 learners for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.30 to 522.35, as amended April 19, 1955, 20 F. R. 2304).

Strutwear, Inc., Glencoe, Minn., effective 6-27-55 to 6-26-56, 3 learners for normal labor turnover purposes in the production of women's lingerie from purchased knit fabric (women's lingerie).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.12, as amended February 28, 1955, 20 F. R. 645)

Palm Beach Co., Danville, Ky., effective 6-27-55 to 6-26-56, 7 percent of the total number of factory production workers for normal labor turnover purposes in the operations of machine operators (except cutting), presses, handsewers, each 480 hours at 65 cents an hour for the first 240 hours and not less than 70 cents an hour for the remaining 240 hours (men's coats).

The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning periods and the learner wage rates are indicated, respectively.

Somtex Knitting Mills, 105 Matias Gonzales Street, Gurabo, P. R., effective 6-21-55 to 6-20-56, 10 learners in any one work day in the occupations of knitting, looping, seaming, topping, mending, winding; each 160 hours at 30 cents an hour, 160 hours at 37½ cents an hour and 160 hours at 45 cents an hour (sweater).

Each certificate has been issued upon the employer's representation that em-

ployment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 27th day of June, 1955.

MILTON BROOKE,
Authorized Representative
of the Administrator.

[F. R. Doc. 55-5329; Filed, July 1, 1955; 8:45 a. m.]

FARM CREDIT ADMINISTRATION

[Order No. 623; Revocation of Order No. 622]

CERTAIN OFFICERS

DELEGATION OF AUTHORITY TO ACT AS GOVERNOR

JUNE 28, 1955.

1. In the event that the Governor is absent or is not able to perform the duties of his office for any other reason, the officer who is the highest on the following list and who is available to act is hereby authorized to exercise and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration:

- (1) A. T. Esgate, First Deputy Governor.
- (2) Thomas A. Maxwell, Jr., Deputy Governor and Director of Land Bank Service.
- (3) Homer G. Smith, Deputy Governor and Director of Cooperative Bank Service.
- (4) Harold A. Miles, Deputy Governor and Director of Short-Term Credit Service.
- (5) John C. Bagwell, General Counsel.
- (6) Any Deputy Director of one of the above-named Services designated by the Governor.

2. This order shall be effective July 1, 1955.

[SEAL] R. B. TOOTELL,
Governor.

[F. R. Doc. 55-5339; Filed, July 1, 1955; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11055, 11056; FCC 55M-577]

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 informal agreement of the parties with respect to continuance of the above-entitled proceeding;

It is ordered, This 27th day of June 1955, that the hearing now scheduled for July 1, 1955 is continued until July 25, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5351; Filed, July 1, 1955; 8:49 a. m.]

[Docket Nos. 11399, 11400; FCC 55-720]

NEW BRITAIN BROADCASTING CO. (WKNB-TV) ET AL.

ORDER RESCHEDULING HEARING

In re applications of The New Britain Broadcasting Company (WKNB-TV) New Britain, Connecticut, for modification of construction permit (Channel 30), Docket No. 11399, File No. BMPCT-2787; Julian Gross, et al., (transferor) and National Broadcasting Company, Inc. (transferee) for transfer of control of New Britain Broadcasting Company (WKNB and WKNB-TV), Docket No. 11400, File No. BTC-1896.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of June 1955;

The Commission having under consideration its order of June 15, 1955, continuing the hearing by oral argument before the Commission en banc in the above-entitled proceeding from June 20, 1955 to July 7, 1955 to commence at 10:00 a. m.,

It appearing, that the Commission will not be able to convene on the said date of July 7, 1955, until 10:30 a. m. and therefore the said hearing cannot commence at the time previously specified;

It is ordered, That the hearing by oral argument before the Commission en banc in the above-entitled proceeding shall commence at 10:30 a. m. on the date and at the place previously specified.

Released: June 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5352; Filed, July 1, 1955; 8:50 a. m.]

[Docket No. 11412; FCC 55M-578]

WJR, THE GOODWILL STATION, INC.

