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## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 6335]

#### PART 13—DIGEST OF CEASE AND DESIST ORDERS

PAUL A. RAICH

Subpart—*Advertising falsely or misleadingly*: § 13.30 *Composition of goods*; § 13.155 *Prices: Exaggerated as regular and customary*. Subpart—*Misbranding or mislabeling*: § 13.1190 *Composition. Wool Products Labeling Act*. § 13.1325 *Source or origin: Maker or seller, etc.*. *Wool Products Labeling Act*. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1845 *Composition. Wool Products Labeling Act*; § 13.1900 *Source or origin. Wool Products Labeling Act*. Subpart—*Using misleading name—Goods*: § 13.2280 *Composition*. I. In connection with the introduction or manufacture for introduction in commerce, or the offering for sale, sale, transportation, or distribution in commerce, of blankets or other "wool products" as such products are defined in and are subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool" "reprocessed wool" or "reused wool" as those terms are defined in said act, misbranding or misrepresenting such products by: 1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers therein; 2. failing to securely affix or to place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner: (a) The percentage of the total fiber weight of such such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentages by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter; (c) the name or the registered identification number of the manufac-

turer of such wool product or of one or more persons engaged in introducing such wool product into commerce or in the offering for sale, sale, transportation, distribution, or delivering for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; 3. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat; and 4. stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat without setting forth in a clear and conspicuous manner on each of the required stamps, tags, labels, or other means of identification the percentage of such Cashmere fiber therein; and, II, in connection with the offering for sale, sale, or distribution in commerce, of blankets or other products, directly or indirectly: (1) Using the word "Cashmere", or any simulation thereof, either alone or in conjunction with other words, to designate, describe, or refer to any product which is not composed entirely of the hair of the Cashmere goat; (2) representing in any manner that said products contain a greater percentage of Cashmere than is the fact; (3) representing in any manner that certain amounts are the usual and regular retail prices of said products when such amounts are in excess of the prices at which said products are usually and regularly sold at retail; and (4) making any false statement or representation or engaging in any deceptive practice or plan which would provide retailers of said products with a means of misrepresenting their usual and regular retail prices; prohibited, subject to the proviso, however, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by Paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939, and that nothing contained in the order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder, and to the further proviso, as respects the use of the word "Cashmere" etc., that in the case of any product composed in part of the hair of the Cashmere goat and in part of other fibers or materials, such word may be used as descriptive of the Cashmere con-

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tent if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.	
(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 46, 68-68c) [Cease and desist order, Paul A. Raich, Passaic, N. J., Docket 6336, July 8, 1955]	
This proceeding was heard by James A. Purcell, hearing examiner, upon the complaint of the Commission, which	

charged respondent with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, through misbranding certain wool products including certain blankets, and through false advertising with respect thereto, while president and in control of a subsequently bankrupt and liquidated corporation; and upon a Stipulation or Agreement for Consent Order, which was entered into by respondent with counsel supporting the complaint, in conformity with Rule No. 3.25 of the Commission's rules of practice (§ 3.25 of this chapter) and was thereafter submitted to said hearing examiner, who, being of the opinion that it effectually disposed of all the issues in the matter, accepted the same with the proviso that the initial decision in the matter should not become a part of the official record of the proceeding unless and until it became the official decision of the Commission.

Said agreement recited that respondent was, during the period there set forth, the president of Cashmere-Wool, Ltd., a New Jersey corporation, with offices and principal place of business in New York City, that as president he directed and controlled the acts, policies, and practices of it which formed the basis of the complaint in the instant matter, and that it was duly adjudged bankrupt in the U. S. District Court for the District of New Jersey and its affairs liquidated.

By said agreement respondent specifically admitted all of the jurisdictional allegations set forth in the complaint and agreed that the record in the matter might be taken as though the hearing examiner or the Commission had made findings of jurisdictional facts in accordance with such allegations; that the order therein agreed upon should have the same force and effect as though made upon a full hearing, presentation of evidence and findings and conclusions based thereon, specifically waiving any and all right, power, or privilege to contest the validity of said order; and that the complaint in the matter might be used in construing the terms of said order, which order might be altered, modified, or set aside in the manner provided by statute affecting orders of the Commission.

It further appeared that all the parties to said agreement waived the filing of answer hearing before a hearing examiner or the Commission; making of findings of fact or conclusions of law by the hearing examiner or the Commission; filing of exceptions and oral argument before the Commission; all further and other procedure before the hearing examiner and the Commission to which the respondent might otherwise, but for the execution of said agreement, be entitled under the Federal Trade Commission Act, or the Wool Products Labeling Act of 1939, or the rules of practice of the Commission (effective May 21, 1955) and that the aforesaid agreement, together with the complaint, should constitute the entire record in the matter.

Thereafter said hearing examiner made his initial decision in which he

set forth the aforesaid matters, and in which, pursuant to the intent of said agreement and the facts therein recited, including the fact that the order embodied therein was identical with the order nisi accompanying the complaint, and would, in his opinion, effectually safeguard the public interest, he found that the proceeding was in the public interest and issued order to cease and desist.

Thereafter said initial decision, including said order, as announced and decreed by "Decision of the Commission and Order to File Report of Compliance", dated June 27, 1955, became, on July 8, 1955, pursuant to § 3.21 of the Commission's rules of practice (§ 3.21 of this chapter) the decision of the Commission.

Said order to cease and desist is as follows:

*It is ordered*, That the respondent Paul A. Raich, individually, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction in commerce, or the offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of blankets or other "wool products" as such products are defined in and are subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool," or "reused wool," as those terms are defined in said Act, do forthwith cease and desist from misbranding or misrepresenting such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers therein;

2. Failing to securely affix or to place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

a. The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five per centum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentages by weight of such fiber is five per centum or more and (5) the aggregate of all other fibers;

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

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

3. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat;

4. Stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere goat without setting forth in a clear and conspicuous manner on each of the required stamps, tags, labels or other means of identification the percentage of such Cashmere fiber therein:

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

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

*It is further ordered*, That the respondent Paul A. Raich, individually, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of blankets or other products, do forthwith cease and desist from, directly or indirectly:

1. Using the word "Cashmere," or any simulation thereof, either alone or in conjunction with other words, to designate, describe or refer to any product which is not composed entirely of the hair of the Cashmere goat: *Provided, however* That in the case of any product composed in part of the hair of the Cashmere goat and in part of other fibers or materials, such word may be used as descriptive of the Cashmere content if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

2. Representing in any manner that said products contain a greater percentage of Cashmere than is the fact.

3. Representing in any manner that certain amounts are the usual and regular retail prices of said products when such amounts are in excess of the prices at which said products are usually and regularly sold at retail.

4. Making any false statement or representation or engaging in any deceptive practice or plan which would provide retailers of said products with a means of misrepresenting their usual and regular retail prices.

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

*It is ordered*, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: June 27, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,  
Secretary.

[F. R. Doc. 55-6380; Filed, Aug. 26, 1955; 8:47 a. m.]

## TITLE 7—AGRICULTURE

### Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[1023—Allotments—(Cigar-Filler-56)—1]

#### PART 723—CIGAR-FILLER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

MARKETING QUOTA REGULATIONS, 1956-57  
MARKETING YEAR

##### Correction

In F R. Doc. 55-6794, appearing at page 6063 of the issue for Saturday, August 20, 1955, the following change should be made:

In the first sentence of § 723.775, "Sections 723.771 to 723.778" should read "Sections 723.771 to 723.788"

[1023—Allotments—(Maryland-56)—1]

#### PART 727—MARYLAND TOBACCO

MARKETING QUOTA REGULATIONS, 1956-57  
MARKETING YEAR

##### Correction

In F R. Doc. 55-6795, appearing at page 6069 of the issue for Saturday, August 20, 1955, the following changes should be made.

1. In the sixth line of § 727.712 (j) the word "persons" should read "person"

2. In the second sentence of § 727.720 (a) the words "with five years" should read "within five years"

3. In § 727.721, the phrase "1951-55 five-year acreage of tobacco harvested on the entire farm" immediately preceding the proviso should read "1951-55 five-year average acreage of tobacco harvested on the entire farm"

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

[Valencia Orange Reg. 51]

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

##### LIMITATION OF HANDLING

§ 922.351 *Valencia Orange Regulation 51—(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 August 25, 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., August 28, 1955, and ending at 12:01 a. m., P. s. t., September 4, 1955, is hereby fixed as follows:

- (i) District 1. Unlimited movement;
- (ii) District 2: 508,200 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, "handler," "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: August 26, 1955.

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

[F. R. Doc. 55-7054; Filed, Aug. 26, 1955; 11:28 a. m.]

[Lemon Reg. 604]

#### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

##### LIMITATIONS OF SHIPMENTS

§ 953.711 *Lemon Regulation 604—(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 August 24, 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., August 28, 1955, and ending at 12:01 a. m., P. s. t., September 4, 1955, is hereby fixed as follows:  
 (i) District 1: Unlimited movement;  
 (ii) District 2: 325 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: August 25, 1955.

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

[F. R. Doc. 55-7032; Filed, Aug. 26, 1955; 8:52 a. m.]

PART 964—DRIED FIGS PRODUCED IN CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES AND FIXING RATE OF ASSESSMENT FOR 1955-56 CROP YEAR

Pursuant to Marketing Agreement No. 123 and Order No. 64 (20 F. R. 1685) regulating the handling of dried figs produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation of, and information supplied by the Dried Fig Administrative Committee, the administrative agency for program operations, and other available information, it is hereby found and determined, and it is, therefore, ordered, that the budget of expenses of the Dried Fig Administrative Committee, and the rate of assessment, for the crop year beginning August 1, 1955 shall be as follows:

§ 964.300 *Budget of expenses of the Dried Fig Administrative Committee and rate of assessment for the 1955-56 crop year—(a) Budget of expenses.* Expenses in the amount of \$26,250 are reasonable and likely to be incurred by the Dried Fig Administrative Committee for its maintenance and functioning for the crop year beginning August 1, 1955, and ending July 31, 1956.

(b) *Rate of assessment.* Each handler shall pay to the Dried Fig Administrative Committee, in accordance with the provisions of the marketing agreement and order, an assessment of \$1.25 for each ton of salable tonnage dried figs handled by him as the first handler thereof during the crop year beginning August 1, 1955 and ending July 31, 1956, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

For the purpose of the foregoing action, "salable tonnage dried figs" means and includes all natural condition dried figs acquired by a handler during the crop year which began August 1, 1955, pursuant to the applicable provisions of the aforesaid marketing agreement and order.

It is hereby found that it is impracticable, unnecessary, and contrary to the

public interest to give preliminary notice, engage in public rule-making, or postpone the foregoing action until 30 days, or any lesser period, after publication thereof in the FEDERAL REGISTER (see section 4 of the administrative procedure act; 5 U. S. C. 1001 et seq.) because: (1) The rate of assessment hereby fixed is applicable to all salable tonnage dried figs handled by each handler as the first handler thereof during the crop year; (2) assessable dried figs from the new crop are now being handled by handlers; (3) the Dried Fig Administrative Committee must be enabled to obtain assessment revenue promptly to defray expenses of administering the program; (4) the possibility that this action would be taken is already well known in the dried fig industry and the rate of assessment of \$1.25 per ton is the same rate which handlers paid under a California State Marketing Order program before this Federal program became effective; and (5) this action will require no advance preparation by dried fig handlers. It is imperative that this action be made effective as soon as possible and not later than the date on which this order is published in the FEDERAL REGISTER.

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

Issued at Washington, D. C., this 24th day of August 1955, to become effective on the date on which this order is published in the FEDERAL REGISTER.

[SEAL] ROY W. LENNARTSON,  
 Deputy Administrator

[F. R. Doc. 55-6988; Filed, Aug. 26, 1955; 8:49 a. m.]

[Docket No. AO-177-A14]

PART 972—MILK IN THE TRI-STATE MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

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Authority: §§ 972.0 to 972.91 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 972.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* 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) a public hearing was held upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area 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 and demand for milk in the marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, 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

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as, and is 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.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order, as amended, effective not later than September 1, 1955. Such action is necessary in the public interest in order to reflect current marketing conditions and to insure the orderly marketing of available milk supplies. Accordingly, any further delay in the effective date of this order, as amended, will seriously impair the orderly marketing of milk produced for the Tri-State marketing area. The regulatory provisions of this order, as amended, are such that little or no preparation prior to its effective date will be required of handlers regulated thereunder. Under these circumstances the handlers will be afforded reasonable time for any such preparations as may be necessary. Therefore, it is impracticable, unnecessary and contrary to the public interest to delay the effective date of this order, as amended, until at least 30 days after its publication in the FEDERAL REGISTER, and good cause exists, pursuant to section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1000) for making this order, as amended, effective September 1, 1955.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order, as amended) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended and as hereby further amended, which is marketed within the Tri-State marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area, and

(3) The issuance of this order, as amended, is approved or favored by at least two-thirds of the producers who participated in a referendum on the question of approval of its issuance, and who during the determined representative period (April 1955) were engaged in the production of milk for sale in the said marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the following terms and conditions:

#### DEFINITIONS

§ 972.1 *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.)

§ 972.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 972.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in § 972.40.

§ 972.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 972.5 *Tri-State marketing area.* (a) "Tri-State marketing area" (hereinafter called the "marketing area") means all that territory in the states of Ohio, West Virginia, and Kentucky lying within the districts described below in this section. As used in this section the term "territory" shall include all municipal corporations, Federal military reservations, facilities, and installations, and state institutions lying wholly or partially within the defined districts:

(b) "Huntington district" of the marketing area means the territory lying within the boundaries of the counties of Boyd and Greenup, in Kentucky; Lawrence County in Ohio; and the counties of Cabell and Wayne, in West Virginia.

(c) "Gallipolis-Scioto district" of the marketing area means the territory lying within the counties of Gallia, Meigs, Scioto, and Jackson, in Ohio; the townships of Beaver, Camp Creek, Jackson, Marion, Newton, Pee Pee, Scioto, Seal, and Union, in Pike County, Ohio; and Mason County, West Virginia.

(d) "Athens district" of the marketing area means the territory lying within Athens County, Ohio; the townships of Belpre, Marietta, and Muskingum, in Washington County, Ohio; and Lubeck, Parkersburg, Tygart, and Williams

Magisterial Districts in Wood County, West Virginia.

§ 972.6 *Route.* "Route" means a delivery route (including a plant store) on which milk, skim milk, buttermilk, flavored milk, or flavored milk drink is distributed for consumption in fluid form to wholesale or retail stops other than to any milk plant(s)

§ 972.7 *Fluid milk plant.* "Fluid milk plant" means any milk plant, except a plant at which the milk of dairy farmers is priced by another milk marketing agreement or order issued, pursuant to the act, from which a route is operated wholly or partially within the marketing area during the month: *Provided*, That a "fluid milk plant" pursuant to this section shall not mean such portions of a building or facilities used for receiving or processing such milk, or milk product, as is required by the appropriate health authority to be kept physically separate from the receiving or processing of Class I milk for the community(s) served.

§ 972.8 *Supply plant.* "Supply plant" means any milk plant, except a fluid milk plant pursuant to § 972.7 or a plant at which the milk of dairy farmers is priced by another milk marketing agreement or order issued pursuant to the act, from which a total of 25,000 pounds or more of milk, or an amount of skim milk and butterfat from which 25,000 pounds or more of Class I milk is derived, is delivered during the month in fluid form from such plant to any plant(s) which is a fluid milk plant pursuant to § 972.7. *Provided*, That any plant which qualified as a supply plant for at least three of the months of October through January, inclusive, may retain such status during the months of February through September, inclusive, next following for the purposes of § 972.34 (c) without meeting the minimum delivery requirements described above in this section during the latter months: *And provided further* That a "supply plant" pursuant to this section shall not mean such portions of a building or facilities used for receiving or processing such milk, or milk product, as is required by the appropriate health authority to be kept physically separate from the receiving or processing of Class I milk for the community(s) served.

§ 972.9 *Huntington district plant.* "Huntington district plant" means a fluid milk plant (a) located within the Huntington district, or (b) located outside the marketing area from which more than 50 percent of the Class I milk disposed of from such plant on routes within the marketing area during the month is disposed of within the Huntington district.

§ 972.10 *Gallipolis-Scioto district plant.* "Gallipolis-Scioto district plant" means a fluid milk plant (a) located within the Gallipolis-Scioto district, or (b) located outside the marketing area from which more than 50 percent of the Class I milk disposed of from such plant on routes within the marketing area during the month is disposed of within the Gallipolis-Scioto district.

§ 972.11 *Athens district plant.* "Athens district plant" means a fluid milk plant (a) located within the Athens district, or (b) located outside the marketing area from which more than 50 percent of the Class I milk disposed of from such plant on routes within the marketing area during the month is disposed of within the Athens district.

§ 972.12 *Non-fluid milk plant.* "Non-fluid milk plant" means any plant utilized for the processing and distributing, or manufacturing, of milk or milk products which is not a fluid milk plant or supply plant.

§ 972.13 *Producer.* "Producer" means a person other than a producer-handler who produces milk received:

(a) At a fluid milk plant or supply plant; or

(b) At a non-fluid milk plant by diversion by a handler for his account within April, May, June, or July from a fluid milk plant or supply plant: *Provided*, That such person producing milk holds a dairy farm inspection permit or equivalent certification if required by the appropriate health authority of the community(s) for which his milk is produced: *And provided further* That milk so diverted shall be deemed to have been received by the handler at the plant from which diverted.

§ 972.14 *Producer milk.* "Producer milk" means milk produced by one or more producers under the conditions set forth in § 972.13.

§ 972.15 *Handler.* "Handler" means:

(a) A person, including a cooperative association, who operates a fluid milk plant or supply plant.

§ 972.16 *Producer-handler.* "Producer-handler" means any person who:

(a) Produces milk but receives no milk from other dairy farmers; and

(b) Operates a route extending into the marketing area.

§ 972.17 *Other source milk.* "Other source milk" means all skim milk (including reconstituted skim milk) and butterfat not received from a producer, or from a fluid milk plant or supply plant, but:

(a) Contained in milk, skim milk, or cream; or

(b) Used to produce any milk product.

§ 972.18 *Cooperative association.* "Cooperative association" or "association of producers" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 972.13 and which the Secretary determines, after application by the association:

(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 its entire organization and all of its activities under the control of its members; and

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

§ 972.19 *Plant.* "Plant" means the land, buildings, surroundings, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling, and processing of milk or milk products.

#### MARKET ADMINISTRATOR

§ 972.20 *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 at the discretion of, the Secretary.

§ 972.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 972.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, 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 § 972.71.

(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 § 972.75 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 for in this subpart, 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 15 days after the day upon which he is required to perform such acts, has not made:

(1) Reports pursuant to § 972.25 or § 972.26; or

(2) Payments pursuant to §§ 972.65 through 972.81, -

(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) Upon request, supply on or before the 25th day after the end of each month to each association of producers with respect to producers whose membership in such association has been verified by the market administrator, a record of the pounds of milk received by each handler from member producers and the class utilization of such milk. For the purpose of this report such member milk shall be prorated to each class in the proportions that the total receipts of milk from producers by such handler were classified in each class;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each month as follows:

(1) On or before the 5th day after the end of such month, the class prices and butterfat differentials computed pursuant to §§ 972.41 through 972.44; and

(2) On or before the 12th day after the end of such month, the uniform prices computed pursuant to § 972.61 and the butterfat differential computed pursuant to § 972.70.

#### REPORTS, RECORDS, AND FACILITIES

§ 972.25 *Monthly reports of receipts and utilization.* On or before the 5th day after the end of each month each handler, except a producer-handler shall report the following to the market administrator with respect to each fluid milk plant and supply plant in the detail and on forms prescribed by the market administrator.

(a) The quantities of skim milk and the quantities of butterfat contained in (or used in the production of, as the case may be) producer milk, other source milk, and milk and milk products received from any other fluid milk plant(s) and supply plant(s) and their respective sources;

(b) The utilization of such receipts; and

(c) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 972.26 *Other reports.* Handlers shall submit other reports as follows:

(a) The intention to receive other source milk shall be reported by the receiving handler on or before the first day other source milk is received and the intention to discontinue such receipts shall be reported on or before the last day such milk is received.

(b) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(c) On or before the 20th day after the end of each month each handler shall submit to the market administrator such handler's producer payroll for the month, which shall show:

(1) The total pounds of milk received from each producer and association of producers and the total pounds of butterfat contained in such milk.

(2) The amount of payment to each producer and association of producers, and

(3) The nature and the amount of any deductions and charges involved in the payments referred to in subparagraph (2) of this paragraph.

§ 972.27 *Records and facilities.* Each handler shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The utilization, in whatever form, of all skim milk and butterfat received;

(b) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled;

(c) Payments to producers and associations of producers, and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each month.

§ 972.28 *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, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the 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, or specified books and records, until further written notification from the market administrator. In either case 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

§ 972.30 *Skim milk and butterfat to be classified.* Skim milk and butterfat contained in milk, skim milk and cream, or used to produce milk products, received from all sources within the month by a handler at his fluid milk plant(s) and supply plant(s) shall be classified by the market administrator pursuant to §§ 972.31 through 972.34.