MEMORANDUM OF RULING CONTINUING HEARING

In re application of WJR, The Goodwill Station, Inc., Flint, Michigan (WJRT), for modification of construction permit, Docket No. 11412, File No. BMPCT-2689.

As stated at the prehearing conference of June 16, 1955 (see TR 59, e. g.) the

hearing scheduled to begin on June 27, 1955, was continued to Tuesday, July 5, 1955, at 10:00 a. m., in the offices of the Commission, Washington, D. C..

Dated: June 27, 1955.

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

[F. R. Doc. 55-5353; Filed, July 1, 1955;
8:50 a. m.]

HI16K.....	Ciudad Trujillo (shown in error as 1,400 kilocycles in change list no. 16).	1440 kilocycles 0.25.....	ND	U	IV
HI12A.....	Pimentel (shown in error as 400 watts in change list no. 16).	1490 kilocycles 0.04.....	ND	U	IV

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-5354; Filed, July 1, 1955; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1705, G-1937, G-2057, G-2433, G-2475, G-2932, G-3159, G-4611, G-4666, G-4940, G-5139, G-5979, G-8428, G-8431, G-8471, G-8526, G-8664, G-8665, G-8676, G-8677, G-8771, G-8888, G-8939, G-8962, G-8963]

PANHANDLE EASTERN PIPE LINE CO. ET AL.
ORDER CONSOLIDATING AND RECONVENING
PROCEEDINGS AND SPECIFYING PROCEDURE

In the matters of Panhandle Eastern Pipe Line Company, Docket Nos. G-1705, G-1937, G-2433, G-2475, G-8665; Missouri Public Service Company, Docket No. G-2057; City of Montgomery, Missouri, Docket No. G-2932; Town Gas Company of Illinois, Docket No. G-3159; Missouri Central Natural Gas Company, Docket No. G-4611, Village of Westville, Illinois, Docket No. G-4666; Village of Pleasant Hill, Illinois, Docket No. G-4940; City of Waverly, Illinois, Docket No. G-5139; Village of Rossville, Illinois, Docket No. G-5979; Central Illinois Electric & Gas Company, Docket No. G-8428; City of Winchester, Illinois, Docket No. G-8431, Village Franklin, Illinois, Docket No. G-8471; City of Hickman, Kentucky, Docket No. G-8526; Trunkline Gas Company, Docket No. G-8664; City of McLeansboro, Illinois, Docket No. G-8676; City of Vienna, Illinois, Docket No. G-8677; City of Clinton, Kentucky, Docket No. G-8771, City of La Center, Kentucky, Docket No. G-8888; City of Bardwell, Kentucky, Docket No. G-8939; City of Wickliffe, Kentucky, Docket No. G-8962; Lake County Utility District, Docket No. G-8963.

On May 9, 1955, Panhandle Eastern Pipe Line Company (Panhandle) at hearings on Docket No. G-1705, et al., moved the Presiding Examiner to recess the proceedings until further order of the Commission. A major portion of these proceedings had concerned Panhandle's plans for the development of a natural-gas storage area near Waverly, Illinois, whereby it was anticipated that 200,000 Mcf per day of natural gas would be made available for the use of Panhandle's customers on a firm basis.

[Change List 16]

DOMINICAN BROADCAST STATIONS

NOTIFICATION OF NEW STATIONS AND
CHANGES IN EXISTING STATIONS; COR-
RECTION

Corrections to Dominican Republic Change List Number 16 as set forth in a letter from that Administration dated March 15, 1955, and transmitted through official channels by the Inter-American Radio Office.

regard must be an issue to be considered in these proceedings, particularly in view of the effect the increased deliveries might have on Panhandle's reserves and the general operation of its pipeline.

The Commission finds:

(1) It is appropriate and in the public interest to consolidate for the purpose of hearing the proceedings in the caption hereof.

(2) It is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act that the hearing in this proceeding be reconvened at the time and place and on the date hereinafter designated, in accordance with the procedure hereinafter provided and ordered.