§ 972.31 *Classes of utilization.* Subject to the conditions set forth in

§§ 972.32 through 972.34, the skim milk and butterfat described in § 972.30 shall be classified by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of (except as provided in paragraph (c) (2) and (3) of this section) in fluid form as milk, skim milk, buttermilk, flavored milk, and milk drink, (2) disposed of in the form of fluid sweet or cultured sour cream, any mixture of cream and milk (or skim milk) in fluid or whipped (aerated) form containing not less than 6 percent of butterfat not specified in Class II milk or Class III milk, and eggnog; (3) used to produce concentrated milk (excluding those products commonly known as evaporated milk and condensed milk) for fluid consumption; and (4) not specifically accounted for above in this paragraph or as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen desserts, and cottage cheese.

(c) Class III milk shall be all skim milk and butterfat (1) used to produce butter, frozen cream, spray process and roller process nonfat dry milk solids, all cheese (other than cottage cheese) evaporated and condensed milk (or skim milk) either in bulk or in hermetically sealed cans, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing whipped or aerated product, and any other milk product not otherwise specified in this subparagraph; (2) skim milk and buttermilk specifically accounted for as dumped or disposed of for animal feed; (3) disposed of as bulk skim milk to any manufacturer of candy, soup, or bakery products who does not dispose of milk in fluid form, (4) in actual plant shrinkage of producer milk computed pursuant to § 972.32 (d) but not in excess of 2 percent thereof; and (5) in actual plant shrinkage of other source milk computed pursuant to § 972.32 (d)

§ 972.32 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively in producer milk and in other source milk in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, by:

(1) Combining the shrinkage thereof for all fluid milk plants and supply plants operated by the handler, and

(2) Combining in a separate sum the shrinkage thereof for all non-fluid milk plants operated by him to which any skim milk or butterfat has been transferred from any of his fluid milk plants and supply plants;

(b) Prorate the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (2) of this section in such non-fluid milk plants between:

(1) Skim milk or butterfat, respectively, transferred from any of his fluid milk plants and supply plants, and

(2) Skim milk or butterfat, respectively, received from all other sources;

(c) Add to the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (1) of this section, the shrinkage of skim milk or butterfat, respectively, transferred from the handler's fluid milk plant and supply plant to his non-fluid milk plant, computed pursuant to paragraph (b) of this section; and

(d) Prorate the total shrinkage of skim milk and butterfat, respectively computed pursuant to paragraph (c) of this section between producer milk and other source milk at his fluid milk plant and supply plant after deducting from the total receipts therein, the receipts from fluid milk plants and supply plants other than his own.

§ 972.33 *Responsibility of handlers and reclassification of milk.* All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 972.34 *Interplant movements.* (a) Skim milk and butterfat transferred from a fluid milk plant shall be classified as Class I milk if so transferred (or diverted, in the case of movements to non-fluid milk plants under subparagraph (3) of this paragraph) as any item listed in § 972.31 (a)

(1) To another fluid milk plant or supply plant of a handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the month within which such transfer was made: *Provided*, That skim milk or butterfat assigned to a particular class in accordance with such mutual agreement shall be limited to the amount thereof remaining in such class in the transferee-plant after the subtraction of other source milk pursuant to § 972.36 (a) (2) and the classification of any transfers pursuant to paragraph (b) of this section, and any excess of such transferred skim milk or butterfat, respectively, shall be assigned in series beginning with the next lowest-priced available class;

(2) To a producer-handler; and

(3) To a non-fluid milk plant; unless

(i) Other utilization is mutually indicated in writing to the market administrator by both the buyer and seller on or before the 5th day after the end of the month within which such transfer was made:

(ii) The buyer maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for audit; and

(iii) Such buyer's plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided*, That if such buyer's plant had not actually used an equivalent amount of skim milk or butterfat in such indicated use,

the remaining balance shall be classified in the next lowest-priced available class of utilization as if the classes of utilization set forth in § 972.31 were applicable at such buyer's plant.

(b) Except as provided in paragraph (c) of this section, skim milk and butterfat transferred in the form of any item listed in § 972.31 (a) from a supply plant to a fluid milk plant or to another supply plant shall be classified as mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the month within which such transfer was made: *Provided*, That the sum of the amounts assigned as Class I milk for any month during the period October through January, inclusive, to all supply plants supplying a fluid milk plant shall not result in the classification as Class II milk and Class III milk of more than 10 percent of the quantity of milk received directly from producers at such fluid milk plant during the month.

(c) During each of the months of February through September, inclusive (beginning in 1956) a handler operating a fluid milk plant may allocate Class I milk to a supply plant(s) which transferred milk to such fluid milk plant for at least three of the months of October through January immediately preceding even though such milk is not transferred physically to such fluid milk plant during the current month: *Provided*, That the pounds to be subtracted from Class I milk and so allocated to any supply plant for the current month in the period February through September, inclusive, when added to any quantities actually transferred from such supply plant to such fluid milk plant during the current month which are assigned to Class I milk pursuant to paragraph (b) of this section, shall not exceed the lesser of the following amounts:

(1) The monthly average number of pounds allocated as Class I milk from such fluid milk plant to such supply plant during the preceding period October through January, inclusive; or

(2) An amount computed as follows: Determine the percentage which the volume of Class I milk described under subparagraph (1) of this paragraph bears to the monthly average pounds of Class I milk at such fluid milk plant for the preceding period October through January, inclusive; and multiply the total Class I milk at such fluid milk plant for the current month by such percentage.

(d) Skim milk and butterfat transferred or diverted as any item listed in § 972.31 (a) from a supply plant to a non-fluid milk plant shall be classified on the same terms as movements from fluid milk plants to non-fluid milk plants pursuant to paragraph (a) (3) of this section.

§ 972.35 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 972.36 *Allocation of skim milk and butterfat classified.* The classification of skim milk and butterfat in producer milk shall be determined as follows:

(a) The pounds of skim milk remaining in each class after making the following computations shall be the pounds in such class allocated to producer milk;

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk in plant shrinkage pursuant to § 972.31 (c) (4)

(2) Subtract from the pounds of skim milk remaining in each class after making the deduction pursuant to subparagraph (1) of this paragraph, in series beginning with the lowest-priced available class, the pounds of skim milk in other source milk;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received, or with respect to which title was taken pursuant to § 972.34 (c) from other fluid milk plants and supply plants (receipts from fluid milk plants to be deducted first) assigned to such classes pursuant to § 972.34;

(4) Add to the remaining pounds of skim milk in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the total remaining pounds of skim milk in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the remaining pounds of skim milk in each class in series beginning with the lowest-priced available class.

(b) Allocate classified butterfat to producer milk according to the method prescribed in paragraph (a) of this section for skim milk.

(c) Determine the weighted average butterfat test of the remaining milk in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 972.40 *Basic formula price to be used in determining class prices.* The basic formula price per hundredweight of milk to be used in determining the class prices provided by §§ 972.41 through 972.43 shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content determined by the market administrator pursuant to paragraphs (a) (b), and (c) of this section computed to the nearest tenth of a cent.

(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 months at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture.

Present Operator and Location

- Borden Co., Mt. 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., Belleville, Wis.
- Pet Milk Co., Coopersville, Mich.
- Pet Milk Co., Hudson, Mich.
- 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 as follows:

(1) Multiply by six the average wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture for the month;

(2) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by seven, add 30 percent thereof, and then multiply by 3.5.

(c) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the month, subtract three cents, add 20 percent thereof, and then multiply by 3.5; and

(2) From the average of the carlot prices per pound of nonfat dry milk solids for human consumption, spray and roller process, f. o. b. manufacturing plants, as published for the Chicago area for the month by the Department of Agriculture, including in such average the quotations published for any fractional part of the previous month which were not published and available for the price determination of such nonfat dry milk solids for the previous month, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965.

§ 972.41 *Class I milk prices.* Subject to the provisions of §§ 972.44 through 972.48, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class I milk for the month, shall be the basic formula price determined pursuant to § 972.40 adjusted as follows:

(a) Add the following amounts for the months indicated:

	April, May, June, and July	February, March, and August	September, October, November, December, and January
Huntington district plants	\$1.05	\$1.35	\$1.00
Gallipolis-Scioto district plants	.85	1.25	1.80
Athens district plants	.80	1.10	1.65

(b) Add or subtract a "supply-demand adjustment" of not more than 38 cents computed as follows:

(1) Divide the total gross volume of Class I milk: (adjusted to eliminate duplications due to transfers between fluid milk plants) at all fluid milk plants for the second and third preceding months by the total receipts of milk from producers at such plants during the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "Class I utilization percentage."

(2) For each full percentage point that the Class I utilization percentage is above the applicable maximum base percentage listed below increase the Class I price by 3 cents; and for each full percentage point that the Class I utilization percentage is below the applicable minimum base percentage listed below decrease the Class I price by 3 cents:

Month for which price is being computed	Base utilization percentages	
	Minimum	Maximum
January.....	103	107
February.....	103	107
March.....	97	101
April.....	95	99
May.....	93	97
June.....	87	91
July.....	77	81
August.....	68	72
September.....	64	68
October.....	68	72
November.....	83	87
December.....	94	98

§ 972.42 *Class II milk prices.* Subject to the provisions of §§ 972.44 through 972.47, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class II milk for each month shall be the average of prices per hundredweight computed for such month pursuant to the formula set forth in § 972.43 (a) plus 25 cents: *Provided*, That the Class II price shall not be less than the price computed pursuant to § 972.43 (b)

§ 972.43 *Class III milk prices.* Subject to §§ 972.44 through 972.47, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class III milk for the month shall be computed as follows:

(a) For each of the months of April, May, June, and July the price for Class III milk shall be the simple average, as computed by the market administrator, of the basic (or field) prices per hundredweight ascertained to have been paid or to be paid for ungraded (manufacturing-type) milk of 3.5 percent butterfat content received from farmers during such month at the following plants:

Company	Location of plant
M & R Dietetic Laboratories, Inc.....	Columbus, Ohio.
Pickerington Creamery.....	Pickerington, Ohio.
Carnation Company.....	Coshocton, Ohio.
Nestles' Milk Company.....	Marysville, Ohio.

(b) For each month, except April, May, June, and July, the price for Class III milk shall be the basic formula price.

§ 972.44 *Butterfat differentials to handlers.* If the weighted average butterfat test of producer milk which is classified in any class, respectively, for any handler, is more or less than 3.5 percent, there shall be added to or subtracted from as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential (computed to the nearest tenth of a cent)

calculated by the market administrator for such class as follows:

(a) *Class I milk.* Add 1.0 cent to the butterfat differential for Class II milk computed pursuant to paragraph (b) of this section.

(b) *Class II milk.* Subtract \$3.00 from the average price per hundred pounds of butter for the month as described in § 972.40 (c) (1) multiply by 1.2, subtract therefrom the amount per hundredweight computed for the month pursuant to § 972.40 (c) (2) and divide such result by 1000.

(c) *Class III milk.* Subtract \$3.00 from the average price per hundred pounds of butter for the month as described in § 972.40 (c) (1) multiply by 1.2, subtract therefrom the amount per hundredweight computed for the month pursuant to § 972.40 (c) (2) and divide such result by 1,000.

§ 972.45 *Emergency price provisions.* Whenever the provisions of this subpart require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy or other similar payment being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided*, That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any subsidy or other similar payment: *Provided further* That if the specified price is not reported or published and there is no applicable maximum uniform price or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the prices specified.

§ 972.46 *Prices for Class I, Class II, and Class III milk disposed of outside the marketing area.* The prices for Class I, Class II, and Class III milk disposed of outside the marketing area by a handler shall be those applicable, respectively, pursuant to §§ 972.41 through 972.43, to Class I, Class II, and Class III milk disposed of by such handler inside the marketing area.

§ 972.47 *Prices of milk transferred by one handler to another handler.* The price of milk transferred by a handler to another handler in any class shall be that applicable to such class of milk at the selling handler's fluid milk plant or supply plant, pursuant to §§ 972.41 through 972.43: *Provided*, That any hauling charge with respect thereto chargeable to producers or to associations of producers shall not exceed that customarily applied to deliveries of such producers from their farms to the selling handler's fluid milk plant or supply plant.

§ 972.48 *Location adjustment credits to handlers.* The price for Class I milk

at a fluid milk plant or supply plant located outside the marketing area and more than 25 miles from the nearest of the following listed places shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk (§ 972.41) for the district of the marketing area in which such nearest listed place is located, less a location adjustment computed as follows: 2.5 cents per hundredweight for each 10 miles, or major fraction thereof, up to 100 miles, and 1.5 cents per hundredweight for each 10 miles, or major fraction thereof, in excess of 100 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from such fluid milk plant to such nearest listed place:

City Hall, Huntington, W. Va.  
City Hall, Ashland, Ky.  
City Hall, Portsmouth, Ohio.  
City Hall, Jackson, Ohio.  
City Hall, Athens, Ohio.  
City Hall, Marietta, Ohio.  
City Hall, Gallipolis, Ohio.

#### APPLICATION OF PROVISIONS

§ 972.50 *Producer-handlers.* Sections 972.30 through 972.48 and §§ 972.60 through 972.75 shall not apply to a producer-handler. Any handler who desires to qualify as a producer-handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of his qualifications satisfactory to the market administrator, and he shall furnish similar evidence of subsequent changes in his operations that affect his qualifications. Verification by the market administrator shall be made within 5 days after the date of receipt of such evidence, and shall be effective retroactively to the date on which the applicant became so eligible, but not earlier than the first day of the month during which verification of such eligibility is made.

§ 972.51 *Exempt milk:* Milk received at a plant of a handler the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall not be subject to the pricing and payment provisions of this subpart.

§ 972.52 *Milk caused to be delivered by an association of producers.* Milk referred to in this subpart as received from producers by a handler shall include producer milk caused to be delivered to such handler by an association of producers which is not a handler and which is authorized to collect payment for such milk.

§ 972.53 *Diverted milk.* Producer milk diverted by an operator of a fluid milk plant or supply plant from such a plant to a non-fluid milk plant shall be deemed to have been received by the plant from which such milk was diverted.

#### DETERMINATION OF UNIFORM PRICES

§ 972.60 *Computation of value of milk.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator by (a) multiplying

the pounds of such milk in each class for the month by the applicable class price and (b) adding together the resulting amounts: *Provided*, That if a handler, after subtracting 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, has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class determined pursuant to § 972.36 (a) (5) and (b) by the applicable class price: *And provided further* That with respect to each hundredweight of Class I milk allocated to a supply plant(s) pursuant to § 972.34 (c) there shall be added an amount computed by multiplying such hundredweight of milk by the difference between the Class I price at the fluid milk plant and the Class I price applicable at the respective supply plant.

§ 972.61 *Computation of uniform prices.* For each month the market administrator shall compute for each handler a "uniform price" per hundredweight to be paid to producers and associations of producers for milk of 3.5 percent butterfat content received at his fluid milk plant and supply plant as follows:

(a) From the value of milk computed for such handler pursuant to § 972.60, subtract, if the weighted average butterfat test of producer milk represented by the value included under paragraph (a) of this section is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by multiplying the amount by which its weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 972.70, and multiplying the resulting figure by the total hundredweight of such milk;

(b) Add or subtract, as the case may be, any amounts necessary to correct errors in classification for previous months as disclosed by audit of the market administrator.

(c) Adjust the resulting amount by the sum of money used in adjusting the uniform price pursuant to paragraph (f) of this section, for the previous month, to the nearest cent;

(d) Add an amount representing the total value of location adjustments on producer milk pursuant to § 972.72;

(e) Divide the result by the total hundredweight of producer milk represented by the value computed pursuant to § 972.60; and

(f) Adjust the resulting figure to the nearest cent.

§ 972.62 *Notification to handlers.* On or before the 12th day after the end of each month, the market administrator shall notify each handler of:

(a) The amount and value of his milk in each class and the totals thereof;

(b) His uniform price; and

(c) The amounts to be paid by such handler pursuant to §§ 972.65 and 972.70 for such month.

#### PAYMENTS

§ 972.65 *Time and method of final payment.* Each handler shall make pay-

ment, subject to the provisions of §§ 972.66, 972.70, 972.72, and 972.75, for all producer milk received during each month, as follows:

(a) Except as set forth in paragraph (b) of this section, to each producer, on or before the 18th day after such month at not less than such handler's uniform price for milk of 3.5 percent butterfat.

(b) To a cooperative association for milk received from producers from whom such association has received written authorization to collect payment on or before the 16th day after such month, of a total amount equal to not less than the sum of the individual amounts otherwise payable to other producers under paragraph (a) of this section.

(c) On or before the 16th day after such month each handler shall pay to each cooperative association which operates a fluid milk plant or supply plant for skim milk and butterfat received as milk or a milk product from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class by the respective class price pursuant to §§ 972.41, 972.42, and 972.43, adjusted by the appropriate butterfat and location differentials pursuant to § 972.44 and § 972.48: *Provided*, That payment to a cooperative association for milk classified as Class I milk (but not moved) as an interhandler transfer pursuant to § 972.34 (c) during the February-September period shall be made to such cooperative association on the basis of the difference between the appropriate class price and the Class III price, adjusted as provided above for butterfat test and for the location of the supply plant; and

(d) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c (5) (F) of the act from making payment for milk to its member producers in accordance with such provision of the act.

§ 972.66 *Partial payments.* Handlers shall make partial payments to producers as follows:

(a) On or before the last day of each month, each handler shall make payment except as set forth in paragraph (b) of this section, to each producer at not less than such handler's uniform price of the preceding month for the milk of such producer which was received by such handler during the first 15 days of the current month; and

(b) On or before the day immediately preceding the last day of each month, each handler shall make payment to an association of producers for milk of producers from whom such association has received written authorization to collect payment at not less than such handler's uniform price of the preceding month for all such milk which was received by such handler during the first 15 days of the current month.

§ 972.70 *Butterfat differential.* If, during the month, any handler has received from any producer or from an association of producers, milk having a weighted average butterfat test other than 3.5 percent, such handler, in making the payments prescribed in § 972.65,

shall add to, or subtract from the applicable uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat test in milk above or below, as the case may be, 3.5 percent, an amount computed by the market administrator as follows: Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the month, divide the result by 10, and round to the nearest tenth of a cent.

§ 972.71 *Expense of administration.* As his prorata share of the expense incurred pursuant to § 972.22 (d) each handler shall pay the market administrator, on or before the 15th day after the end of each month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, to be announced by the market administrator on or before the 12th day after the end of such month with respect to all receipts within the month of producer milk (including such handler's own production) and other source milk at his fluid milk plant or supply plant classified as Class I milk pursuant to § 972.31. *Provided*, That an association of producers shall pay such prorata share of expense of administration on producer milk with respect to which it is a handler.

§ 972.72 *Location adjustments to producers.* In making payment to producers pursuant to § 972.65 for milk received at a fluid milk plant or supply plant located outside the marketing area, the uniform price per hundredweight of producer milk shall be reduced at the same rate per hundredweight as is applicable to Class I milk at such plant pursuant to § 972.48.

§ 972.75 *Marketing services.* (a) (1) Except as set forth in paragraph (b) of this section, each handler in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 972.65 (a) shall make a deduction of 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(i) All milk received from producers at a plant not operated by a cooperative association;

(ii) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(iii) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth below in this paragraph is not being performed by such association(s) as determined by the market administrator.

(2) Such deduction shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling, and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct in lieu of the deduction specified under paragraph (a) of this section, from payments made pursuant to § 972.65 (a) the amount per hundred-weight of milk authorized by such producer and shall pay over, on or before the 15th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

#### ADJUSTMENT OF ACCOUNTS

§ 972.80 *Errors in payments.* Whenever audit by the market administrator of a handler's reports, books, records, or accounts discloses adjustments to be made, for any reason which result in moneys due:

(a) The market administrator from such handler,

(b) Such handler from the market administrator, or

(c) Any producer or association of producers from such handler, the market administrator shall promptly notify such handler of any such amount due, and explain the basis for such adjustment; 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.

§ 972.81 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 972.65 through 972.80 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.

#### MISCELLANEOUS PROVISIONS

§ 972.85 *Effective time.* The provisions of this subpart or any amendment of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 972.86.

§ 972.86 *Suspension or termination.* The Secretary may suspend or terminate this subpart or any provision of this subpart whenever he finds that this subpart or any provision of this subpart, obstructs, or does not tend to effectuate the declared policy of the act. This subpart shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 972.87 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising under this subpart the final accrual or ascertainment of which requires further acts by any

handler, the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, or agency as the Secretary may designate. The market administrator, or such other person as the Secretary may designate, shall:

(a) Continue in such capacity until discharged by the Secretary,

(b) From time to time account for all receipts and disbursements, and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary may direct, and

(c) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this subpart.

§ 972.88 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 972.89 *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 subpart.

§ 972.90 *Separability of provisions.* If any provision of this subpart, or the application thereof to any person or circumstances, is held invalid, the remainder of this subpart and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 972.91 *Termination of obligation.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart 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 utilization report on 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 an association of producers, the name of such producer(s) or association of producers, 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 subpart, to make available to the market administrator or his representatives all books and records required by this subpart 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 all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful 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 subpart 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.

Issued at Washington, D. C., this 24th day of August 1955, to be effective on and after the 27th day of August 1955.

[SEAL]

EARL L. BUTZ,  
Assistant Secretary.

[F. R. Doc. 55-6991; Filed, Aug. 20, 1955; 8:50 a. m.]

**TITLE 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service,  
Department of the Treasury**

Subchapter C—Miscellaneous Excise Taxes  
[T. D. 6139; Regs. 42, 46, 47, 51, 59]

**PART 130—TAXES ON SAFE DEPOSIT BOXES  
AND ON CERTAIN TRANSPORTATION AND  
COMMUNICATIONS SERVICES**

**PART 302—EXCISE TAX ON SALE OF  
PISTOLS AND REVOLVERS**

**PART 316—EXCISE TAXES ON SALES BY THE  
MANUFACTURER**

**PART 320—RETAILERS' EXCISE TAXES**

**PART 323—SPECIAL TAXES WITH RESPECT  
TO COIN-OPERATED AMUSEMENT AND  
GAMING DEVICES, BOWLING ALLEYS,  
BILLIARD TABLES AND POOL TABLES**

**MISCELLANEOUS AMENDMENTS**

In order to conform the following regulations to the Excise Tax Reduction Act of 1954 (Public Law 324, 83d Cong.) approved March 31, 1954:

Regulations 42 (1942 edition) (26 CFR, Part 130) relating to the taxes imposed under the provisions of chapters 12 and 30 of the Internal Revenue Code of 1939;

Regulations 46 (1940 edition) (26 CFR, Part 316) relating to the taxes imposed under the provisions of subchapter A of chapter 29 of the Internal Revenue Code of 1939 (except section 3403 (f), as added by section 601 (c) of the Excise Tax Reduction Act of 1954, relating to floor stocks refunds on automobiles)

Regulations 47 (1928 edition) (26 CFR, Part 302), as prescribed and made applicable to the Internal Revenue Code of 1939 by Treasury Decision 4885, approved February 11, 1939 (26 CFR, Cum. Supp., note, p. 5876) relating to the taxes imposed under the provisions of subchapter A of chapter 25 of the Internal Revenue Code of 1939;

Regulations 51 (1941 edition) (26 CFR, Part 320) relating to the taxes imposed under the provisions of chapters 9A and 19 of the Internal Revenue Code of 1939; and

Regulations 59 (1941 edition) (26 CFR, Part 323) relating to the taxes imposed under the provisions of parts IX and X of subchapter A of chapter 27 of the Internal Revenue Code of 1939;

such regulations are amended as follows:  
Regulations 42:

PARAGRAPH 1. Section 130.0, as amended by Treasury Decision 5994, approved February 24, 1953, is further amended as follows:

(A) By changing paragraph (a) to read as follows:

(a) On the use of safe deposit boxes, imposed by chapter 12 of the Internal Revenue Code of 1939, as amended by section 532 of the Revenue Act of 1941 and section 501 of the Excise Tax Reduction Act of 1954.

(B) By striking out in paragraph (c) the words "and sections 491 and 492 of the Revenue Act of 1951" and inserting in lieu thereof the following: "sections 491 and 492 of the Revenue Act of 1951, and sections 401, 402, 504 (a) and 505

(c) (3) and (4) of the Excise Tax Reduction Act of 1954"

(C) By striking out in paragraph (d) the words "and sections 493 and 494 of the Revenue Act of 1951" and inserting in lieu thereof the following: "sections 493 and 494 of the Revenue Act of 1951, and sections 503, 504 (a) and 505 (c) (5) of the Excise Tax Reduction Act of 1954"

(D) By changing the last paragraph of the section to read as follows:

The statutory references are to the Internal Revenue Code of 1939 (53 Stat., Part 1) unless otherwise stated.

PAR. 2. Immediately preceding § 130.10 there is inserted the following:

SEC. 501. *Tax on safe deposit boxes* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. Section 1850 (a) (relating to tax on the use of safe deposit boxes) is hereby amended by striking out "20 per centum" and inserting in lieu thereof "10 per centum"

SEC. 505. *Effective dates* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(b) The amendment made by section 501 shall apply only with respect to amounts paid on or after April 1, 1954.

PAR. 3. Section 130.10 is amended by adding at the end thereof the following new sentence: "The rate of tax was decreased from 20 percent to 10 percent, effective April 1, 1954, by an amendment to section 1850 (a) made by section 501 of the Excise Tax Reduction Act of 1954."

PAR. 4. The first two paragraphs of § 130.14 (26 CFR 130.14 (a) and (b)) are amended to read as follows:

§ 130.14 *Rate and computation of tax.*  
(a) The tax is imposed at the rates specified for the following periods:

Period:	Rate (percent)
(1) Amounts collected from Oct. 1, 1941 to Mar. 31, 1954, inclusive...	20
(2) Amounts collected on or after Apr. 1, 1954.....	10

(b) The tax is measured strictly by the amount collected for the use of the safe deposit box without regard to the period for which the payment is made. Thus, the tax at the rate of 20 percent applies to the amount collected prior to April 1, 1954, even though such amount represents a payment, whether in whole or in part, for use of a safe deposit box on and after April 1, 1954.

PAR. 5. Immediately preceding § 130.30 there is inserted the following:

SEC. 401. *Tax on telegraph, telephone, radio, and cable facilities* [Excise Tax Reduction Act of 1954 approved March 31, 1954]—  
(a) *Telephone messages, etc.* Section 3465 (a) (1) (A) (relating to tax on telephone messages, etc.) is hereby amended by striking out "20 per centum" and inserting in lieu thereof "10 per centum"

(b) *Telegraph, cable, and radio dispatches.* Section 3465 (a) (1) (B) (relating to tax on telegraph, cable, and radio dispatches or messages) is hereby amended by striking out "15 per centum of the amount so paid, except that in the case of each international telegraph, cable, or radio dispatch or message the rate shall be 10 per centum" and inserting in lieu thereof the following: "10 per centum of the amount so paid"

SEC. 402. *Effective date of Title IV* [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) *In general.* Subject to the provisions of subsection (b), the amendments made by section 401 shall apply with respect to amounts paid on or after April 1, 1954, for services rendered on or after such date.

(b) *Amounts paid pursuant to bills rendered.* The amendments made by section 401 shall not apply with respect to amounts paid pursuant to bills rendered before April 1, 1954. In the case of amounts paid pursuant to bills rendered on or after such date for services for which no previous bill was rendered, such amendments shall apply except with respect to such services as were rendered more than 2 months before such date. In the case of services rendered more than 2 months before such date the provisions of sections 1650 and 3465 of the Internal Revenue Code in effect at the time such services were rendered shall apply to the amounts paid for such services.

SEC. 504. *Technical amendments* [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954."

SEC. 505. *Effective dates* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(c) The amendment made by section 504 (a) shall apply—

(3) Insofar as it affects the rates of the taxes imposed by subsections (a) (1) (A) \* \* \* of section 3465 of the Internal Revenue Code, as though the rates listed under the heading "Old Rate" in the table in section 1650 of such Code were the rates established by the amendments made by section 401 of this act;

PAR. 6. Section 130.30, as amended by Treasury Decision 5994, is further amended by adding at the end thereof the following new paragraph (26 CFR 130.30 (c))

(c) The reduction in rates provided by sections 401 (a) and (b) and 504 (a) of the Excise Tax Reduction Act of 1954 is effective on and after April 1, 1954, and generally applies to amounts paid on and after that date for services rendered on and after that date. The reduction in rates shall not apply to amounts paid as the result of bills rendered before April 1, 1954. However, such reduction in rates shall apply to amounts paid as the result of bills rendered on and after April 1, 1954, where no previous bill was rendered except that where the services were rendered before February 1, 1954, the rates in effect at the time such services were rendered shall apply to the amounts paid for such services.

PAR. 7. Section 130.33, as amended by Treasury Decision 5994, is further amended as follows:

(A) By changing the first paragraph thereof (26 CFR 130.33 (a) (1)) to read as follows:

§ 130.33 *Rate and application of tax—*  
(a) *Telephone and radio telephone messages, and conversations.* (1) In the case of each telephone or radio telephone

message or conversation where the charge is more than 24 cents, the amount paid is subject to tax at the rates specified for the following periods:

Period:	Rate (percent)
(i) On and after Apr. 1, 1954-----	10
(ii) Apr. 1, 1944 to Mar. 31, 1954, inclusive-----	25
(iii) Nov. 1, 1942 to Mar. 31, 1944, inclusive-----	20
(iv) Prior to Nov. 1, 1942-----	(1)

15 cents for each 50 cents or fraction thereof.

(B) By changing paragraph (b) (2) (26 CFR 130.33 (b) (2)) to read as follows:

(2) Domestic messages. In the case of each domestic telegraph, cable, or radio dispatch or message, the amount paid therefor is subject to tax at the rates specified for the following periods:

Period:	Rate (percent)
(i) On and after Apr. 1, 1954-----	10
(ii) Nov. 1, 1951 to Mar. 31, 1954, inclusive-----	15
(iii) Apr. 1, 1944 to Oct. 31, 1951, inclusive-----	25
(iv) Nov. 1, 1942 to Mar. 31, 1944, inclusive-----	15
(v) Prior to Nov. 1, 1942-----	10

PAR. 8. Immediately preceding § 130.36 there is inserted the following:

Sec. 401. Tax on telegraph telephone, radio, and cable facilities [Excise Tax Reduction Act of 1954, approved March 31, 1954.] \* \* \*

(c) Leased wire service. Section 3465 (a) (2) (A) (relating to tax on leased wire service, etc) is hereby amended by striking out "15 per centum" and inserting in lieu thereof "10 per centum"

(d) Wire and equipment service. Section 3465 (a) (2) (B) (relating to tax on wire and equipment service) is hereby amended to read as follows:

(B) A tax equivalent to 8 per centum of the amount paid for any wire and equipment service (including stock quotation and information services, burglar alarm or fire alarm service, and all other similar services, but not including service described in subparagraph (A)).

Sec. 402. Effective date of Title IV [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) In general. Subject to the provisions of subsection (b), the amendments made by section 401 shall apply with respect to amounts paid on or after April 1, 1954, for services rendered on or after such date.

(b) Amounts paid pursuant to bills rendered. The amendments made by section 401 shall not apply with respect to amounts paid pursuant to bills rendered before April 1, 1954. In the case of amounts paid pursuant to bills rendered on or after such date for services for which no previous bill was rendered, such amendments shall apply except with respect to such services as were rendered more than 2 months before such date. In the case of services rendered more than 2 months before such date the provisions of sections 1650 and 3465 of the Internal Revenue Code in effect at the time such services were rendered shall apply to the amounts paid for such services.

Sec. 504. Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Termination of tax rates under section 1650. Section 1650 (relating

to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

Sec. 505. Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(c) The amendment made by section 504 (a) shall apply—

(3) Insofar as it affects the rates of the taxes imposed by subsections (a) (2) (A), and (a) (2) (B) of section 3465 of the Internal Revenue Code, as though the rates listed under the heading "Old Rate" in the table in section 1650 of such Code were the rates established by the amendments made by section 401 of this act;

PAR. 9. Section 130.36, as amended by Treasury Decision 5559, approved April 18, 1947, is further amended by adding at the end thereof the following new paragraph (26 CFR 130.36 (c))

(c) The reduction in rates provided by sections 401 (c) and (d) and 504 (a) of the Excise Tax Reduction Act of 1954 is effective on and after April 1, 1954, and generally applies to amounts paid on and after that date for services rendered on and after that date. The reduction in rates shall not apply to amounts paid as the result of bills rendered before April 1, 1954. However, such reduction in rates shall apply to amounts paid as the result of bills rendered on and after April 1, 1954, where no previous bill was rendered except that where the services were rendered before February 1, 1954, the rates in effect at the time such services were rendered shall apply to the amounts paid for such services.

PAR. 10. Section 130.38, as amended by Treasury Decision 5559, is further amended by changing the first paragraph thereof (26 CFR 130.38 (a) (1)) to read as follows:

§ 130.38 Rate and application of tax— (a) Leased wire, teletypewriter or talking circuit special service. (1) In the case of leased wire, teletypewriter, or talking circuit special service, the amount paid therefor is subject to tax at the rates specified for the following periods:

Period:	Rate (percent)
(i) On and after Apr. 1, 1954-----	10
(ii) Apr. 1, 1944, to Mar. 31, 1954, inclusive-----	25
(iii) Nov. 1, 1942, to Mar. 31, 1944, inclusive-----	15
(iv) Prior to Nov. 1, 1942-----	10

PAR. 11. Immediately preceding § 130.39 there is inserted the following:

Sec. 401. Tax on telegraph, telephone, radio, and cable facilities [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(e) Local telephone service. For reduction in rate of tax on local telephone service, see section 504 (a).

Sec. 402. Effective date of Title IV [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) In general. Subject to the provisions of subsection (b), the amendments made by section 401 shall apply with respect to amounts paid on or after April 1, 1954, for services rendered on or after such date.

(b) Amounts paid pursuant to bills rendered. The amendments made by section 401 shall not apply with respect to amounts paid pursuant to bills rendered before April 1, 1954. In the case of amounts paid pursuant to bills rendered on or after such date for services for which no previous bill was rendered, such amendments shall apply except with respect to such services as were rendered more than 2 months before such date. In the case of services rendered more than 2 months before such date the provisions of sections 1650 and 3465 of the Internal Revenue Code in effect at the time such services were rendered shall apply to the amounts paid for such services.

Sec. 504. Technical Amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Termination of tax rates under section 1650. Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

Sec. 505. Effective Dates [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(c) The amendment made by section 504 (a) shall apply—

(4) Insofar as it affects the rate of the tax imposed by section 3465 (a) (3) of the Internal Revenue Code, as though such amendment were an amendment made by section 401 of this Act; \* \* \*

PAR. 12. Section 130.39, as amended by Treasury Decision 5559, is further amended by adding at the end thereof the following new paragraph (26 CFR 130.39 (c))

(c) The reduction in rates provided by sections 401 (e) and 504 (a) of the Excise Tax Reduction Act of 1954 is effective on and after April 1, 1954, and generally applies to amounts paid on and after that date for services rendered on and after that date. The reduction in rates shall not apply to amounts paid as the result of bills rendered before April 1, 1954. However, such reduction in rates shall apply to amounts paid as the result of bills rendered on and after April 1, 1954, where no previous bill was rendered except that where the services were rendered before February 1, 1954, the rates in effect at the time such services were rendered shall apply to the amounts paid for such services.

PAR. 13. The first paragraph of § 130.41, as amended by Treasury Decision 5559 (26 CFR 130.41 (a)), is further amended to read as follows:

§ 130.41 Rate and application of tax. (a) The tax is imposed at the rates specified for the following periods based upon the amount paid by any subscriber for local telephone service or any other telephone service which is not subject to the provisions of section 3465 (a) (1) or (2) of the Code, as amended (see §§ 130.30 to 130.38)

Period:	Rate (percent)
(1) On and after Apr. 1, 1954-----	10
(2) Apr. 1, 1944 to Mar. 31, 1954, inclusive-----	15
(3) Nov. 1, 1942 to Mar. 31, 1944, inclusive-----	10
(4) Prior to Nov. 1, 1942-----	8

PAR. 14. Immediately preceding § 130.50 there is inserted the following:

Sec. 503. Tax on transportation of persons, etc. [Excise Tax Reduction Act of 1954, approved March 31, 1954]. For reduction in rate of taxes on the transportation of persons and on seats, berths, etc., see section 504 (a).

Sec. 504. Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Termination of tax rates under section 1650. Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

Sec. 505. Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(c) The amendment made by section 504 (a) shall apply—

(5) Insofar as it affects the rates of the taxes imposed by section 3469 of the Internal Revenue Code, with respect to amounts paid for or in connection with transportation which begins on or after April 1, 1954.

PAR. 15. Section 130.50, as amended by Treasury Decision 5559, is further amended by adding at the end thereof the following new paragraph:

The reduction in rate provided by sections 503 and 504 (a) of the Excise Tax Reduction Act of 1954 is applicable to amounts paid for the transportation of persons which begins on or after April 1, 1954. Amounts paid on or after April 1, 1954, for transportation beginning before April 1, 1954, are subject to tax at the rate in effect prior to that date. A person selling transportation tickets, who, prior to April 1, 1954, collects tax at the rate in effect prior to such date for transportation which begins on or after April 1, 1954, must pay over the tax so collected to the United States. For rules governing the filing of a claim for refund or credit of the excess tax collected prior to April 1, 1954, in the case where, prior to the time that the post April 1, 1954, transportation begins, the carrier or his agent has either refunded the excess to his purchaser or obtained his consent to the allowance of the refund or credit, see the provisions of § 130.78a.

PAR. 16. The first paragraph of § 130.52, as amended by Treasury Decision 5559 (26 CFR 130.52 (a)), is further amended to read as follows:

§ 130.52 Rate and application of tax.

(a) The tax is imposed on the amount of the taxable payment for transportation at the rates specified for the following periods:

Period:	Rate (percent)
(1) On and after Apr. 1, 1954	10
(2) Apr. 1, 1944 to Mar. 31, 1954, inclusive	15
(3) Nov. 1, 1942 to Mar. 31, 1944, inclusive	10
(4) Prior to Nov. 1, 1942	5

PAR. 17. Immediately preceding § 130.55 there is inserted the following:

Sec. 503. Tax on transportation of persons, etc. [Excise Tax Reduction Act of 1954, approved March 31, 1954]. For reduction in rate of taxes on the transportation of persons and on seats, berths, etc., see section 504 (a).

Sec. 504. Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Termination of tax rates under section 1650. Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

Sec. 505. Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954]. \* \* \*

(c) The amendment made by section 504 (a) shall apply—

(5) Insofar as it affects the rates of the taxes imposed by section 3469 of the Internal Revenue Code, with respect to amounts paid for or in connection with transportation which begins on or after April 1, 1954.

PAR. 18. Section 130.55, as amended by Treasury Decision 5559, is further amended by adding at the end thereof the following new paragraph:

The reduction in rate provided by sections 503 and 504 (a) of the Excise Tax Reduction Act of 1954 is applicable to amounts paid for seating or sleeping accommodations to be used in connection with transportation which begins on or after April 1, 1954. Amounts paid on and after April 1, 1954, for such accommodations in connection with transportation which begins before April 1, 1954, are subject to tax at the rate in effect prior to that date. A person selling seating or sleeping accommodations, who, prior to April 1, 1954, collects tax at the rate in effect prior to that date for such accommodations to be used in connection with transportation which begins on or after such date, must pay over the tax so collected to the United States. For rules governing the filing of a claim for refund or credit of the excess tax collected prior to April 1, 1954, in the case where, prior to the time that the post April 1, 1954, transportation begins, the carrier or his agent has either refunded the excess to his purchaser or obtained his consent to the allowance of the refund or credit, see the provisions of § 130.78a.

PAR. 19. The first paragraph of § 130.57, as amended by Treasury Decision 5559 (26 CFR 130.57 (a)), is further amended to read as follows:

§ 130.57 Rate and application of tax.

(a) The tax is imposed on the amount of the taxable payment for seating or sleeping accommodations at the rates specified for the following periods:

Period:	Rate (percent)
(1) On and after Apr. 1, 1954	10
(2) Apr. 1, 1944 to Mar. 31, 1954, inclusive	15
(3) Nov. 1, 1942 to Mar. 31, 1944, inclusive	10
(4) Prior to Nov. 1, 1942	5

PAR. 20. Section 130.74 is amended by adding at the end thereof the following new sentence: "A person selling transportation tickets (or seating or sleeping accommodations) who, prior to April 1, 1954, collects tax at the 15 percent rate on the amount of the taxable payment for transportation (or for such accommodations in connection with transportation) which begins on or after April 1,

1954, shall pay over the tax so collected to the United States."

PAR. 21. Immediately following § 130.78 there is inserted the following:

Sec. 506. Special credit or refund of transportation \* \* \* taxes [Excise Tax Reduction Act of 1954, approved March 31, 1954]. Notwithstanding any other provision of law, in any case in which tax has been collected prior to April 1, 1954, at the rate in effect (without regard to the amendments made by this Act) prior to April 1, 1954, for or in connection with the transportation of persons which begins on or after April 1, 1954, \* \* \* the person who collected the tax shall pay the same over to the United States; but credit or refund (without interest) of the tax collected in excess of that applicable (by reason of the amendments made by this Act) on or after April 1, 1954, shall be allowed to the person who collected the tax as if such credit or refund were a credit or refund under the applicable provision of the Internal Revenue Code, but only to the extent that, prior to the time such transportation has begun \* \* \* he has repaid the amount of such excess to the person from whom he collected the tax, or has obtained the consent of such person to the allowance of the credit or refund. For the purpose of this Act, transportation shall not be considered to have begun on or after April 1, 1954, if any part of the transportation paid for (or for which payment has been obligated) commenced before April 1, 1954.

§ 130.78a Credit or refund provided by section 506 of the Excise Tax Reduction Act of 1954—(a) In general. Section 506 of the Excise Tax Reduction Act of 1954 provides that a credit or refund shall be allowed (as if such credit or refund were a credit or refund under the applicable provisions of the Internal Revenue Code) to any person who, prior to April 1, 1954, collected tax at the 15 percent rate on amounts paid for the transportation of persons (including seating or sleeping accommodations) to begin on or after April 1, 1954.

(b) Amount. The amount to be credited or refunded is the excess of the tax collected at the old rate of 15 percent over the tax at the new rate of 10 percent. A claim for refund may be filed on Form 843 for the amount of such excess, or credit for such amount may be taken against the tax shown to be due on a subsequent return. The claim for refund should be filed with the district director for the internal revenue district in which the amount claimed was paid.

(c) Conditions precedent. The credit or refund will be allowed only if all the following conditions are met:

(1) The tax has been collected at the 15 percent rate;

(2) Such tax actually has been paid over to the United States by the person claiming the refund or credit; and

(3) Prior to the time the transportation has begun, such person either (i) has reimbursed the purchaser of the transportation, etc., for the amount representing the difference between the tax computed at the rate of 15 percent and the tax which would have been paid at the 10 percent rate, or (ii) has obtained the written consent of the purchaser to the allowance of the credit or refund of such amount.