The Commission orders:

(A) The proceedings in the caption hereof be and the same are hereby consolidated for the purpose of hearing.

(B) The hearing in these proceedings, as consolidated herein, shall reconvene commencing on July 12, 1955, at 10:00 a. m. in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

(C) At the reconvening of the hearing, Panhandle, Trunkline, and the applicants who have filed applications pursuant to section 7 (a) of the Natural Gas Act, which have been consolidated by this order, shall first present and complete their direct cases. Opportunity shall then be provided for appropriate presentations by intervening parties, including those of Panhandle's existing customers who desire to present evidence in support of requests for increased natural gas deliveries. There shall then follow cross-examination of all parties who have not yet been cross-examined, and rebuttal evidence to the presentations of such parties. The Presiding Examiner shall provide for recess at an appropriate stage of the proceedings consistent with the Commission's announced policy for the suspension of hearings during the period August 1 through September 5, 1955.

Adopted: June 23, 1955.

Issued: June 27, 1955.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 55-5331; Filed, July 1, 1955;
8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 6114]

MACKEY AIR LINES CERTIFICATE RENEWAL
CASE

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on July 13, 1955, at 10:00 a. m., e. d. s. t., in Room E-206, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson. This prehearing conference will consider the application of Mackey for renewal of its temporary certificate for designation of

certain additional intermediate points for a new segment from West Palm Beach-Palm Beach, Fort Lauderdale to Nassau via Havana, and for authority to carry mail.

Dated at Washington, D. C., June 29, 1955.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 55-5355; Filed, July 1, 1955;
8:50 a. m.]

[Docket Nos. 6429, 6957]

PAN AMERICAN WORLD AIRWAYS, INC.

NOTICE OF PREHEARING CONFERENCE

Pan American World Airways, Inc., Trans-Pacific Operations; Temporary Mail Rates; Docket No. 6429.

Pan American World Airways, Inc., Latin American Division; Temporary Mail Rates; Docket No. 6957.

Notice is hereby given that a prehearing conference in the above-entitled proceedings is assigned to be held on July 7, 1955, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D. C., June 29, 1955.

[SEAL] FRANCIS W. BROWN,
Chief Examiner

[F. R. Doc. 55-5356; Filed, July 1, 1955;
8:50 a. m.]

[Docket Nos. 6685, 6717, 7002]

NATIONAL AIRLINES, INC., ET AL.

NOTICE OF PREHEARING CONFERENCE

New York-Nassau case: National Airlines, Inc., Docket No. 6685; Eastern Airlines, Inc., Docket No. 6717; Pan American World Airways, Inc., Docket No. 7002.

Notice is hereby given that a prehearing conference in the above-entitled case is assigned to be held on July 18, 1955, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner F. Merritt Ruhlen.

Dated at Washington, D. C., June 29, 1955.

[SEAL] FRANCIS W BROWN,
Chief Examiner

[F. R. Doc. 55-5357; Filed, July 1, 1955;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR
RELIEF

JUNE 29, 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

No. 129—8

days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 30793: Aluminum Billets—Gregory and Point Comfort, Tex., to Listerhill, Ala. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on aluminum billets, blooms, ingots, pigs, or slabs, carloads, from Gregory and Point Comfort, Tex., to Listerhill, Ala.

Grounds for relief: Competition of carriers via barge and circuitous routes.

Tariff: Supplement 56 to Agent Kratzmeir's I. C. C. 4139.

FSA No. 30794: Hides—Florida to official territory. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on hides, pelts or skins, not dressed nor tanned, of domestic animals, carloads, from Bartow, Fla., to Belleville, N. J., and Peabody, Mass.

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

Tariff: Supplement 128 to Agent Spaninger's I. C. C. 1324.

FSA No. 30795: Sulphuric acid—Southwest to Jenkins, La. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on sulphuric acid, tank-car loads, from specified points in Arkansas and Texas to Jenkins, La.

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

Tariff: Supplement No. 78 to Agent Kratzmeir's I. C. C. 4109 and three other tariffs.