(d) Evidence required. In order to obtain a refund or credit under section 506 of the Excise Tax Reduction Act of

1954 and this section, the claimant must have satisfactory evidence to substantiate his right to such refund or credit, such as a signed, dated statement from the ticket purchaser showing his name and address and the fact that such purchaser has obtained a refund of the excess tax or has consented to the allowance of the refund or credit of such excess tax to the claimant. The refund or credit may not be allowed if any part of the transportation paid for, or for which payment has been obligated, commenced before April 1, 1954. Thus, in the case of a round-trip ticket, if the transportation from the point of origin commenced before April 1, 1954, no refund or credit may be allowed of any part of the tax collected on the amount paid for such ticket even though the return portion of the ticket is not used until after that date.

(e) *Interest.* No interest shall be allowed with respect to any amount of tax refunded or credited under the provisions of this section.

(53 Stat. 206, 423, as amended, 467; 26 U. S. C. 1855, 3472, 3791)

Regulations 46:

PAR. 22. Section 316.0, as amended by Treasury Decision 6029, approved July 8, 1953, is further amended by changing the last paragraph thereof to read as follows:

The statutory references are to the Internal Revenue Code of 1939 (53 Stat., Part 1) unless otherwise stated.

PAR. 23. Immediately preceding § 316.2 there is inserted the following:

Sec. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [secs. 301-306] \* \* \* and the amendment made by section 504 (a) insofar as it affects \* \* \* the rate of the manufacturers' excise tax imposed by section 3406 (a) (10) of such Code, shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 24. Section 316.2, as amended by Treasury Decision 6029, is further amended by adding at the end thereof the following new paragraph (26 CFR 316.2 (j))

(j) The Excise Tax Reduction Act of 1954, effective April 1, 1954, provides for the reduction in the rates of tax on sporting goods (as originally provided under section 484 of the Revenue Act of 1951), photographic apparatus, electric light bulbs and tubes, mechanical pencils, fountain and ball-point pens, mechanical lighters for cigarettes, cigars, and pipes, refrigerators, quick-freeze units, and electric, gas, and oil household appliances. The act also continues until April 1, 1955, the rates of tax on chassis and bodies for trucks and other automobiles, and parts and accessories therefor, which rates were increased by section 481 (a) (b) and (c) of the Revenue Act of 1951. The Act further provides the rule to be used to determine the rate of tax to be applied to payments made on or after April 1, 1954, for articles leased, sold on an installment contract, sold on a conditional sale contract, or sold on a chattel mortgage arrangement providing for payments in installments, where such

lease, contract, etc., was entered into prior to April 1, 1954.

PAR. 25. Immediately preceding § 316.8 there is inserted the following:

Sec. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [secs. 301-306] \* \* \* and the amendment made by section 504 (a) insofar as it affects \* \* \* the rate of the manufacturers' excise tax imposed by section 3406 (a) (10) of such Code, shall apply only with respect to articles sold on or after April 1, 1954. For the purpose of the preceding sentence, an article shall not be considered sold before April 1, 1954, unless possession or right to possession passes to the purchaser before such date. In the case of—

- (1) A lease,
- (2) A contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,
- (3) A conditional sale, or
- (4) A chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

entered into before April 1, 1954, payments made on or after April 1, 1954, shall, for purposes of this subsection, be considered as payments made with respect to articles sold on or after April 1, 1954.

PAR. 26. Section 316.9, as amended by Treasury Decision 5348, approved March 15, 1944, is further amended by adding at the end thereof the following new paragraph (26 CFR 316.9 (g))

(g) The following rules shall apply in the case of articles with respect to which the rate of tax was reduced by the Excise Tax Reduction Act of 1954.

(1) If an article is sold prior to April 1, 1954, it shall be subject to tax at the rate in effect prior to such date.

(2) An article shall be considered sold prior to April 1, 1954, if possession or right to possession passes to the purchaser prior to that date. Thus, in the case of a transaction in which the vendor retains possession and the vendee has no right to possession until after March 31, 1954, the rate of tax in effect on or after April 1, 1954, shall apply to the entire sale price of the article, irrespective of whether any portion of the sale price was received by the vendor prior to, on, or after April 1, 1954. Where the vendor retains possession merely for the convenience of the vendee and the vendee is entitled to possession at any time before April 1, 1954, the rate in effect prior to such date shall apply to the price for which the article is sold.

(3) Where an article, prior to April 1, 1954, is (i) leased, (ii) sold under an installment contract, (iii) sold on a conditional sale contract, or (iv) sold on a chattel mortgage arrangement providing for installment payments, the tax rate in effect prior to April 1, 1954, shall apply to all payments made prior to April 1, 1954, and the tax rate in effect on or after April 1, 1954, shall apply to all payments made on or after that date.

PAR. 27. Immediately preceding § 316.51 there is inserted the following:

Sec. 601. *One-year extension of certain excise tax rates [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Exten-*

*sion of rates.* The following provisions are hereby amended by striking out "April 1, 1954" each place it appears and inserting in lieu thereof "April 1, 1955"

\* \* \* \* \*  
(8) Section 3403 (relating to tax on automobiles, etc.).

PAR. 28. Paragraphs (a) and (b) of § 316.51, as amended by Treasury Decision 6029, are further amended to read as follows:

(a) Automobile truck chassis and bodies; highway tractors; automobile bus chassis and bodies; automobile truck and bus trailer and semitrailer chassis and bodies:

	<i>Percent</i>
Oct. 1, 1941 to Oct. 31, 1951, inclusive—	5
Nov. 1, 1951 to Mar. 31, 1955, inclusive—	8
On and after Apr. 1, 1955—	5

(b) Other automobile chassis and bodies; other automobile trailer and semitrailer chassis and bodies; motorcycles:

	<i>Percent</i>
Oct. 1, 1941 to Oct. 31, 1951, inclusive—	7
Nov. 1, 1951 to Mar. 31, 1955, inclusive—	10
On and after April 1, 1955—	7

PAR. 29. Immediately preceding § 316.55 there is inserted the following:

Sec. 601. *One-year extension of certain excise tax rates [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) Extension of rates.* The following provisions are hereby amended by striking out "April 1, 1954" each place it appears and inserting in lieu thereof "April 1, 1955"

\* \* \* \* \*  
(8) Section 3403 (relating to tax on automobiles, etc.)

PAR. 30. Section 316.56, as amended by Treasury Decision 6029, is further amended to read as follows:

§ 316.56 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

Automobile parts and accessories:	<i>Percent</i>
Oct. 1, 1941 to Oct. 31, 1951, inclusive—	5
Nov. 1, 1951 to Mar. 31, 1955, inclusive—	8
On and after Apr. 1, 1955—	5

In each case the taxable sale price shall be determined in accordance with the provisions of sections 316.8 to 316.15, inclusive.

PAR. 31. Immediately preceding § 316.70 there is inserted the following:

Sec. 305. *Reduction of tax on refrigerators and quick-freeze units* \* \* \* [Excise tax Reduction Act of 1954, approved March 31, 1954]—(a) *Reduction of tax.* Section 3405 (relating to manufacturers' excise tax on refrigerators, quick-freeze units, and self-contained air-conditioning units) is hereby amended by striking out "10 per centum" and inserting in lieu thereof the following: "5 per centum (10 per centum in the case of articles subject to tax under subsection (c))" \* \* \* \* \*

Sec. 505 *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 305 (a)] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \* \* \*

PAR. 32. Section 316.74, as amended by Treasury Decision 5854, approved September 13, 1951, is further amended to read as follows:

§ 316.74 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Refrigerators, etc., and refrigerating apparatus:

Oct. 1, 1941 to Oct. 31, 1942, inclusive, 10 percent.

(b) Household type refrigerators and refrigerating apparatus:

Nov. 1, 1942 to Oct. 31, 1950, inclusive, 10 percent.

(c) Household type refrigerators, household type units for the quick freezing or frozen storage of foods, and refrigerating and freezing apparatus:

Nov. 1, 1950 to Mar. 31, 1954, inclusive, 10 percent.

On and after Apr. 1, 1954, 5 percent.

(d) Self-contained air-conditioning units, 10 percent.

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 33. Immediately preceding § 316.90 there is inserted the following:

SEC. 301. *Excise taxes imposed by the Revenue Act of 1941 [Excise Tax Reduction Act of 1954, approved March 31, 1954].*—(a) *Tax on sporting goods.* Section 3405 (a) (1) (relating to manufacturers' excise tax on sporting goods) is hereby amended by striking out "15 per centum, except that on and after April 1, 1954, the rate shall be 10 per centum;"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 301 (a)] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 34. Immediately preceding § 316.110 there is inserted the following:

SEC. 305. *Reduction of tax \* \* \* on electric, gas, and oil household appliances [Excise Tax Reduction Act of 1954, approved March 31, 1954].*—(a) *Reduction of tax.* \* \* \* section 3406 (a) (3) (relating to manufacturers' excise tax on electric, gas, and oil appliances) is hereby amended by striking out "10 per centum" and inserting in lieu thereof "5 per centum"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 305 (a)] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 35. Section 316.111, as added by Treasury Decision 5099, approved November 28, 1941, is amended to read as follows:

§ 316.111 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

(a) Electric direct motor-driven fans and air circulators and electric, gas, or oil appliances:

Oct. 1, 1941, to Oct. 31, 1951, inclusive, 10 percent.

(b) Electric direct motor-driven fans and air circulators (not of the industrial type) and household type electric, gas, or oil appliances:

Nov. 1, 1951 to Mar. 31, 1954, inclusive, 10 percent.

On and after Apr. 1, 1954, 5 percent.

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 36. Immediately preceding § 316.120 there is inserted the following:

SEC. 301. *Excise taxes imposed by the Revenue Act of 1941 [Excise Tax Reduction Act of 1954, approved March 31, 1954].*

(b) *Tax on photographic apparatus.* Section 3406 (a) (4) (relating to manufacturers' excise tax on photographic apparatus) is hereby amended by striking out "20 per centum" and inserting in lieu thereof "10 per centum"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 301 (b)] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 37. Paragraphs (a) and (b) of § 316.122, as amended by Treasury Decision 6029, are further amended to read as follows:

(a) *Cameras and lenses:*

	<i>Percent</i>
Oct. 1, 1941, to Oct. 31, 1942, inclusive..	10
Nov. 1, 1942, to Oct. 31, 1951, inclusive..	25
Nov. 1, 1951, to Mar. 31, 1954, inclusive..	20
On and after Apr. 1, 1954.....	10

(b) *Unexposed photographic film in rolls (except X-ray film)*

	<i>Percent</i>
Oct. 1, 1941, to Oct. 31, 1942, inclusive..	10
Nov. 1, 1942, to Oct. 31, 1951, inclusive..	15
Nov. 1, 1951, to Mar. 31, 1954, inclusive..	20
On and after Apr. 1, 1954.....	10

PAR. 38. Immediately preceding § 316.180 there is inserted the following:

SEC. 301. *Excise taxes imposed by the Revenue Act of 1941 [Excise Tax Reduction Act of 1954, approved March 31, 1954].*

(c) *Tax on electric light bulbs and tubes.* Section 3406 (a) (10) (relating to manufacturers' excise tax on electric light bulbs and tubes) is hereby amended to read as follows:

(10) *Electric light bulbs and tubes.* Electric light bulbs and tubes, not including articles taxable under any other provision of this subchapter, 10 per centum.

SEC. 504. *Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954].*—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954."

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 301 (c)] \* \* \* and the amendment made by section 504 (a) insofar as it affects \* \* \* the rate of the manufacturers' excise tax imposed by section 3406 (a) (10) of such Code, shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 39. Section 316.181, as amended by Treasury Decision 5563, approved May 16, 1947, is further amended to read as follows:

§ 316.181 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

*Electric light bulbs and tubes:*

	<i>Percent</i>
Oct. 1, 1941, to Mar. 31, 1944, inclusive.....	5
Apr. 1, 1944, to Mar. 31, 1954, inclusive.....	20
On and after Apr. 1, 1954.....	10

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 40. Immediately preceding § 316.196 there is inserted the following:

SEC. 302. *Tax on mechanical pencils, fountain and ball-point pens, and mechanical lighters for cigarettes, cigars, and pipes [Excise Tax Reduction Act of 1954, approved March 31, 1954].* Section 3403 (a) (relating to tax on mechanical pencils, fountain and ball-point pens, and mechanical lighters for cigarettes, cigars, and pipes) is hereby amended by striking out "15 per centum" and inserting in lieu thereof "10 per centum"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* title III [inc. sec. 302] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 41. Section 316.199, as added by Treasury Decision 6029, is amended to read as follows:

§ 316.199 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

*Mechanical pencils, fountain and ball-point pens, and mechanical lighters for cigarettes, cigars, and pipes:*

	<i>Percent</i>
Nov. 1, 1951, to Mar. 31, 1954, inclusive.....	15
On and after Apr. 1, 1954.....	10

In each case the taxable sale price shall be determined in accordance with the provisions of §§ 316.8 to 316.15, inclusive.

PAR. 42. Section 316.204, as amended by Treasury Decision 6029, is further amended by adding at the end thereof the following new paragraph (26 CFR 316.204 (r))

(r) *Claims for refund or credit with respect to returned sales, sales for export, sales to States, etc., and sales for exempt uses, authorized under section 3443 (a) of the Code, asserted with respect to articles taxable under section 3405 (a) or (b) or 3406 (a) (3) or (10) sold prior to April 1, 1954, shall be based on the rate of tax in effect on or after April 1, 1954; except that where proper evidence is submitted to show that such articles were not covered by a claim for refund or credit provided for under the provisions of § 316.204a, relating to claims for refund or credit of tax on floor stocks, the claim for refund or credit filed pursuant to section 316.204 shall be based on the rate of tax in effect prior to April 1, 1954.*

(53 Stat. 419, 467; 26 U. S. C. 3450, 3791)

## Regulations 47:

PAR. 43. Immediately preceding article 1 (26 CFR 302.1) there is inserted the following:

SEC. 502. *Tax on pistols and revolvers [Excise Tax Reduction Act of 1954, approved March 31, 1954].* Section 2700 (a) (relating to tax on pistols and revolvers) is hereby amended by striking out "11 per centum" and inserting in lieu thereof "10 per centum"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by \* \* \* section 502 \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. For the purposes of the preceding sentence, an article shall not be considered sold before April 1, 1954, unless possession or right to possession passes to the purchaser before such date. In the case of—

(1) A lease,

(2) A contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(3) A conditional sale, or

(4) A chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

entered into before April 1, 1954, payments made on or after April 1, 1954, shall, for purposes of this subsection, be considered as payments made with respect to articles sold on or after April 1, 1954.

PAR. 44. Article 1 (26 CFR 302.1) as amended by Treasury Decision 5083, approved October 3, 1941, is further amended to read as follows:

§ 302.1 *Rates of tax.* The tax is payable by the manufacturer on the sale price of the articles listed at the rates specified below:

Pistols and revolvers:	Percent
Prior to July 1, 1940.....	10
July 1, 1940, to Mar. 31, 1954, inclusive .....	11
On and after Apr. 1, 1954.....	10

(53 Stat. 467; 26 U. S. C. 3791)

## Regulations 51.

PAR. 45. Section 320.0 is amended by adding at the end thereof the following new paragraph:

The statutory references are to the Internal Revenue Code of 1939 (53 Stat., Part 1) unless otherwise stated.

PAR. 46. Immediately preceding § 320.2 there is inserted the following:

SEC. 505. *Effective Dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by title I [secs. 101-102] \* \* \* and the amendment made by section 504 (a) insofar as it affects the rates of the retailers' excise taxes imposed by sections 2400, 2401, and 2402 of the Internal Revenue Code \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 47. Section 320.2, as amended by Treasury Decision 5922, approved July 28, 1952, is further amended by adding at the end thereof the following new paragraph (26 CFR 320.2 (c))

(c) The Excise Tax Reduction Act of 1954, effective April 1, 1954, provides for the reduction in the rates of tax on jewelry, furs, toilet preparations, and luggage. The act further provides the rule to be used to determine the rate of

tax to be applied to payments made on or after April 1, 1954, for articles leased, sold on an installment contract, sold on a conditional sale contract, or sold on a chattel mortgage arrangement providing for payments in installments, where such lease, contract, etc., was entered into prior to April 1, 1954.

(53 Stat. 467, 55 Stat. 720; 26 U. S. C. 2410, 3791)

PAR. 48. Immediately preceding § 320.10 there is inserted the following:

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by title I [secs. 101-102] \* \* \* and the amendment made by section 504 (a) insofar as it affects the rates of the retailers' excise taxes imposed by sections 2400, 2401, and 2402 of the Internal Revenue Code \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. For the purposes of the preceding sentence, an article shall not be considered sold before April 1, 1954, unless possession or right to possession passes to the purchaser before such date. In the case of—

(1) A lease,

(2) A contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installment,

(3) A conditional sale, or

(4) A chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

entered into before April 1, 1954, payments made on or after April 1, 1954, shall, for the purposes of this subsection, be considered as payments made with respect to articles sold on or after April 1, 1954.

PAR. 49. Section 320.10, as amended by Treasury Decision 5353, approved March 31, 1944, is further amended by adding at the end thereof the following new paragraph (26 CFR 320.10 (f))

(f) The following rules shall apply in the case of articles with respect to which the rate of tax was reduced by the Excise Tax Reduction Act of 1954:

(1) If an article is sold prior to April 1, 1954, it shall be subject to tax at the rate in effect prior to such date.

(2) An article shall be considered sold prior to April 1, 1954, if possession or right to possession passes to the purchaser prior to that date. Thus, in the case of a transaction in which the vendor retains possession and the vendee has no right to possession until after March 31, 1954, the rate of tax in effect on or after April 1, 1954, shall apply to the entire sale price of the article, irrespective of whether any portion of the sale price was received by the vendor prior to, on, or after April 1, 1954. Where the vendor retains possession merely for the convenience of the vendee and the vendee is entitled to possession at any time before April 1, 1954, the rate in effect prior to such date shall apply to the price for which the article is sold.

(3) Where an article, prior to April 1, 1954, is (i) leased, (ii) sold under an installment contract, (iii) sold on a conditional sale contract, or (iv) sold on a chattel mortgage arrangement providing for installment payments, the tax rate in effect prior to April 1, 1954, shall apply to all payments made prior to April 1,

1954, and the tax rate in effect on or after April 1, 1954, shall apply to all payments made on or after that date.

PAR. 50. Immediately preceding § 320.30 there is inserted the following:

SEC. 102. *Retailers' excise taxes on jewelry* \* \* \* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. For reduction in rate of retailers' excise taxes on jewelry \* \* \*, see section 504 (a).

SEC. 504. *Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954].*—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].*

(a) The amendments made by title I [inc. sec. 102] \* \* \* and the amendment made by section 504 (a) insofar as it affects the rates of the retailers' excise taxes imposed by sections 2400 \* \* \* of the Internal Revenue Code \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 51. Section 320.38, as amended by Treasury Decision 5558, approved April 11, 1947, is further amended to read as follows:

§ 320.38 *Rates of tax.* The tax is payable by the retailer based upon the price for which the taxable article is sold by him at the rates specified below:

	Percent
(a) Oct. 1, 1941 to Mar. 31, 1944, inclusive: All articles.....	10
(b) Apr. 1, 1944, to Mar. 31, 1954, inclusive:	
Watches selling at retail for \$65 or less.....	10
Alarm clocks selling at retail for \$5 or less.....	10
All other articles.....	20
(c) On and after Apr. 1, 1954: All articles.....	10

The price for which an article is sold shall be determined in accordance with the provisions of §§ 320.5 to 320.10, inclusive, and § 320.74.

PAR. 52. Immediately preceding § 320.40 there is inserted the following:

SEC. 102. *Retailers' excise taxes on* \* \* \* furs \* \* \* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. For reduction in rate of retailers' excise taxes on \* \* \* furs \* \* \* see section 504 (a).

SEC. 504. *Technical amendments [Excise Tax Reduction Act of 1954, approved March 31, 1954].*—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

SEC. 505. *Effective dates [Excise Tax Reduction Act of 1954, approved March 31, 1954].* (a) The amendments made by title I [inc. sec. 102] \* \* \* and the amendment made by section 504 (a) insofar as it affects the rates of the retailers' excise taxes imposed by sections \* \* \* 2401 \* \* \* of the Internal Revenue Code \* \* \*, shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 53. Section 320.42, as amended by Treasury Decision 5558, is further amended to read as follows:

§ 320.42 *Rates of tax.* The tax is payable by the retailer based upon the price for which the taxable article is sold by him at the rates specified below:

	Percent
Oct. 1, 1941, to Mar. 31, 1944, inclusive..	10
Apr. 1, 1944, to Mar. 31, 1954, inclusive..	20
On and after Apr. 1, 1954.....	10

The price for which an article is sold shall be determined in accordance with the provisions of §§ 320.5 to 320.10, inclusive, and § 320.74.

PAR. 54. Immediately preceding § 320.50 there is inserted the following:

SEC. 102. *Retailers' excise taxes on \* \* \* toilet preparations* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. For reduction in rate of retailers' excise taxes on \* \* \* toilet preparations, see section 504 (a).

SEC. 504. *Technical amendments* [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

SEC. 505. *Effective dates* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. (a) The amendments made by title I [inc. sec. 102] \* \* \* and the amendment made by section 504 (a) insofar as it affects the rates of the retailers' excise taxes imposed by sections \* \* \* 2402 of the Internal Revenue Code \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 55. Section 320.51, as amended by Treasury Decision 5558, is further amended to read as follows:

§ 320.51 *Rates of tax.* The tax is payable by the retailer based upon the price for which the taxable article is sold by him at the rates specified below:

	Percent
Oct. 1, 1941, to Mar. 31, 1944, inclusive..	10
Apr. 1, 1944 to Mar. 31, 1954, inclusive..	20
On and after Apr. 1, 1954.....	10

The price for which an article is sold shall be determined in accordance with the provisions of §§ 320.5 to 320.10, inclusive, and § 320.74.

PAR. 56. Immediately preceding § 320.60 there is inserted the following:

SEC. 101. *Retailers' excise tax on luggage, etc.* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. Section 1651 (a) (relating to retailers' excise tax on luggage, etc.) is hereby amended by striking out "20 per centum" and inserting in lieu thereof "10 per centum"

SEC. 505. *Effective dates* [Excise Tax Reduction Act of 1954, approved March 31, 1954]. (a) The amendments made by title I [inc. sec. 101] \* \* \* shall apply only with respect to articles sold on or after April 1, 1954. \* \* \*

PAR. 57. The first paragraph of § 320.61, as added by Treasury Decision 5353 (26 CFR 320.61 (a)) is amended to read as follows:

§ 320.61 *Rates of tax.* (a) The tax is payable by the retailer based upon the price for which the taxable article is sold by him at the rates specified below:

	Percent
Apr. 1, 1944, to Mar. 31, 1954, inclusive	20
On and after Apr. 1, 1954.....	10

The price for which an article is sold shall be determined in accordance with the provisions of §§ 320.5 to 320.10, inclusive, and § 320.74.

Regulations 59:  
PAR. 58. Section 323.0, as amended by Treasury Decision 5827, approved January 16, 1951, is further amended by changing the last paragraph thereof to read as follows:

The statutory references are to the Internal Revenue Code of 1939 (53 Stat., Part 1) unless otherwise stated.

PAR. 59. Immediately preceding § 323.0 there is inserted the following:

SEC. 504. *Technical amendments* [Excise Tax Reduction Act of 1954, approved March 31, 1954]—(a) *Termination of tax rates under section 1650.* Section 1650 (relating to war tax rates of certain miscellaneous taxes) is hereby amended by inserting after "beginning with the effective date of title III of the Revenue Act of 1943" the following: "and ending March 31, 1954,"

(d) *Bowling alleys and billiard and pool tables.* The first sentence of section 3268 (a) (relating to tax on bowling alleys, and billiard and pool tables) is hereby amended to read as follows: "Every person who operates a bowling alley, billiard room, or pool room shall pay a special tax of \$20 per year for each bowling alley, billiard table, or pool table."

(53 Stat. 467; 26 U. S. C. 3791)

Because this Treasury decision amends the several regulations merely by incorporating the reduction in the rates of certain excise taxes made by the Excise Tax Reduction Act of 1954 and by making certain other related changes of a technical nature, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said Act.

This Treasury decision shall be effective on April 1, 1954.

[SEAL] O. GORDON DELK,  
*Acting Commissioner of Internal Revenue.*

Approved: August 23, 1955.

DAVID W. KENDALL,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 55-6979; Filed, Aug. 26, 1955; 8:47 a. m.]

**TITLE 32—NATIONAL DEFENSE**

**Chapter XVI—Selective Service System**

[Amdt. 64]

**PART 1612—REGISTRATION DUTIES**

**APPOINTMENT OF REGISTRARS**

The Selective Service Regulations are hereby amended as follows:

1. Paragraph (b) of § 1612.23 is amended to read as follows:

§ 1612.23 *Registrars.* \* \* \*

(b) Each person who is appointed as registrar to serve without compensation shall execute an Oath of Office and Waiver of Pay (SSS Form No. 400) before undertaking any duties as registrar.

2. Paragraph (c) of § 1612.23 is revoked, paragraph (d) is redesignated as paragraph (c) and paragraph (e) is redesignated as paragraph (d)

(Sec. 10, 62 Stat. 618, as amended; 50 U. S. C. App. 460; E. O. 9379, July 20, 1948, 13 F. R. 4177; 3 CFR, 1948 Supp.)

The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,  
*Director of Selective Service.*

AUGUST 24, 1955.

[F. R. Doc. 55-6924; Filed, Aug. 26, 1955; 8:45 a. m.]

**TITLE 32A—NATIONAL DEFENSE, APPENDIX**

**Chapter I—Office of Defense Mobilization**

[Defense Mobilization Order VII-4, Supp. 1]

**DMO VII-4, SUPP. 1—ODM POLICY GUIDANCE ON GOVERNMENT-OWNED PRODUCTION EQUIPMENT**

In order to provide immediate relief to the disaster areas designated by the President, the Office of Defense Mobilization hereby supplements its policy on the leasing of government-owned production equipment in the following particulars:

1. Tool reserves of idle government-owned production equipment are assigned under Defense Mobilization Orders VII-1A and VII-1B to the Department of Commerce and the Department of Defense. The Commerce inventory covers idle equipment belonging to the Atomic Energy Commission, the Maritime Administration, the General Services Administration and the Department of Health, Education, and Welfare. The Defense inventory contains idle equipment belonging to the Departments of the Army, Navy, and Air Force. These inventories include machine tools, secondary metalworking equipment, welding equipment, heat-treating furnaces, heavy power transformers, industrial trucks, tractors and trailers and certain specified testing and measuring machines.

2. All idle equipment included in these two central inventories will be made available upon request to producing establishments crippled by recent floods. Authority to arrange for the immediate leasing of such equipment to damaged establishments who need it to resume normal operations is hereby granted to the Department of Defense and the Department of Commerce for the items in their respective idle inventories. This authority is limited to the disaster area and to the duration of the flood emergency as established by the President of the United States.

3. Leases authorized under this supplement shall be only for such period of time as is necessary for the lessee to obtain delivery on equipment to replace those which have been damaged or destroyed. In no case shall the lease be entered into for more than a one-year

term. If at the close of a one-year term replacements are still not available, existing leases may be extended for an additional period until deliveries can be effected or one year whichever is the shorter. Monthly rentals for equipment leased under this supplement will be charged at the rate of 1 percent per month of the acquisition cost of the equipment. The lessee will also pay all shipping and installation costs incidental to getting the equipment into operation at the sites at which it is to be used.

4. Authorizations to lease and ship will be issued by the Commerce and Defense Departments within 24 hours of receipt of request whereat the discretion of authorized Commerce and Defense Department officials such leasing is necessary to restore normal production. Details of the formal lease will be worked out as quickly as possible thereafter between the lessee and the owning agency or by the General Services Administration acting for the owning agency.

5. Periodic reports of operations under this supplement will be submitted on call by all participating agencies to the Director of the Office of Defense Mobilization to be made public at the discretion of the Director.

6. This supplement shall take effect on August 25, 1955.

OFFICE OF DEFENSE  
MOBILIZATION,  
ARTHUR S. FLEMMING,  
Director

[F. R. Doc. 55-7034; Filed, Aug. 26, 1955;  
10:07 a. m.]

## TITLE 36—PARKS, FORESTS, AND MEMORIALS

### Chapter I—National Park Service, Department of the Interior

#### PART 20—SPECIAL REGULATIONS

##### SHILOH NATIONAL MILITARY PARK; MAXIMUM WEIGHTS OF VEHICLES, SPEED

Section 20.9 is amended to read as follows:

§ 20.9 *Shiloh National Military Park*—  
(a) *Maximum weights of vehicles.* The maximum weight of any vehicle using the park roads or the Shiloh-Corinth Federal Highway, including the load of such vehicle, shall not exceed 18,000 pounds.

(b) *Speed.* Except where different speed zones are indicated by signs or markers, speed of automobiles and other vehicles, except ambulances and cars on official emergency trips, shall not exceed 35 miles per hour on park roads or the Shiloh-Corinth Federal Highway.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 4th day of August 1955.

[SEAL] IRA B. LYKES,  
Superintendent,  
Shiloh National Military Park.

[F. R. Doc. 55-6986; Filed, Aug. 26, 1955;  
8:49 a. m.]

#### PART 20—SPECIAL REGULATIONS

##### ZION AND BRYCE CANYON NATIONAL PARKS; COMMERCIAL AUTOMOBILES AND BUSES

Section 20.10 *Zion and Bryce Canyon National Parks* is amended by the addition of paragraph (e), reading as follows:

(e) *Commercial automobiles and buses.* The prohibition against the admission of commercial automobiles and busses to Zion and Bryce Canyon National Parks, contained in § 1.36 of this chapter shall be subject to the following exception: Motor vehicles operated on a general, infrequent, and non-scheduled tour on which the visit to either park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park pursuant to contract authorization with the Secretary. Admission to each park will be accorded such motor vehicles upon payment of a special tour permit fee of \$1.00 per passenger-carrying seat in the vehicle for each park to be visited.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 12th day of July 1955.

[SEAL] PAUL R. FRANKE,  
Superintendent, Zion and  
Bryce Canyon National Parks.

[F. R. Doc. 55-6987; Filed, Aug. 26, 1955;  
8:49 a. m.]

## TITLE 39—POSTAL SERVICE

### Chapter I—Post-Office Department

#### PART 41—SERVICE IN POST OFFICES

##### PART 48—UNDELIVERABLE MAIL

##### PART 49—STAR ROUTE SERVICE

##### PART 96—AIR MAIL SERVICE

##### MISCELLANEOUS AMENDMENTS

The following changes are made in Parts 41, 48, 49, and 96:

#### PART 41—SERVICE IN POST OFFICES

In § 41.3 *Post office boxes.* Amend paragraph (d) to read as follows:

(d) *Payment of box rent.* Box rent must be paid in advance. A receipt on Form 1538 is given for each payment. When a box is surrendered no portion of the rent will be refunded. Box rent may be paid as follows:

(1) *Annually.* If paid annually you must pay for a fiscal year or for the quarters remaining in a fiscal year. The fiscal year begins July 1.

(2) *Quarterly.* Quarters begin July 1, October 1, January 1, and April 1.

(3) *After beginning of quarter* (i) First month of quarter. Entire quarterly rate.

(ii) Second month of quarter: Two-thirds of quarterly rate. To determine the amount to be paid, multiply quarterly

rate by the number of months remaining in the quarter, including the month in which box is rented, and divide by three. Drop fractions of a cent.

(iii) Third month of quarter. If rented before the twenty-first day, one-third of quarterly rate. On or after the twenty-first day, no rent will be charged for the remaining days in the quarter, but full payment must be made for the following quarter.

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

#### PART 48—UNDELIVERABLE MAIL

In Part 48—Undeliverable Mail make the following changes:

a. In § 48.2 *Treatment by classes* make the following changes:

1. Amend paragraph (g) to read as follows:

(g) *Registered, insured, and c. o. d.*—  
(1) *Registered and insured.* When registered and insured mail is undeliverable as addressed, a notice is sent to the mailer on Form 3858 showing the reason. By completing the form and returning it immediately in an envelope bearing first-class postage, the mailer may tell the postmaster what to do with the mail. Mail will be returned to the mailer if there is no response. The postage charge, if any, for returning the mail, but not registration or insurance fees, will be collected from the mailer. *Exception.* When registered mail is addressed to a person who has moved and left no forwarding address, Form 3858 will not be sent, and the mail will be returned immediately to the mailer.

(2) *C. o. d.* A request to receive a notice that c. o. d. mail has not been delivered may be written or printed on a parcel by the mailer. The request may include directions to send the notice to the mailer or to his representative. When the mailer's representative is designated, the representative's name and local or nearby address must be shown in a bordered space with instructions, reading: Do not deliver to mailer's designated representative without collecting c. o. d. charges; or Deliver without collecting c. o. d. charges to mailer's designated representative.

2. Amend paragraph (h) to read as follows:

(h) *Perishable mail.* Undeliverable parcels containing perishable items that cannot be forwarded or returned before spoiling, and parcels of day-old poultry that cannot be delivered or returned within 60-hours after hatching, if salable will be disposed of by the postmaster through competitive bidding. Sale by bid will not be made to the addressee. The postmaster will send the proceeds of the sale, less a commission of 10 percent (but not less than 15 cents), to the mailer, by postal money order with an explanation of the action taken. The postal money order fee will be deducted.

3. Add new paragraph (i) to read as follows:

(i) *Foods, drugs, and cosmetics.* Undeliverable packages containing food, drugs or cosmetics, except soaps and per-

fumes which make no claim to medicinal properties, will be destroyed. They will not be sold or donated or retained for treatment as dead parcel post.

b. Rescind present § 48.4 *Mail not-to be returned*.

c. Redesignate § 48.5 *Notice to sender on third- and fourth-class mail* as § 48.4; and amend paragraph (b) (2) thereof to read as follows:

(2) When the change is to another post office and the piece is forwardable under the sender's or addressee's guarantee to pay forwarding postage, or when the mail is to be forwarded because it is of obvious value, the notice on Form 3547 will show the same information as subparagraph (1) of this paragraph.

d. Add new § 48.5 to read as follows:

§ 48.5 *Retention periods*—(a) *Ordinary mail*. (1) Mail returnable under paragraphs (a) through (f) of § 48.2 is:

(i) Returned immediately if refused by addressee.

(ii) Returned immediately if undeliverable when specifically addressed to a street and number, building, rural or star route, or post office box.

(iii) Retained 3 to 30 days, at request of sender, when not specifically addressed to a street and number, building, rural or star route, or post office box. Requests to lengthen or shorten retention periods specified by sender to not less than 3 nor more than 30 days will be honored only at sender's and not addressee's request.

(iv) Retained as follows when not specifically addressed or when sender does not specify a retention period:

(a) Five days if for delivery by village, rural or star route carrier.

(b) Ten days if intended for general delivery service at an office having city carrier service.

(c) Fifteen days if intended for general delivery service at an office not having city carrier service.

(2) Perishable items not marked to abandon that cannot be delivered before spoiling or day old poultry that cannot be delivered within 60 hours after hatching are returned immediately, provided return to the sender can be made prior to spoilage of perishables or within the 60-hour period for day-old poultry. (See paragraph (h) of § 48.2.)

(3) Mail addressed and deliverable to a post office box, except registered, insured, c. o. d., and perishable, will not be returned until box is declared vacant.

(b) *Registered, insured, and c. o. d. mail*. (1) Registered mail is held from 3 to 60 days at sender's request. If there is no specific request by the sender, the postmaster may hold the article not longer than 60 days if he believes he will be able to make delivery and has obtained written permission from the sender. (See also paragraph (g) (1) of § 48.2.)

(2) Insured mail is held a maximum of 15 days. It is held a less number of days if the sender so specifies. If no retention period is specified and the article is refused, it will be returned immediately. (See also paragraph (g) (1) of § 48.2.)

(3) C. o. d. mail is held a maximum of 30 days. It is held a less number of days

if the sender so specifies. C. o. d. mail not bearing specific instructions will be returned immediately when:

(i) Addressee is not found.

(ii) Address does not exist.

(iii) Addressee is deceased and delivery cannot be made to an authorized person.

(c) *Special delivery and special handling mail*. Special delivery and special handling articles are held for the period specified in paragraph (a) or (b) above of this section except that requests for immediate return of special delivery mail will be honored.

e. Section 48.7 *General delivery or transient mail* is rescinded.

f. Section 48.6 *Directory service* is redesignated § 48.7, and amended to read as follows:

§ 48.7 *Directory service*. Directory service is not generally available, but at carrier offices where a directory is available, directory service is given to registered, certified insured, c. o. d., special delivery, and special handling mail; to perishable matter and parcels of obvious value; and to international mail, except circulars. Incorrectly or incompletely addressed mail from overseas Armed Forces is given directory service and is not returned to the sender until every effort is made to deliver it.

g. A new § 48.6 is inserted to read as follows:

§ 48.6 *Disposal of undeliverable mail*. Mail undeliverable at the last office of address is disposed of as follows:

(a) Postal and post cards, second-class mail, printed matter, or samples of merchandise are destroyed or sold immediately.

(b) Printed matter, including greeting cards, obviously without value is disposed of as waste paper without examination of contents. This mail will not be torn or mutilated except when necessary to prevent improper use.

(c) Domestic ordinary, insured, or c. o. d. articles bearing senders' instructions to abandon are disposed of immediately.

(d) Third-class mail of no obvious value and bearing no pledge to pay return postage is disposed of as waste.

(e) Insured and c. o. d. articles, bearing senders' instructions to destroy will be destroyed.

(f) Packages containing medicine, perishable articles, liquids, or articles likely to injure other mail or to attract pests are destroyed as soon as they are known to be undeliverable.

(g) Letters from Canada or Mexico with return addresses are returned to the postmaster at the post office of origin.

(h) Mail addressed to a deceased person is delivered to the executor or administrator of the estate or if there is no executor or administrator, to the widow or widower or other claimants, except that U. S. Government pension mails returned to the mailing Federal agency.

(i) Unclaimed franked mail from a Member of Congress and unclaimed penalty mail including official reports and bulletins sent by State agricultural colleges and experiment stations is re-

turned to the postmaster at the office of origin if it is known. If office of origin is not known, the mail is sent to the post office at Washington, D. C. Undeliverable mail bearing return card of the White House, the Senate, or the House of Representatives, with or without postage stamps, is returned to the post office at Washington, D. C.

(j) Santa Claus letters, with postage fully prepaid (or local unpaid or partly paid) with no identification of person for whom they are intended, are sent to institutions or persons who may request them to use for exclusively philanthropic purposes. If there is no voluntary request, they are sent to the dead-mail office.

(k) Other mail, including first-class and airmail, bearing no return address is sent to a dead letter or dead parcel post branch for final disposition.

h. Section 48.8 *Dead mail* is amended to read as follows:

§ 48.8 *Dead mail*—(a) *Definition*. Dead mail is matter deposited in the mails which is or becomes undeliverable, or is unmailable, and which cannot be returned to the sender.

(b) *Treatment*—(1) *At last office of address*. At the end of retention periods specified in § 48.5 mail is declared dead and is disposed of locally or forwarded to dead letter or dead parcel post branches for final disposition.

(2) *At dead mail office*. (i) Mail is examined and opened when necessary to find the name and address of the sender or addressee.

(ii) If the sender or addressee cannot be identified, the following retention periods are observed:

(a) Letters of domestic origin with enclosures of value, 1 year.

(b) Other letters, none.

(c) Letters containing merchandise, and third- and fourth-class mail containing valuables (including first-class mail not in the form of a letter, addressed to another country) 60 days: if posted in violation of law or treaty, 6 months.

(iii) Dead mail that cannot be delivered to addressee or sender is destroyed or sold.

(R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25; sec. 1, 46 stat. 269; sec. 2, 64 Stat. 210; 5 U. S. C. 22, 369; 39 U. S. C. 261, 278b)

#### PART 49—STAR ROUTE SERVICE

New Part 49—Star Route Service is hereby added to Title 39, Chapter 1, to read as follows:

Sec.	49.1 Description.
	49.2 Establishment.
	49.3 Box delivery and collection service.
	49.4 Mail boxes and receptacles.

AUTHORITY: §§ 49.1 to 49.4 issued under R. S. 161, 396, 396A, as amended, 3965, 3966, 3968; secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369; 39 U. S. C. 481, 483, 484, 486.

§ 49.1 *Description*. Star route service provides for the transportation of mail between post offices or other designated points where mail is received or dispatched. Box delivery, collection service, and other mail service are also performed on a majority of routes. Every star

route carrier will receive any mail matter presented to him, if properly prepaid by stamps, and deliver it for mailing at the next post office at which he arrives.

§ 49.2 *Establishment*—(a) *New service*. Contracts for regular service are awarded after public advertisements, as provided by law. Temporary service may be established on short notice without advertising. Address requests or petitions for new routes to officials of the Postal Transportation Service having supervision over the transportation of mail in the area involved.

(b) *Changes and extensions*. Changes in line of travel, and extensions of service may be ordered by General Superintendents, Postal Transportation Service, at any time. Address requests for changes and extensions to local officials of the Postal Transportation Service.

(c) *Changes in schedules*. Changes in schedules may be ordered by District Superintendents, Postal Transportation Service, at any time. Address requests for changes to these officials.

§ 49.3 *Box delivery and collection service*—(a) *Services required*. Star route advertisements and contract state whether box delivery, collection service, or other mail services are required and specify the area to be served. In addition to usual box delivery and collection service, on some routes the carriers are required to:

(1) Sell stamp supplies.

(2) Deliver registered, insured, and c. o. d. matter.

(3) Accept matter presented for registration, or insurance, or to be sent c. o. d., and money with applications for money orders and give receipts.

(b) *Availability*. All box delivery and collection service is provided without charge to the patron. To qualify for service a patron must:

(1) Reside on or near a route on which box delivery and collection service is required.

(2) Live outside the corporate limits of a town and at least one-fourth mile from a post office.

(3) Provide and erect a suitable box or provide a suitable sack or satchel with post upon which it may be hung.

(4) File written request for delivery and collection service at the post office to which mail is addressed. Patrons residing between two post offices may receive mail service from one or both.

(5) Advise carrier of signal to be used to indicate that mail is to be collected from box.

(6) Meet carrier to purchase stamps or get receipts for money orders, registered, insured, and c. o. d. mail where those services are provided.