FSA No. 30796: Fertilizer and materials—Norfolk, Va., to Goldsboro, N. C. Filed by Southern Railway Company for itself. Rates on fertilizer and fertilizer materials, carloads, from Norfolk, Va., to Goldsboro, N. C.

Grounds for relief: Circuitous route.

Tariff: Supplement 96 to Agent Spaninger's I. C. C. 1221.

FSA No. 30797: Sodium phosphate—Jeffersonville, Ind., to Baltimore, Md. Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on sodium phosphate, carloads, from Jeffersonville, Ind., to Baltimore, Md.

Grounds for relief: Market competition and circuitry.

Tariff: Supplement 125 to Agent Hinsch's I. C. C. 4542.

FSA No. 30798: Sisal fibre waste—Southern ports to Chicago, Ill. Filed by H. M. Engdahl, Agent, for interested rail carriers. Rates on waste—sisal fibre or sisal (bagasse fibre) carloads, from Gulf, south Atlantic and Florida ports (imported thereat from foreign countries), to Chicago, Ill.

Grounds for relief: Competition with north Atlantic ports and circuitous routes.

Tariff: Supplement 5 to Agent Engdahl's I. C. C. 133.

FSA No. 30799: Foodstuffs—Southern ports to Missouri. Filed by H. M. Engdahl, Agent, for interested rail carriers. Rates on canned, preserved or prepared foodstuffs and related articles (not cold-pack nor frozen), carloads, from Gulf, Florida, and south Atlantic Ports (imported thereat from foreign countries), to specified points in Missouri in the Missouri-Illinois Railroad Company.

Grounds for relief: To maintain destination rate relations with St. Louis, Mo., on traffic imported at same southern ports. Circuitous routes.

Tariff: Supplement 53 to Agent Engdahl's I. C. C. 126.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-5337; Filed, July 1, 1955;
8:47 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 53]

COLORADO AND SOUTHERN RAILWAY CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Charles W Taylor, Agent, The Colorado and Southern Railway company, due to washout between Farthing and Chugwater, Wyoming, is unable to transport traffic routed over its lines between these points. *It is ordered, That:*

(a) Rerouting traffic: The Colorado and Southern Railway Company is hereby authorized to reroute or divert traffic moving over its line between Farthing and Chugwater, Wyoming, due to washout, over any available route to expedite the movement.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to such traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 3:00 p. m., June 25, 1955.

(g) Expiration date: This order shall expire at 11:59 p. m., July 15, 1955, unless otherwise modified, changed, suspended or annulled.

NOTICES

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., June 25, 1955.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W TAYLOR,
Agent.

[F. R. Doc. 55-5335; Filed, July 1, 1955;
8:46 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 51,
Amdt. 1]

'ST. LOUIS-SAN FRANCISCO RAILWAY CO.
REROUTING OR DIVERSION OF TRAFFIC;
EXPIRATION DATE

Upon further consideration of Taylor's I. C. C. Order No. 51 and good cause appearing therefor: *It is ordered*, That: Taylor's I. C. C. Order No. 51 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 a. m., July 31, 1955, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p. m., June 25, 1955, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., June 25, 1955.

INTERSTATE COMMERCE,
COMMISSION,
CHARLES W TAYLOR,
Agent.

[F. R. Doc. 55-5336; Filed, July 1, 1955;
8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order T-623]

ARKANSAS

LOAN ANNOUNCEMENT

JUNE 8, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Allied Telephone Co., Arkansas 513-A Little Rock.....	\$1,423,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-5297; Filed, June 30, 1955;
8:50 a. m.]

[Administrative Order T-624]

MAINE

LOAN ANNOUNCEMENT

JUNE 9, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Levant-Kenduskeag Telephone Corp., Maine 511-A Levant-Kenduskeag	\$84,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator

[F. R. Doc. 55-5298; Filed, June 30, 1955;
8:50 a. m.]