(c) *Delivery of mail*. Mail matter addressed to a qualified patron of a star route will be taken by the carrier from the post office and deposited into the proper mail box, at the risk of the addressee. Registered, insured, and c. o. d. mail will not be delivered unless expressly requested in writing by the patron. When such request is made, the carrier

is considered as the representative of the addressee and the responsibility of the Postal Service ceases when delivery has been made to the carrier and his signature has been obtained. C. o. d. mail will not be delivered to a carrier until the amount due is paid. Parcel post packages too large to go into mail boxes may be delivered outside of boxes, provided the addressee has filed with the postmaster a written request for delivery in that manner. Otherwise, notice will be left in patron's box to meet carrier on next trip. If proper delivery cannot be made by carrier, the mail will be held at the post office as described in Part 48 of this chapter.

(d) *Collection of mail*. Mail matter properly stamped and placed in a mail box for dispatch shall be collected by the carrier and deposited in the next post office at which the carrier arrives. Bulky mailable matter, properly prepared and stamped, will be collected by the carrier if placed on or near the mail box. Star route carriers are not required to collect from mail boxes money with which to purchase stamps. Money so left will be at the risk of the patron.

§ 49.4 *Mail boxes and receptacles*. Mail boxes and other receptacles provided by star route patrons must be adequate to properly protect the mail and placed so that they may be conveniently served by the carrier without leaving his vehicle. They must be located on the right side of the road in the direction of travel where required by traffic conditions or where driving to the left in order to reach the boxes would constitute a violation of traffic laws by the carrier. In such cases, patrons desiring service on both outward and return trips of carrier must erect a box on each side of the road.

#### PART 96—AIR MAIL SERVICE

In § 96.48 *Claims for domestic air mail service* (20 F. R. 4820) make the following changes in paragraph (f)

1. Under the Regional Controller at Richmond, Va., add the following air-line:

Riddle Airlines, Inc.

2. Under the Regional Controller at San Francisco, Calif., add the following airlines:

Slick Airways.  
Flying Tiger Line.

(R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25, sec. 1 (b) 63 Stat. 1066; 5 U. S. C. 22, 369, 1332-15).

ABE MCGREGOR GOFF,  
*The Solicitor*

[F. R. Doc. 55-6971; Filed, Aug. 20, 1955;  
8:45 a. m.]

## TITLE 47—TELECOMMUNICATION

### Chapter I—Federal Communications Commission

[Rules Amdt. 2-4]

#### PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

##### TABLE OF FREQUENCY ALLOCATIONS

The Commission having under consideration the desirability of making certain editorial changes in Part 2, section 2.104 (a) of its Rules and Regulations; and

It appearing that the amendment adopted herein is editorial in nature, and, therefore, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately and

It further appearing that the amendment adopted herein is issued pursuant to authority contained in sections 4 (d), 5 (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 (a) of the Commission's Statement of Organization, Delegations of Authority and other information:

It is ordered, This 24th day of August 1955, that, effective immediately, Part 2, § 2.104 (a) of the Commission's Rules and Regulations is amended as follows: In § 2.104 (a), renumber footnote NG43 to read footnote US30.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended, sec. 5, 48 Stat. 1066, as amended; 47 U. S. C. 303, 155)

Released: August 24, 1955.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WM. P. MASSING,  
*Acting Secretary.*

[F. R. Doc. 55-6981; Filed, Aug. 20, 1955;  
8:48 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### [ 26 CFR (1954) Part 1 ]

INCOME TAX: TAXABLE YEARS BEGINNING  
AFTER DEC. 31, 1953

#### WAR LOSS RECOVERIES

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:P Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are

to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] O. GORDON DELK,  
Acting Commissioner of  
Internal Revenue.

The following regulations are hereby prescribed under part IV of subchapter Q of chapter 1 of the Internal Revenue Code of 1954:

#### WAR LOSS RECOVERIES

##### § 1.1331 Statutory provisions; war loss recoveries.

SEC. 1331. *War loss recoveries.* On the recovery in the taxable year of any money or property in respect of property considered under section 127 (a) of the Internal Revenue Code of 1939, as destroyed or seized, the amount of such recovery shall be included in gross income to the extent provided in section 1332, unless section 1333 applies to the taxable year pursuant to an election made by the taxpayer under section 1335.

§ 1.1331-1 *Recoveries in respect of war losses.* (a) (1) The amount of any recovery in respect of "war loss property" must be included in gross income to the extent provided in section 1332 unless, pursuant to the taxpayer's election under section 1335, the provisions of section 1333 are applicable to such recovery. For the treatment of war loss recoveries under section 1333 and the manner of making the election under section 1335, see §§ 1.1333-1 and 1.1335-1.

(2) As used in this part, the term "war loss property" means property considered under section 127 (a) of the Internal Revenue Code of 1939 as "destroyed or seized" including any interest described in section 127 (a) (3) of the Internal Revenue Code of 1939.

(3) For regulations governing the treatment of war losses under the Internal Revenue Code of 1939, see §§ 29.127 (a)-1 to 29.127 (a)-4, inclusive, 29.127 (b)-1, and 29.127 (e)-1 of Regulations 111 (26 CFR (1939) Part 29) and § 39.127 (a)-1 of Regulations 118 (26 CFR (1939) Part 39)

(b) The recoveries in respect of any war loss property include the recovery of the same war loss property and the recovery of any money or property in lieu of such property or on account of the destruction or seizure of such property. For example, there is a recovery upon the return to the taxpayer after the termination of the war of his property which was treated as war loss property because it was located in a country at war with the United States. An award by a government on account of the seizure of the taxpayer's property by an enemy country is a recovery under this section. The amount obtained upon the sale or other transfer by the taxpayer of his right to any war loss property is also a recovery for the purpose of this section. Similarly, if a taxpayer who sustained a war loss upon the liquidation of a corporation has received the rights to any property of the corporation which was treated as war loss property, any recovery by the taxpayer with respect to such rights is a recovery by him for the purposes of this section.

(c) For the purpose of this section, the recoveries considered are only those with respect to war losses sustained in prior taxable years. Similarly, the only deductions considered are those allowable for prior taxable years, and any allowable deductions for the year of the recovery are ignored for the purposes of applying such section to the recovery.

##### § 1.332 Statutory provisions; inclusion in gross income of war loss recoveries.

SEC. 1332. *Inclusion in gross income of war loss recoveries—(a) Amount of recovery.* The amount of the recovery of any money or property in respect of property considered under section 127 (a) of the Internal Revenue Code of 1939, as destroyed or seized, shall be an amount equal to the aggregate of such money and the fair market value of such property, determined as of the date of the recovery.

(b) *Amount of gain includible—(1) Portion excluded from gross income.* To the extent that the amount of the recovery plus the aggregate of the amounts of previous such recoveries do not exceed that part of the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in such section 127 (a) which did not result in a reduction of any tax of the taxpayer under chapter 1 or 2 of the Internal Revenue Code of 1939, such amount shall not be includible in gross income and shall not be deemed gain on the involuntary conversion of property as a result of its destruction or seizure.

(2) *Portion treated as ordinary income.* To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed that part of the aggregate of such deductions, which did not result in a reduction of any tax of the taxpayer under such chapters and do not exceed that part of the aggregate of such deductions which did result in a reduction of any tax of the taxpayer under such chapters, such amount shall be included in gross income but shall not be deemed a gain on the involuntary conversion of property as a result of its destruction or seizure.

(3) *Portion treated as gain on involuntary conversion.* To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in such section 127 (a), such amount shall be considered a gain on the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in section 1033 (relating to involuntary conversions).

(4) *Obligations not discharged.* If for any previous taxable year the taxpayer chose under section 127 (b) of the Internal Revenue Code of 1939 to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in such section 127 (a), and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under such section 127 (b) shall be considered for purposes of this part as a deduction by reason of such section 127 (a) which did not result in a reduction of any tax of the taxpayer under such chapters 1 or 2.

(5) *Allowable deduction not allowed.* For purposes of this subsection, an allowable deduction for any taxable year on account of the destruction or seizure of property described in such section 127 (a) shall, to the extent not allowed in computing the tax of the taxpayer for such taxable year, be considered an allowable deduction which did

not result in a reduction of any tax of the taxpayer under such chapters 1 or 2.

§ 1.1332-1 *Inclusion in gross income of war loss recoveries—(a) Amount of recovery.* Except as provided in section 1333 (1) the amount of the recovery in respect of a war loss in a previous taxable year is determined in the same manner for the purpose of either section 1332 or 1333. The amount of the recovery of any money or property in respect of any war loss is the aggregate of the amount of such money and of the fair market value of such property, both determined as of the date of the recovery. But see § 1.1333-1 (a) for optional valuation where the taxpayer recovers the same war loss property.

(b) *Amount of gain includible.* (1) A taxpayer who has sustained a war loss described in section 127 (a) of the Internal Revenue Code of 1939 and who has not elected to have the provisions of section 1333 apply to any taxable year in which he recovered any money or property in respect of a war loss in any previous taxable year must include in his gross income for each taxable year, to the extent provided in section 1332, the amount of his recoveries of money and property for such taxable year in respect of any war loss in a previous taxable year. Section 1332 provides that such recoveries for any taxable year are not includible in income until the taxpayer has recovered an amount equal to his allowable deductions in prior taxable years on account of such war losses which did not result in a reduction of any tax under chapter 1 or 2 of the Internal Revenue Code of 1939. War loss recoveries are considered as made first on account of war losses allowable but not actually allowed as a deduction, and second on account of war losses allowed as a deduction but which did not result in a reduction of tax under chapter 1 or chapter 2 of the Internal Revenue Code of 1939. If there were deductions allowed on account of war losses for two or more taxable years which did not result in a reduction of any tax under chapter 1 or chapter 2 of the Internal Revenue Code of 1939, a recovery on account of such losses is considered as made on account of such losses in the order of the taxable years for which they were allowed beginning with the latest. See § 1.1337-1 for the determination of the amount of such deductions. Recoveries in excess of such amount are treated as ordinary income until such excess equals the amount of the taxpayer's allowable deductions in prior taxable years on account of war losses which did result in a reduction of any such tax under chapter 1 or chapter 2 of the Internal Revenue Code of 1939. Any further recoveries in excess of all the taxpayer's allowable deductions in prior taxable years for war losses are treated as gain on an involuntary conversion of property as a result of its destruction or seizure, and such gain is recognized or not recognized under the provisions of section 1033. See section 1033 and the regulations thereunder. Such gain, if recognized, is included in gross income as ordinary income unless section 1231 (a) applies to cause such

gain to be treated as gain from the sale or exchange of a capital asset held for more than six months. See section 1231 (a) and the regulations thereunder.

(2) The determination as to whether and to what extent any recoveries are to be included in gross income is made upon the basis of the amount of all the recoveries for each day upon which there are any such recoveries, as follows:

(i) The amount of the recoveries for any day is not included in gross income, and is not considered gain on an involuntary conversion, to the extent, if any, that the aggregate of the allowable deductions in prior taxable years on account of war losses which did not result in a reduction of any tax of the taxpayer under chapter 1 or chapter 2 of the Internal Revenue Code of 1939, as determined under § 1.1337-1, exceeds the amount of all previous recoveries in the same and prior taxable years.

(ii) The amount of the recoveries for any day which is not excluded from gross income under subdivision (i) of this subparagraph is included in gross income as ordinary income, and is not considered gain on an involuntary conversion, to the extent, if any, that the aggregate of all the allowable deductions in prior taxable years on account of war losses (both those which resulted in a reduction of a tax of the taxpayer and those which did not) exceeds the sum of the amount of all previous recoveries in the same and prior taxable years and of that portion, if any, of the amount of the recoveries for such day which is not included in gross income under subdivision (i) of this subparagraph.

(iii) The amount of the recoveries for any day which is not excluded from gross income under subdivision (i) of this subparagraph and is not included in gross income as ordinary income under subdivision (ii) of this subparagraph is considered gain on an involuntary conversion of property as a result of its destruction or seizure. The following provisions then apply to this gain:

(a) Such gain is recognized or not recognized under the provisions of section 1033, relating to gain on the involuntary conversion of property. For the purpose of applying section 1033, such gain for any day is deemed to be expended in the manner provided in section 1033 to the extent the recovery for such day is so expended.

(b) If such gain is recognized, it is included in gross income as ordinary income or, if the provisions of section 1231 (a) apply and require such treatment, as gain on the sale or exchange of a capital asset held for more than six months. For the purpose of applying section 1231 (a) such recognized gain for any day is deemed to be derived from property described in that section to the extent of the recovery for such day with respect to such property, except such portion of such recovery as is attributable to the nonrecognized gain for such day.

(c) Section 1336 provides that in determining the unadjusted basis of recovered property the total gain and the recognized gain with respect to such property must be determined. For such purpose, the recognized gain deemed to

be derived from properties described in section 1231 (a) may be allocated among such properties in the proportion of the recoveries, with respect to such properties, reduced for each property by the portion of the recovery attributable to the nonrecognized gain for such day, and the recoveries with respect to properties not described in section 1231 (a) may be similarly allocated. The total gain derived from any recovered property is the sum of the nonrecognized gain attributable to the recovery of such property and of the recognized gain allocable to such property.

(3) The foregoing provisions may be illustrated by the following examples:

*Example (1).* The taxpayer sustained war losses of \$3,000 on account of properties A, B, C, and D. Of this amount, \$1,000 did not result in a reduction of any income tax of the taxpayer, as determined under the provisions of § 1.1337-1. In a subsequent taxable year, he received an award of \$800 from the Government on account of property A. This is not included in income since it is less than the amount by which his allowable deductions for prior taxable years on account of war losses which did not result in any tax benefit (\$1,000) exceed \$0, the sum of all his previous recoveries. On a later date the taxpayer recovers property B, which is worth \$1,500 on the date of recovery. This recovery is not included in gross income to the extent of \$200, the amount by which the aggregate of the allowable deductions for prior taxable years on account of war losses which did not result in any tax benefit (\$1,000) exceeds the sum of all previous recoveries (\$800). The remaining \$1,300 of the recovery is included in gross income as ordinary income, and is not considered gain on the involuntary conversion of property, since it is less than the amount by which the aggregate of all the allowable deductions in prior taxable years on account of war losses (\$3,000) exceeds \$1,000, the sum of the \$800 of previous recoveries and of the \$200 portion of the recovery with respect to B which is not included in gross income. On a still later date the taxpayer sells for \$2,500 his rights to recover C. Since the allowable deductions for prior taxable years on account of war losses which did not result in any tax benefit (\$1,000) do not exceed the previous recoveries by the taxpayer (\$800 and \$1,500, or \$2,300), none of the recovery on account of C is excluded from gross income. This recovery is included in gross income as ordinary income, and is not considered gain on the involuntary conversion of property, to the extent of \$700; the amount by which the aggregate of all the allowable deductions for prior taxable years on account of war losses (\$3,000) exceeds \$2,300, the sum of the \$2,300 of previous recoveries and of the \$0 portion of the recovery on account of C which is not included in gross income. The remaining \$1,800 of the recovery is considered gain on an involuntary conversion of property on account of its destruction or seizure, and is not recognized if forthwith expended in the manner provided in section 1033. Thus, it is not recognized if it is forthwith expended for the acquisition of property relating in service or use to C. On a later date the taxpayer recovers D, which has a fair market value of \$400 at the time of the recovery. Since the aggregate of all the allowable deductions for prior taxable years on account of war losses (\$3,000) does not exceed the previous recoveries by the taxpayer (\$800 + \$1,500 + \$2,500, or \$4,800), all of the recovery with respect to D is considered gain on an involuntary conversion of property as a result of its destruction or seizure. Under the provisions of section 1033, this gain is not recognized if D is used for the same purposes for which it was used before it was deemed destroyed

or seized under section 127 (a) of the Internal Revenue Code of 1939.

*Example (2).* The taxpayer on one day recovers \$3,000 for property A and \$7,000 for property B, both of which were treated as war loss property for a prior taxable year, and \$8,000 of such \$10,000 recoveries is considered gain on the involuntary conversion of property as a result of its destruction or seizure. The taxpayer forthwith expends \$5,000 in the acquisition of property similar in use to B. Therefore, \$5,000 of the \$8,000 gain is not recognized under section 1033, leaving \$3,000 of recognized gain. Property B is within the provisions of section 1231 (a), relating to gains and losses on the involuntary conversion of certain described property, but property A is not. Therefore, the provisions of section 1231 (a) apply to \$2,000 of the \$3,000 gain, that is, the amount of the recovery with respect to B which is not attributable to the nonrecognized gain for such day (\$7,000 minus \$5,000). If the taxpayer forthwith expended \$8,000 or more for the acquisition of property similar in use to B, none of the gain would be recognized. If the taxpayer forthwith expended the \$5,000 to acquire property related in use to A, the \$3,000 recognized gain would be considered derived from B to the extent of the recovery with respect to B (\$7,000), not reduced by any nonrecognized gain since none of such recovery is attributable to such nonrecognized gain, and therefore all of the \$3,000 recognized gain would be subject to the provisions of section 1231 (a).

(4) An allowable deduction with respect to a war loss is any deduction to which the taxpayer is entitled on account of any war loss property, regardless of whether or not such deduction was claimed by the taxpayer or otherwise allowed in computing his tax. If a deduction was claimed by a taxpayer in computing his tax for any taxable year and if such deduction was disallowed, such deduction will not be considered an allowable deduction for such taxable year since the previous determination will not be reconsidered.

#### § 1.1333 Statutory provisions; tax adjustment measured by prior benefits.

*Sec. 1333. Tax adjustment measured by prior benefits.* If this section applies to the taxable year pursuant to an election made by the taxpayer under section 1335 or section 127 (c) (5) of the Internal Revenue Code of 1939—

(1) *Amount of recovery.* The amount of the recovery in the taxable year of any money or property in respect of property considered under section 127 (a) of the Internal Revenue Code of 1939 as destroyed or seized, shall be an amount equal to the aggregate of such money and the fair market value of such property, determined as of the date of the recovery. For purposes of this section, in the case of the recovery of the same property or interest considered under such section 127 (a) as destroyed or seized, the fair market value of such property or interest shall, at the option of the taxpayer, be considered an amount equal to the adjusted basis (for determining loss) of such property or interest in the hands of the taxpayer on the date such property or interest was considered under such section 127 (a) as destroyed or seized. The amount of the recovery determined under this paragraph shall be reduced for purposes of paragraphs (2) and (3) by the amount of the obligations or liabilities with respect to the property considered under such section 127 (a) as destroyed or seized in respect of which the recovery was received, if the taxpayer for any previous taxable year chose under section 127 (b) (2) of such code to treat such obligations or liabilities as discharged or satisfied out of such property, and such obligations or liabilities were not so discharged or satisfied before the date of the recovery.

(2) *Adjustment for prior tax benefits.* That part of the amount of the recovery, in respect of any property considered under such section 127 (a) as destroyed or seized, which is not in excess of the allowable deductions in prior taxable years on account of such destruction or seizure of the property (the amount of such allowable deductions being first reduced by the aggregate amount of any prior recoveries in respect of the same property) shall be excluded from gross income for the taxable year of the recovery for purposes of computing the tax under this subtitle; but there shall be added to, and assessed and collected as a part of, the tax under this subtitle for the taxable year of the recovery the total increase in the tax under chapters 1 and 2 of the Internal Revenue Code of 1939 for all taxable years which would result by decreasing, in an amount equal to such part of the recovery so excluded, such deductions allowable in the prior taxable years with respect to the destruction or seizure of the property. Such increase in the tax for each such year so resulting shall be computed in accordance with regulations prescribed by the Secretary or his delegate. Such regulations shall give effect to previous recoveries of any kind (including recoveries described in section 111, relating to recovery of bad debts, etc.) with respect to any prior year, and shall provide for the case where there was no tax for the prior year, but shall otherwise treat the tax previously determined for any year in accordance with the principles set forth in section 1314 (a) (relating to corrections of errors). All credits allowable against the tax for any year and all carryovers and carrybacks affected by so decreasing the allowable deductions shall be taken into account in computing the increase in the tax, except that the computation of the excess profits credit under chapter 2 E of such code for any taxable year shall not be affected.

(3) *Gain on recovery.* The amount of any recovery or part thereof, in respect of property considered under such section 127 (a) as destroyed or seized, which is not excluded from gross income under paragraph (2), shall be considered for the taxable year of the recovery as gain on the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in section 1033.

(4) *Recoveries treated as gross income for certain purposes.* For purposes of section 6012 (relating to persons required to make income tax returns) and section 1312 (relating to circumstances of adjustment), the recovery in the taxable year of any money or property in respect of property considered under such section 127 (a) as destroyed or seized in any prior taxable year shall be deemed to be an item includible in gross income for the taxable year in which the recovery is made.

§ 1.1333-1 *Tax adjustment measured by prior benefits.*—(a) *Amount of recovery.* The amount of recovery for purposes of this section shall be determined in accordance with the provisions of section 1332 (a). See § 1.1332-1 (a). If, pursuant to the taxpayer's election under section 1335, the provisions of section 1333 are applicable to any taxable year in which he recovers the same war loss property, the fair market value of such property shall, at the option of the taxpayer, be considered an amount equal to the adjusted basis (for determining loss) of such property in the hands of the taxpayer on the date such property was considered as destroyed or seized. This option is exercisable by the taxpayer with respect to each separate war loss property. Also, if the provisions of section 1333 are applicable pursuant to the tax-

payer's election, the amount of the recovery of any money or property in respect of war loss property shall be reduced for the purpose of section 1333 (2) and (3) by the amount of the obligations or liabilities with respect to such property, if the taxpayer for any previous taxable year chose under section 127 (b) (2) of the Internal Revenue Code of 1939 to treat such obligations or liabilities as discharged or satisfied out of such property, and such obligations or liabilities were not so discharged or satisfied before the date of the recovery. See § 29.127 (b)-1 of Regulations 111 (26 CFR (1939) 29.127 (b)-1).