[Administrative Order T-625]

ALABAMA

LOAN ANNOUNCEMENT

JUNE 14, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Elmore-Coosa Telephone Co., Inc., Alabama 532-A Elmore-Coosa	\$185,000

¹ Simultaneous allocation and loan.

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-5299; Filed, June 30, 1955;
8:50 a. m.]

[Administrative Order T-626]

INDIANA

LOAN ANNOUNCEMENT

JUNE 15, 1955.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Hancock Rural Telephone Corp., Indiana 506-C Hancock	\$70,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 55-5300; Filed, June 30, 1955;
8:50 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File No. 70-3388]

CENTRAL POWER AND LIGHT CO.

ORDER REGARDING ACQUISITION BY PUBLIC UTILITY SUBSIDIARY OF REGISTERED HOLDING COMPANY OF BONDS AND PROMISSORY NOTE OF NON-AFFILIATED NON-UTILITY COMPANY

JUNE 28, 1955.

Central Power and Light Company ("Central Power") a public-utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application, and an amendment thereto, with this Commission pursuant to the provisions of sections 9 (a) and 10 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transaction:

Central Power has entered into an agreement dated May 1, 1955 with Southern Texas Ice & Service Inc. ("Southern Texas"), a non-affiliated non-utility company, pursuant to which Central Power will sell, and Southern Texas will buy, all of Central Power's ice properties and facilities, which are being operated by Southern Texas under a lease agreement.

The agreed sale price is \$1,100,000 if paid in cash by Southern Texas on or before January 16, 1956, or \$1,200,000 if paid partly in cash and partly in debt securities of Southern Texas. The agreement provides that Southern Texas shall pay to Central Power \$250,000 in cash at the time of conveyance of said properties and deposit with Harris Trust and Savings Bank, Chicago, Illinois, as Escrow Agent, \$850,000 principal amount of First Mortgage 5 percent Sinking Fund Bonds dated May 1, 1955, and maturing May 1, 1965, and a promissory note in the principal amount of \$100,000 bearing interest at the rate of 5 percent per annum from May 1, 1955, and payable in two installments of \$50,000 each on May 1, 1956, and May 1, 1957. The bonds will be secured by a first mortgage on substantially all of the properties of Southern Texas, including those to be acquired from Central Power, and the promissory note will be endorsed and guaranteed by Southeastern Public Service Company, the parent of Southern Texas.

The agreement provides that Southern Texas may, at its option, pay to the Escrow Agent for the account of Central Power at any time on or before January 16, 1956, the sum of \$850,000 in cash, plus interest thereon at the rate of 5 percent per annum from May 1, 1955, to the date of payment, and the bonds and promissory note held by the Escrow Agent shall be returned to Southern Texas. If Southern Texas shall not make such payment to the Escrow Agent for the account of Central Power, the failure to do so shall constitute an election by Southern Texas to purchase Central Power's ice properties partly for cash and partly for debt securities and the Escrow Agent shall release to Central Power the \$850,000 principal amount of bonds and promissory note

in the principal amount of \$100,000 as valid and binding obligations for the payment of principal and interest provided therein.

No State commission and no Federal regulatory agency, other than this Commission, has any jurisdiction over the proposed acquisition by Central Power of the bonds and promissory note of Southern Texas.

No commitment or other fees will be paid by Central Power in connection with the acquisition by it of the bonds and promissory note of Southern Texas, and the expenses incurred or to be incurred, and paid by Central Power, consisting of incidental and miscellaneous

expenses, are estimated at not to exceed \$300.

Central Power has requested that the Commission take action herein as soon as practicable and that there be no waiting period between the issuance of the Commission's order and the effective date thereof.

Due notice of the filing of said application having been given in the manner prescribed by Rule U-23 under the act, and no hearing having been requested of, or ordered by, the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied, that the expenses, if they do not exceed

the estimates, are not unreasonable, and that said amended application should be granted forthwith, subject to the terms and conditions prescribed in Rule U-24 promulgated under the act:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said amended application be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 55-5332; Filed, July 1, 1955;
8:46 a. m.]