(b) *Elective method; tax adjustment measured by prior benefits.* (1) If the taxpayer elects pursuant to section 1335 and in accordance with the provisions of § 1.1335-1 to have the provisions of section 1333 apply to any taxable year in which he recovers any money or property in respect of war loss property, the amount of the recovery in respect of such property for any taxable year shall not be included in income until the taxpayer has recovered an amount equal to his allowable deductions in prior taxable years on account of the destruction or seizure of such property, whether or not such allowable deductions resulted in a reduction of any tax under chapter 1 or chapter 2 of the Internal Revenue Code of 1939. However, for the purposes of section 6012 (a) (1), relating to the requirement of individual returns, section 6012 (a) (2), relating to the requirement of corporation returns, and section 1312, relating to the mitigation of the effect of the statute of limitations, the entire amount of the recovery shall be deemed to be an item includible in gross income for the taxable year in which the recovery is made. In lieu of including such amount in gross income, there shall be added to, and assessed and collected as a part of, the tax imposed under subtitle A for the taxable year of the recovery an adjustment on account of any tax benefits in all prior taxable years resulting directly or indirectly from the fact that the loss from the destruction or seizure of such property was an allowable deduction. The amount of such adjustment shall be the total increase in the tax under chapters 1 and 2 of the Internal Revenue Code of 1939 for all taxable years which would result by decreasing such allowable deductions with respect to the destruction or seizure of such property by an amount equal to that portion of the amount of the recovery which is not included in gross income for the taxable year of the recovery. The portion of the amount of the recovery which is in excess of such allowable deductions is included in gross income for the taxable year of the recovery as gain on the involuntary conversion of property as a result of its destruction or seizure and is recognized or not recognized as provided in section 1033. See section 1033 and the regulations thereunder. Such gain, if recognized, is included in gross income as ordinary income unless section 1231 (a) applies to cause such gain to be treated as gain on the sale or exchange of capital assets held for more than six months.

See section 1231 (a) and the regulations thereunder.

(2) The determination as to whether and to what extent the amount of the recovery is to be excluded from gross income is to be made upon the basis of the total amount of the recoveries in each taxable year in respect of the same war loss property, as follows:

(i) The amount of the recovery in any taxable year is excluded from the gross income of such year and is not considered gain on an involuntary conversion to the extent that such amount does not exceed the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of such property (whether or not such deductions resulted in a reduction of a tax of the taxpayer) reduced by the aggregate amount of any recoveries in intervening taxable years in respect of the same property.

(ii) The amount of the recovery in any taxable year which is not excluded from gross income under subdivision (i) of this subparagraph is included in gross income and is considered gain on an involuntary conversion of property as a result of its destruction or seizure. The following provisions apply to this gain:

(a) Such gain is recognized or not recognized under the provisions of section 1033, relating to gain on the involuntary conversion of property. For the purpose of applying section 1033, such gain for any taxable year is deemed to be expended in the manner provided in section 1033 to the extent the recovery in such taxable year is so expended.

(b) If such gain is recognized it is included in gross income as ordinary income or, if the provisions of section 1231 (a) apply and require such treatment, as gain on the sale or exchange of a capital asset held for more than six months. In the case of the recovery of the same war loss property, any gain will not be deemed to be recognized under the provisions of section 1231 (a) if such property is used for the same purpose for which it was used before it was deemed destroyed or seized under section 127 (a) of the Internal Revenue Code of 1939.

(3) The determination of the total increase in the tax under chapters 1 and 2 of the Internal Revenue Code of 1939 for all taxable years which would result by decreasing the deductions allowable in any prior taxable year with respect to the destruction or seizure of the property in respect of which the taxpayer has made a recovery by an amount equal to the part of such recovery not included in gross income for the taxable year of such recovery shall be made as provided in this subparagraph. Such total increase shall include the increases described in subdivisions (i), (ii) (iii) and (iv) of this subparagraph, and shall be added to, and assessed and collected as a part of, the tax under subtitle A for the taxable year of the recovery. Proper adjustment of such increases shall be made on account of the application of the provisions of this subparagraph to intervening taxable years. Proper adjustment shall also be made in the determination of such increases in the case of a taxpayer who has made a valid election under section 1020, relating to the

adjustment of basis of property for depreciation, obsolescence, amortization, and depletion. The term "tax previously determined" as used in this subparagraph shall have the same meaning as used in section 1314 (a) and shall include any tax under chapter 1 or chapter 2 of the Internal Revenue Code of 1939. In computing the amount of the increase in the tax previously determined under chapter 1 or chapter 2 of the Internal Revenue Code of 1939 for any taxable year, the principles of section 1314 (a) shall be applicable. See section 1314 (a) and the regulations thereunder. However, the computation of the excess profits credit under chapter 2E of the Internal Revenue Code of 1939 for any taxable year shall not be affected by the adjustment provided in this subparagraph. All credits allowable against the tax for any year shall be taken into account in computing the increase in the tax previously determined. The increases referred to above include the following:

(i) The increase, if any, in the tax previously determined for each prior taxable year in which a deduction was allowable on account of the destruction or seizure of the property in respect of which there is a recovery in the taxable year. After the tax previously determined has been ascertained, such tax shall be recomputed by disregarding such allowable deduction (to the extent that it does not exceed the sum of the amount of such recovery not included in gross income for the taxable year of such recovery, plus the aggregate amount of any recoveries in intervening taxable years in respect of the same property) and any other deductions allowable on account of other war losses or any other losses, expenditures or accruals in such prior taxable year in respect of which, and to the extent that, recoveries in intervening taxable years have been excluded from gross income under section 127 (c) (3) or section 22 (b) (12) of the Internal Revenue Code of 1939, or section 1333 or section 111 of the Internal Revenue Code of 1954, or otherwise. The difference between the tax previously determined and the tax as recomputed will be the increase in the tax previously determined for the taxable year.

(ii) The increase, if any, in the tax previously determined for any taxable year (including the taxable year of the recovery) in which a net operating loss deduction was allowable, if all or a part of such deduction was attributable to the carryover or carryback to such taxable year of a net operating loss from another taxable year in which a deduction was allowable on account of the destruction or seizure of the property in respect of which there is a recovery in the taxable year to which such increase is to be added. After the tax previously determined has been ascertained, such tax shall be recomputed by redetermining such net operating loss deduction. In the determination of such net operating loss deduction the net operating loss shall be recomputed by disregarding the deduction allowable

on account of the war loss in respect of which there is a recovery in the taxable year to which such increase is to be added (to the extent that such deduction does not exceed the sum of the amount of such recovery not included in gross income for the taxable year of such recovery, plus the aggregate amount of any recoveries in intervening taxable years in respect of the same property) and by disregarding any other deductions allowable on account of other war losses or any other losses, expenditures, or accruals in the taxable year in respect of which, and to the extent that, recoveries in intervening taxable years have been excluded from gross income under section 127 (c) (3) or section 22 (b) (12) of the Internal Revenue Code of 1939, or section 1333 or section 111 of the Internal Revenue Code of 1954, or otherwise. The difference between the tax previously determined and the tax as recomputed will be the increase in the tax previously determined for the taxable year.

(iii) The increase, if any in the tax previously determined for any taxable year (including the taxable year of recovery) in which an unused excess profits credit was availed of in computing the unused excess profits credit adjustment for such taxable year, if all or a part of such adjustment was attributable to the carryover or carryback to such taxable year of an unused excess profits credit from another taxable year in which a deduction was allowable on account of the destruction or seizure of the property in respect of which there is a recovery in the taxable year to which such increase is to be added. After the tax previously determined has been ascertained, such tax shall be recomputed by redetermining such unused excess profits credit carryover or carryback. In the recomputation such carryover or carryback shall be redetermined by disregarding such allowable war loss deduction (to the extent such deduction does not exceed the sum of the amount of the recovery not included in gross income for the taxable year of such recovery, plus the aggregate amount of any recoveries in intervening taxable years in respect of the same property), and by disregarding any other deductions allowable on account of other war losses or any other losses, expenditures, or accruals in the taxable year in respect of which, and to the extent that, recoveries in intervening taxable years have been excluded from gross income under section 127 (c) (3) or section 22 (b) (12) of the Internal Revenue Code of 1939, or section 1333 or section 111 of the Internal Revenue Code of 1954, or otherwise. The difference between the tax previously determined and the tax as recomputed will be the increase in the tax previously determined for the taxable year. In case there is an increase in the excess profits tax under chapter 2E of the Internal Revenue Code of 1939 for the taxable year in which an unused excess profits credit was availed of in computing the unused excess profits credit adjustment, and a decrease in the income tax under chapter 1 of the Internal Revenue Code of 1939 for such

taxable year, the increase in the tax previously determined shall be considered to be an amount equal to the excess of the increase in the excess profits tax over the decrease in the income tax.

(iv) The increase, if any, in the tax previously determined for any taxable year (including the taxable year of the recovery) in which an unused excess profits credit was availed of in computing the unused excess profits credit adjustment for such taxable year, if all or a part of such adjustment was attributable to the carryover or carryback to such taxable year of an unused excess profits credit from another taxable year in which there was allowable a net operating loss deduction attributable to the carryover or carryback to such other taxable year of a net operating loss, and such net operating loss resulted in whole or in part from the deduction allowable on account of the destruction or seizure of the property in respect of which there is a recovery in the taxable year to which such increase is to be added. After the tax previously determined has been ascertained, such tax shall be recomputed by redetermining such net operating loss deduction and such unused excess profits credit carryover or carryback. In the redetermination of such net operating loss deduction the net operating loss carryover or carryback shall be recomputed by disregarding such allowable war loss deduction (to the extent that such deduction does not exceed the sum of the amount of such recovery not included in gross income for the taxable year of such recovery, plus the aggregate amount of any recoveries in intervening taxable years in respect of the same property) and by disregarding any other deductions allowable on account of other war losses or any other losses, expenditures, or accruals in the taxable year in respect of which, and to the extent that, recoveries in intervening taxable years have been excluded from gross income under section 127 (c) (3) or section 22 (b) (12) of the Internal Revenue Code of 1939, or section 1333 or section 111 of the Internal Revenue Code of 1954, or otherwise. The unused excess profits credit carryover or carryback shall then be recomputed to conform to the redetermination of the net operating loss deduction for the taxable year from which the unused credit is carried over or carried back. The difference between the tax previously determined and the tax as recomputed shall be the amount of the increase which shall be added to the tax for the taxable year of the recovery. In case there is an increase in the excess profits tax under chapter 2E of the Internal Revenue Code of 1939 for the taxable year in which an unused excess profits credit was availed of in computing the unused excess profits credit adjustment, and a decrease in the income tax under chapter 1 of the Internal Revenue Code of 1939 for such taxable year, the increase which shall be added to the tax for the taxable year of the recovery shall be considered to be an amount equal to the excess of the increase in the excess profits tax over the decrease in the income tax.

§ 1.1334 *Statutory provisions; restoration of value of investments referable to destroyed or seized property.*

SEC. 1334. *Restoration of value of investments referable to destroyed or seized property.* For purposes of this part, the restoration in whole or in part of the value of any interest described in section 127 (a) (3) of the Internal Revenue Code of 1939 by reason of any recovery of money or property in respect of property to which such interest related and which was considered under subsection (a) (1) or (2) of such section 127 as destroyed or seized shall be deemed a recovery of property in respect of property considered under section 127 (a) as destroyed or seized. In applying section 1333, such restoration shall be treated as the recovery of the same interest considered under such section 127 (a) as destroyed or seized.

§ 1.1334-1 *Restoration of value of investments.* If any interest of the taxpayer in or with respect to property was determined to be worthless and was treated as a war loss under section 127 (a) (3) of the Internal Revenue Code of 1939 (see § 29.127 (a)-4 of Regulations 111 (26 CFR (1939) Part 29)) or if the taxpayer retained an interest in a corporation with respect to which he sustained a war loss under section 127 (e) of the Internal Revenue Code of 1939, and if the interest in the hands of the taxpayer is restored in value, in whole or in part, by reason of a recovery with respect to the underlying assets treated as war loss property, then such restoration in value is a recovery by the taxpayer for the purposes of section 1331. In the application of section 1333, such restoration shall be treated as a recovery of the same interest considered as destroyed or seized. War loss property is considered as not being in existence from the date of the loss to the date of its recovery.

§ 1.1335 *Statutory provisions; election by taxpayer for application of section 1333.*

SEC. 1335. *Election by taxpayer for application of section 1333.* If the taxpayer elects to have section 1333 apply to any taxable year in which he recovered any money or property in respect of property considered under section 127 (a) of the Internal Revenue Code of 1939, as destroyed or seized, section 1333 shall apply to all taxable years of the taxpayer beginning after December 31, 1941, and such election, once made, shall be irrevocable. The election shall be made in such manner and at such time as the Secretary or his delegate may by regulations prescribe, except that no election under this section may be made unless the taxpayer recovers money or property (in respect of property considered under such section 127 (a) as destroyed or seized) during the taxable year for which the election is made. If pursuant to such election section 1333 applies to any taxable year—

(1) The period of limitations provided in chapter 66 on the making of assessments and the beginning of distraint or a proceeding in court for collection shall not, with respect to—

(A) The amount to be added to the tax for such taxable year under section 1333, and

(B) Any deficiency for such taxable year or for any other taxable year, to the extent attributable to the basis of the recovered property being determined under section 1336 (b),

expire before the expiration of 2 years following the date of the making of such elec-

tion, and such amount and such deficiency may be assessed at any time before the expiration of such period notwithstanding any law or rule of law which would otherwise prevent such assessment and collection, and

(2) In case refund or credit of any overpayment resulting from the application of section 1333 to such taxable year is prevented on the date of the making of such election, or within one year from such date, by the operation of any law or rule of law (other than section 7122, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from such date.

In the case of any taxable year ending before the date of the making by the taxpayer of an election under this section, no interest shall be paid on any overpayment resulting from the application of section 1333 to such taxable year, and no interest shall be assessed or collected with respect to any amount or any deficiency specified in paragraph (1) for any period before the expiration of 6 months following the date of the making of such election by the taxpayer.

§ 1.1335-1 *Elective method; time and manner of making election and effect thereof—(a) In general.* If the taxpayer elects to have the provisions of section 1333 applicable to any taxable year in which any money or property is recovered in respect of war loss property, section 1333 will be applicable by virtue of that election to all taxable years of the taxpayer beginning after December 31, 1941. Thus, the taxpayer need not make an election with respect to each separate taxable year in which he had a recovery. An election for any taxable year in which the taxpayer had a recovery in respect of a prior war loss is sufficient to make the provisions of section 1333 applicable not only to war loss recoveries received by the taxpayer in any past taxable year beginning after December 31, 1941, but to any recoveries which may be received by the taxpayer in any future taxable year. Such election once made shall be irrevocable. The election to have the provisions of section 1333 applicable to any taxable year cannot be made unless the taxpayer recovers money or property (in respect of a prior war loss) during the taxable year for which such election is made.

(b) *Manner of election.* In all cases the election to have the provisions of section 1333 apply must be made by the taxpayer not later than six months from the last day prescribed by law for the filing of his income tax return for the taxable year in which the recovery of war loss property occurs. The election shall be evidenced by a written statement that the taxpayer elects to have the provisions of section 1333 apply to any taxable year in which any money or property is recovered in respect of war loss property. The statement may be made in (or attached to)

(1) The return or amended return filed for such taxable year;

(2) A claim for refund or credit filed for such taxable year for an overpayment resulting from the application of such provisions;

(3) A timely petition or amended petition to The Tax Court of the United States for a redetermination of any deficiency for such taxable year;

(4) A letter addressed to the district director for the district in which the return for such taxable year was required to be filed.

If the written statement of election is made in a letter, it shall be signed by the taxpayer making the election if an individual or, if the taxpayer is not an individual, the letter must be executed in the same manner as required in the case of the income tax return of such taxpayer. The date of the making of the election shall be the date the return, amended return, claim for refund or credit, or letter is filed in the office of the district director, or the date the petition or amended petition is filed with The Tax Court of the United States. In case the election is made in a return filed before the last day prescribed by law for the filing thereof (including any extension of time for such filing) such election shall not be considered made until such last day. In case the election is made in a letter addressed to the district director, such election will be considered as timely filed if it is placed in the mail on or before midnight of the last day prescribed by this paragraph for the making of the election, as shown by the postmark on the envelope containing the letter or as shown by other available evidence of the mailing date.

(c) *Effect of election.* (1) If the provisions of section 1333 are applicable to any taxable year pursuant to an election made by the taxpayer in accordance with the provisions of paragraph (a) of this section, the period of limitations provided in chapter 66 on the making of assessments and the beginning of distraint or a proceeding in court for collection with respect to (i) the amount to be added to the tax for such taxable year under the provisions of section 1333 and (ii) any deficiency for such taxable year or for any other taxable year to the extent attributable to the basis of the recovered property being determined under the provisions of section 1336 (b) shall not expire prior to the expiration of two years following the date of the making of such election. Such amount or such deficiency may be assessed at any time prior to the expiration of such period, notwithstanding any law or rule of law which would otherwise prevent such assessment and collection.

(2) If the provisions of section 1333 are applicable to any taxable year pursuant to an election made by the taxpayer in accordance with the provisions of paragraph (a) of this section, and refund or credit of any overpayment resulting from the application of such provisions to such taxable year is prevented on the date of the making of such election, or within one year from such date, by the operation of any law or rule of law (other than section 7122 relating to compromises) refund or credit of such overpayment may nevertheless be made or allowed, provided claim therefor is filed within one year from such date. Thus, the amount of such overpayment which may be refunded or credited is not subject to the limitations contained in section 6511 or 6512 (b)

(3) In the case of any taxable year ending before the date of the making

by the taxpayer of an election under section 1335, no interest shall be paid on any overpayment specified in subparagraph (2) of this paragraph for any period before the expiration of six months following the date of the making of such election by the taxpayer, and no interest shall be assessed or collected with respect to any amount or any deficiency specified in subparagraph (1) of this paragraph for any period before the expiration of six months following the date of the making of such election by the taxpayer.

**§ 1.1336 Statutory provisions; basis of recovered property.**

**SEC. 1336. Basis of recovered property—(a) In general.** The unadjusted basis of property recovered in respect of property considered as destroyed or seized under section 127 (a) of the Internal Revenue Code of 1939 shall be determined under this section. Such basis shall be an amount equal to the fair market value of such property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of such fair market value and the amounts of previous recoveries of money or property in respect of property considered under such section 127 (a) as destroyed or seized over the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in such section 127 (a), and increased by that portion of the amount of the recovery which under section 1332 is treated as a recognized gain from the involuntary conversion of property. On application of the taxpayer, the aggregate of the bases (determined under the preceding sentence) of any properties recovered in respect of properties considered under such section 127 (a) as destroyed or seized may be allocated among the properties so recovered in such manner as the Secretary or his delegate may determine under regulations prescribed by the Secretary or his delegate, and the amounts so allocated to any such property so recovered shall be the unadjusted basis of such property in lieu of the unadjusted basis of such property determined under the preceding sentence.

**(b) Property recovered in taxable year to which section 1333 applies.** In the case of a taxpayer who has made an election under section 1335, the basis of property recovered shall be an amount equal to the value at which such property is included in the amount of the recovery under section 1333 (1) (determined without regard to the last sentence thereof), reduced by such part of the gain under section 1333 (3) which is not recognized as provided in section 1033.

**§ 1.1336-1 Basis of recovered property—(a) General rule.** (1) Under section 1336 (a) the unadjusted basis of any war loss property which is recovered and the unadjusted basis of any property which is recovered in lieu of or on account of any such war loss property is considered the fair market value of such recovered property upon the date of its recovery with the following adjustments:

(i) If the sum of the recoveries for the day such property is recovered and of all previous recoveries exceeds the aggregate of the allowable deductions for prior taxable years on account of war losses, so that a portion of the recoveries for such day is treated as gain on the involuntary conversion of property, such fair market value of the property is reduced by the total gain, if any, for

such day derived from such recovered property as determined under § 1.1332-1 (b)

(ii) Such fair market value, as reduced under subdivision (i) of this subparagraph, is increased by the portion, if any, of the recognized gain resulting from the recoveries for such day which is allocable to such recovered property, as determined under § 1.1332-1 (b)

In effect, the unadjusted basis of such property is its fair market value upon the date of its recovery, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of § 1.1332-1 (b)

(2) If the respective bases of several properties of a taxpayer determined under section 1336 (a) are greatly disproportionate to their adjusted bases immediately before their treatment as war loss properties, the taxpayer may apply to the Commissioner for the allocation of the aggregate of the bases of such properties among them in the proportion of their adjusted bases immediately before the destruction or seizure of such properties determined under section 127 (a) of the Internal Revenue Code of 1939. The amount so allocated to any such property, in an application approved by the Commissioner, shall be the unadjusted basis of such property in lieu of the amount determined under subparagraph (1) of this paragraph.

(3) The application to the Commissioner shall set forth a list of all the properties of the taxpayer having an unadjusted basis determined under this section, a description of each such property together with a statement as to the amount of its adjusted basis immediately before the destruction or seizure of such property determined under section 127 (a) of the Internal Revenue Code of 1939, and a statement as to whether there has been any substantial change in the use or nature of the property chosen for the allocation from its nature or use immediately before the time it was treated as destroyed or seized. Such application will be allowed unless there has been such a substantial change in the nature or use of such property that the allocation of the bases would produce an arbitrary result, or unless the taxpayer has obtained such tax benefits by reason of the basis determined under subparagraph (1) of this paragraph, that it would be inequitable to change his basis. Thus, the allocation will not be allowed if it would give the taxpayer an unadjusted basis with respect to any property which is less than the amount of the adjustments in reduction of the basis of such property which are allowable after its recovery. For example, when property A is recovered it has an unadjusted basis of \$100. After \$70 depreciation has been allowed on A, an allocation is sought which would give A an unadjusted basis of \$60. Since this is less than the depreciation which is an adjustment against such basis, the allocation will not be permitted.

(4) The amount of any adjustments to the unadjusted basis determined under subparagraph (1) of this paragraph shall, upon the allocation of the bases, be

taken as an adjustment to the allocated unadjusted basis. Thus, if \$30 depreciation was allowed upon a \$100 basis determined under subparagraph (1) of this paragraph and if the unadjusted basis upon allocation is \$75, such \$30 depreciation is allowed against such allocated unadjusted basis, so that the adjusted basis of the property is then \$45.

(5) The taxpayer may choose any group of recovered properties for allocation, except that if any such recovered properties form one economic unit, such properties may not be separated but all or none must be included in the group. For example, a building may not be separated from the land on which it stands if both are recovered property, nor may one block of stock in a corporation be separated from other stock in such corporation or from bonds in such corporation which are also treated as a recovery. If the taxpayer has once been permitted to allocate the bases of any group of properties, he may obtain another allocation with respect to such properties only if all the properties in the original group are included together with other recovered properties not included in the original group. For example, if the bases of properties A and B are allocated, a second allocation will be made for properties A, B, and C, but not for A and C or B and C.

**(b) Property recovered in taxable year to which section 1333 is applicable.** If, pursuant to an election made by the taxpayer under section 1335 and § 1.1335-1 (a) the provisions of section 1333 are applicable to any taxable year in which the taxpayer recovered property in respect of a war loss under section 127 (a) of the Internal Revenue Code of 1939, the unadjusted basis of such property shall be the fair market value of such property determined as of the date of the recovery, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of § 1.1333-1 (b). However, if the property recovered is the same war loss property, and if the taxpayer under section 1333 (1) includes such property in the amount of the recovery at its adjusted basis (for determining loss) in his hands on the date such property was considered under section 127 (a) of the Internal Revenue Code of 1939 as destroyed or seized, the unadjusted basis of such property shall be such adjusted basis, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of § 1.1333-1 (b). If the property recovered is the same as that treated as war loss property the fair market value or the adjusted basis (for determining loss) shall not be reduced in determining the unadjusted basis of such property by the amount of the obligations or liabilities with respect to such property. The preceding sentence shall not apply unless the taxpayer for any previous taxable year chose, under section 127 (b) (2) of the Internal Revenue Code of 1939, to treat such obligations or liabilities as discharged or satisfied out of such property but such obligations or liabilities were not so discharged or satisfied prior to the date of the recovery.

§ 1.1337 *Statutory provisions; applicable rules.*

SEC. 1337. *Applicable rules*—(a) *Determination of tax benefits.* The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in section 127 (a) of the Internal Revenue Code of 1939 did or did not result in a reduction of any tax of the taxpayer under chapter 1 or 2 of such code shall be made in accordance with regulations prescribed by the Secretary or his delegate.

(b) *Partial worthlessness of certain investments treated as war losses under 1939 Code.* The part of the stock or other interest of the taxpayer treated under subsection (e) of such section 127 as property described in subsection (a) (3) of such section shall be treated in the same manner for purposes of this part.

§ 1.1337-1 *Determination of tax benefits from allowable deductions.* (a) That part of the aggregate of the deductions allowed a taxpayer for any taxable year on account of war losses under section 127 (a) of the Internal Revenue Code of 1939 which, if disallowed, would not result in an increase in the normal tax, surtax (including the tax imposed by section 102 of the Internal Revenue Code of 1939) or victory tax of taxpayer, or of any tax imposed in lieu of such taxes or of any tax imposed by chapter 2 of the Internal Revenue Code of 1939, for the taxable year in which such deductions are allowed or in any other taxable year, such as a taxable year in which the taxpayer's income tax is computed by reference to a carryover or carryback of net operating losses from the taxable year in which such deductions are allowed, is considered, for the purposes of section 127 (a) of the Internal Revenue Code of 1939 an allowable deduction for the taxable year which did not result in a reduction of any tax of the taxpayer under chapter 1 or chapter 2 of the Internal Revenue Code of 1939. In the case of recoveries of war losses and other items to which the recovery exclusion provisions of section 111 apply, such as bad debts, the determination of the tax benefit should be made in accordance with section 111 (b) and the regulations thereunder. The deductions allowed a taxpayer for any taxable year on account of war losses are all the deductions on account of war losses which were claimed by the taxpayer in a return, in a claim for credit or refund of an overpayment, or in a petition to The Tax Court of the United States with respect to such taxable year and which were not disallowed, and all deductions on account of war losses which, although not so claimed by the taxpayer, were nevertheless allowed (for example, by the Commissioner, a court, or The Tax Court) in computing a tax of the taxpayer.

(b) Any deduction allowable for a taxable year on account of a war loss under section 127 (a) of the Internal Revenue Code of 1939 which was not claimed by the taxpayer for such year in a return, a claim for credit or refund of an overpayment, or a petition to the Tax Court of the United States and was not allowed as a deduction (for example, by the Commissioner, a court, or the Tax Court) in computing his tax for such year or for any other year is considered

a deduction which did not result in a reduction of any tax of the taxpayer under chapter 1 or chapter 2 of the Internal Revenue Code of 1939, since it is an allowable deduction which was not allowed in computing any tax of the taxpayer. If the taxpayer claimed for any taxable year a deduction on account of a war loss, and if such deduction was disallowed, the taxpayer may not subsequently contend for the purposes of section 1331 that such deduction was an allowable deduction for such taxable year.

(c) If the taxpayer elected under section 127 (b) of the Internal Revenue Code of 1939 to decrease the amount of a war loss by treating the obligations and liabilities described in that section as discharged or satisfied out of the property destroyed or seized, and if the taxpayer establishes that any of the obligations and liabilities were not so discharged or satisfied, then the amount by which such continuing obligations and liabilities decreased the war loss shall be considered an allowable deduction for the taxable year in which the war loss was sustained which did not result in a reduction of any tax of the taxpayer under chapter 1 or chapter 2 of the Internal Revenue Code of 1939.

[F. R. Doc. 55-6978; Filed, Aug. 20, 1955; 8:47 a. m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-276]

#### HANDLING OF MILK IN WILMINGTON, DELAWARE, MARKETING AREA

#### NOTICE OF HEARING ON 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 governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Ball Room of the Du Pont Hotel, 10th and Market Streets, Wilmington, Delaware, beginning at 9:30 a. m., e. d. t., on September 12, 1955.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Wilmington, Delaware, marketing area and to the issuance of a marketing agreement and order regulating the handling of milk in such marketing area.

The hearing on the proposed marketing agreement and proposed order is to determine whether (1) the handling of milk in the area proposed to be regulated is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects interstate or foreign commerce, (2) the issuance of a marketing agreement or order regulating the handling of milk in the area is justified, and (3) the provisions specified in the proposals or some other provisions, appropriate to the terms of the Agricul-

tural Marketing Agreement Act, will best tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. The proposals set forth below have not received the approval of the Secretary of Agriculture and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposals and any modification thereof.

Proposal No. 1. The following marketing agreement and order has been proposed by Inter-State Milk Producers' Cooperative:

#### DEFINITIONS

SECTION 1. *Act.* The term "act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

SEC. 2. *Secretary.* The term "Secretary" means the Secretary of Agriculture, or any officer or employee of the United States who is, or who may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

SEC. 3. *Wilmington, Delaware milk marketing area.* The term "Wilmington, Delaware, milk marketing area," hereinafter called "the marketing area," means all the territory in the State of Delaware situated within the Representative Districts of New Castle County, Delaware, numbered 1 through 10 and that portion of District 11 north of U. S. highway Route 40.

SEC. 4. *Person.* The term "person" includes any individual, partnership, corporation, association, or any other business unit.

SEC. 5. *Producer.* The term "producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received directly at a producer milk plant.

SEC. 6. *Producer milk plant.* The term "producer milk plant" means:

(a) A pasteurizing or bottling plant from which milk is disposed of as Class I milk in the marketing area to persons other than handlers: *Provided*, That such plant shall not be included in this definition if the largest portion of the total Class I milk, disposed of from such plant in milk marketing area under orders of the Secretary, is disposed of in another such milk marketing area;

(b) Any other plant from which milk is supplied to a pasteurizing or bottling plant described in paragraph (a) of this section: *Provided*, That, any such other plant shall not be included in this definition (1) if during any month there is shipped from it only Class II milk as defined in section 31 or (2) if during any of the months of September, October, November and December shipments not to exceed a total of 100,000 pounds are made from it on less than five days to such pasteurizing or bottling plant or to a plant or plants supplying such pasteurizing or bottling plant or (3) if the largest portion of the total Class I milk, disposed of from such plant in marketing areas under orders of the Secretary, is disposed of in another such milk mar-

keting area or (4) if it is a plant listed under Order 61, § 961.6 (a) of this chapter so long as it remains a "producer milk plant" under Order 61.

**SEC. 7. Nonproducer milk plant.** The term "nonproducer milk plant" means any plant other than those described under section 6.

**SEC. 8. Handler** The term "handler" means any person, irrespective of whether such person is also a producer or an association of producers, wherever located or operating, who engages in the handling of milk which is disposed of in the marketing area as milk, or skim milk.

**SEC. 9. Marketing administrator** The term "market administrator" means the person designated pursuant to section 20 as the agency for the administration of this subpart.

#### MARKET ADMINISTRATOR

**SEC. 20. Designation.** The agency for the administration of this subpart shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

**SEC. 21. Powers.** The market administrator shall have power:

(a) To administer the terms and provisions of this subpart; and

(b) To receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this subpart.

**SEC. 22. Duties.** The market administrator shall:

(a) Keep such books and records as will clearly reflect the transactions provided for in this subpart and shall surrender the same to his successor or to such other person as the Secretary may designate;

(b) Submit his books and records to examination by the Secretary at any and all times;

(c) Furnish such information and verified reports as the Secretary may request;

(d) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(e) Publicly disclose to handlers and to producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (1) made reports pursuant to section 51, or (2) made payments pursuant to sections 80 through 84;

(f) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this subpart;

(g) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(h) Pay, out of the funds provided by section 90, (1) the cost of his bond and of the bonds of such of his employees as

handle funds entrusted to the market administrator, (2) his own compensation, and (3) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties;

(i) Promptly verify the information contained in the reports submitted by handlers; and

(j) Publicly announce the names and plant locations, as reported by handlers to the market administrator, of all handlers who operate nonproducer milk plants which supply Class I and Class II milk to producer milk plants.

#### CLASSIFICATION OF MILK

**SEC. 30. Basis of classification.** Milk received by each handler, including milk produced by him, if any, shall be classified in the classes set forth in section 31, in accordance with its utilization by such handler, subject to sections 32 through 35.

**SEC. 31. Classes of utilization.** The classes of utilization of milk shall be as follows:

(a) Class I milk shall be all milk (1) sold, distributed, or disposed of as or in milk, skim milk and flavored milk drinks for fluid consumption containing less than 18 percent butterfat, including concentrated milk not sterilized and not in hermetically sealed cans, and including all milk or skim milk disposed of from a handler's plant to retail establishments which dispose of milk for both fluid and other uses, and (2) all other milk not accounted for as Class II, and

(b) Class II milk shall be (1) all milk disposed of in products other than those included in paragraph (a) of this section, (2) milk dumped or disposed of for animal feed, and (3) all milk accounted for as actual plant shrinkage but not to exceed 2 percent of the total pounds of milk, skim milk, and cream received by a handler at all of his producer milk plants.

**SEC. 32. Transfers of milk.** Milk and skim milk containing less than 18 percent butterfat, transferred from a producer milk plant to another handler's producer milk plant or to a nonproducer milk plant, shall be allocated to Class I unless such milk or skim milk was disposed of under a written agreement submitted to the market administrator or by proof of use if the transfer is from a handler's producer plant to the same handler's nonproducer milk plant that such milk or skim milk be allocated to Class II and the receiving handler or nonproducer milk plant has used in Class II products a quantity of milk or skim milk equivalent to the milk or skim milk received during the month from producer milk plants under an agreement for classification in Class II.

**SEC. 33. Transfers of cream.** Cream containing 18 percent or more butterfat, received by a handler from a nonproducer plant, shall be considered Class II up to the amount of Class II disposed of by the handler and cream containing 18 percent or more butterfat disposed of by a handler to a nonproducer milk plant shall be considered Class II.

**SEC. 34. Allocation of milk or skim milk received at producer milk plants from nonproducer milk plants.** (a)

During the months of September through December, milk or skim milk received at a producer milk plant from a nonproducer milk plant shall be allocated by the receiving handler to each of the classes and price subdivisions of each class in the same proportion as milk received from producers at all of the producer milk plants of the receiving handler during the month, except that a greater proportion of such milk from nonproducer plants may be allocated by the receiving handler to Class II and in the absence of an allocation by the handler reported to the market administrator such milk shall be allocated by the market administrator to Class II up to the amount of Class II utilized by the handler during the month.

(b) During the months January through August, milk or skim milk received at a producer milk plant from a nonproducer milk plant shall be allocated to Class I only if the receiving handler has allocated all of the milk received from producers at all of his producer milk plants to Class I during the month.

(c) *Provided*, That, with respect to paragraphs (a) and (b) of this section, milk or skim milk in consumer containers received at a producer milk plant from a nonproducer milk plant, which is a producer milk plant under Order 61, § 961.6 of this chapter, shall be allocated by the receiving handler to each of the classes and price subdivisions of each class in the same proportion as milk received from producers at all of the producer milk plants of the receiving handler during the month.

(d) The equivalent in milk or skim milk of dry milk, nonfat dry milk, condensed milk, and condensed skim milk utilized at a producer milk plant shall be allocated by the handler to Class II up to the amount of Class II utilized by him.

**SEC. 35. Allocation of milk or skim milk received by a handler from a producer-handler** Milk or skim milk received in bulk by a handler from another handler who is also a producer and receives no milk from producers may be classified in Class I up to the same proportionate amount as such handler classifies in Class I milk received from producers who are not handlers.

#### MINIMUM PRICES

**SEC. 40. Class prices.** Except as set forth in section 43, each handler shall pay, at the time and in the manner set forth in sections 80 through 84, for milk received during each month from producers or an association of producers not less than the following prices, subject to the differentials set forth in sections 41 and 42:

(a) *Class I milk.* The market administrator shall announce on the 15th day of each month (or on the next business day if the 15th is a holiday) the Class I price which shall be the Philadelphia Order 61 Class I price under § 961.40 of this chapter.

(b) *Class II milk.* The price per hundredweight during each month shall be the sum of the values calculated by the market administrator pursuant to subparagraphs (1) and (2) of this paragraph, except as provided in subparagraph (3) of this paragraph.

(1) *Butterfat.* Add all market quotations (using the mid-point of any weekly range as one quotation) of prices per 40-quart can of fresh sweet cream of bottling quality of 40 percent butterfat content, not including prices for cream carrying special municipal approvals, reported at Philadelphia for each week ending within the month by the United States Department of Agriculture, divide by the number of quotations, subtract \$2.00 and divide by 8.50: *Provided*, That such butterfat value shall not be less than 4 times 120 percent of the average of the daily wholesale selling price for Grade A (92-score) butter at New York as reported by the United States Department of Agriculture for the month for which payment is to be made, less 19 cents.

(2) *Skim milk.* From the average of all the prices per pound for nonfat dry milk solids made by roller process, sold as "other brands" for human consumption in bags or barrels by cartlots (using midpoint of any range as one quotation) published during such month in "Producer's Price Current," subtract 5 cents, multiply by 0.90 and multiply by 7.5.

(3) For the months of March, April, May and June, in the case of milk, skim milk, or butterfat used in the manufacture of butter, Cheddar cheese, Baker's or any other cheese except cream or cottage cheese, evaporated milk, nonfat dry milk, milk chocolate, or in soup, candy, bakery products or any other nondairy commercial food product, or dumped or disposed of as animal feed, less any milk, butterfat, or equivalent of concentrated milk product received from a nonproducer plant, the value shall be adjusted downward at the rate, applied to the total utilization during the month in such products, of 20 cents per hundredweight of such total quantity, or 5 cents per pound of butterfat in such total quantity, whichever results in the greater aggregate adjustment.

Sec. 41. *Butterfat differential.* (a) The Class I price shall be subject to a butterfat differential of 5 cents for each one-tenth of 1 percent variation above or below 4.0 percent: *Provided*, That, in case of Class I items containing less than 3.0 percent butterfat or more than 6.0 percent butterfat, the rate of differential prescribed in paragraph (b) of this section based on cream quotations shall apply.

(b) The Class II price shall be subject to a butterfat differential for each one-tenth of 1 percent variation above or below 4 percent which is the butterfat value computed pursuant to section 40 (b) (1) divided by 40.

Sec. 42. *Differentials for place of receipt of milk.* In the case of milk received from producers by any handler, there shall be deducted from the prices set forth in Section 40 the following amounts:

(a) *Class I milk.* At plants within 45 miles from City Hall in Wilmington, 12 cents per hundredweight. At plants within each additional ten miles in excess of 45 miles, one cent per hundredweight, provided the total does not exceed 48 cents.

(b) *Class II milk.* (1) At plants within 45 miles from City Hall in Wilmington, 12 cents per hundredweight and at plants 46 to 85 miles from City Hall in Wilmington, 5 cents per hundredweight, and for plants within each additional 70 miles an additional cent.

(2) The distance of any such plant from the City Hall in Wilmington shall be that recognized by the Interstate Commerce Commission for rate-making purposes on highways over which the Highway Departments of the several States permit milk tank trucks to move, or if no such distance is recognized, the distance shall be that ascertained and announced by the market administrator.

#### REPORTS OF HANDLERS

Sec. 50. *Periodic reports.* On or before the 8th day after the end of each month each handler, with respect to milk, milk products or cream which was, during such month, (a) received from producers, handlers, or other sources; and (b) produced by such handler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) The receipts at each plant from producers who are not handlers;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The quantity, if any, produced by such handler;

(4) The receipts at each plant from any other source;

(5) The respective quantities of milk and milk products disposed of or on hand at each plant, with the butterfat content thereof; and

(6) The shipments of milk to the marketing area from each plant.

Sec. 51. *Reports of handlers who receive no milk from producers.* Handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

Sec. 52. *Reports as to producers.* Each handler shall report to the market administrator:

(a) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (1) the name and address, (2) the total pounds of milk received, (3) the average butterfat test of milk received, and (4) the number of days upon which milk was received; and

(b) As soon as possible after first receiving milk from any producer, (1) the name and address of such producer, (2) the date upon which such milk was first received, and (3) the plant at which such milk was received.

Sec. 53. *Reports of payments to producers.* Each handler shall submit to

the market administrator on or before the 25th day after the end of each month his producer payroll for such month which shall show for each producer (a) the net amount of such producer's payment with the prices, deductions, and charges involved, and (b) the total delivery of milk with the average butterfat test thereof.

Sec. 54. *Outside cream purchases.* Each handler shall report as requested by the market administrator his purchases, if any, of sweet cream showing the quantity and source of each such purchase and the cost thereof at Wilmington,

Sec. 55. *Verification of reports.* Each handler shall permit the market administrator or his agent, or such other person as the Secretary may designate, during the usual hours of business, to (a) verify the information contained in reports submitted in accordance with this section and (b) weigh milk received from each producer and sample and test milk for butterfat.

Sec. 56. *Retention of records.* All books and records required under this subpart 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 calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the 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, or specified books and records, until further written notification from the market administrator. In either case 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.

#### APPLICATION OF PROVISIONS

Sec. 60. *Handlers who receive no milk from producers.* The provisions of this subpart, except those set forth in sections 50 through 56 and section 90, shall not apply to a producer-handler who receives no milk from producers nor to a handler whose sole source of milk supply consists of receipts from other handlers.

#### DETERMINATION OF UNIFORM PRICES TO PRODUCERS

Sec. 70. *Computation of the value of milk for each handler.* For each month the market administrator shall compute, subject to the provisions of section 60, the value of milk of producers disposed of by each handler, by (a) multiplying the hundredweight of such milk in each class, computed pursuant to sections 30 through 35 by the prices applicable pursuant to section 40, plus or minus the applicable differentials in sections 41 and 42 and (b) adding together the resulting values.

Sec. 71. *Computation and announcement of uniform price for each handler.*

The market administrator shall compute and announce for each handler the uniform price per hundredweight of milk received by him at each plant from producers during each month as follows:

(a) Add to the value computed pursuant to section 70 the amount of the adjustment to be made pursuant to section 83, and add or subtract the amount to be subtracted or added, respectively, by the handler pursuant to section 82.

(b) Divide the amount computed in paragraph (a) of this section by the total quantity of milk received from producers, including milk of his own production; and

(c) On or before the 15th day after the end of each month, notify each handler and publicly announce the uniform price computed for each handler pursuant to this section with the differentials applicable pursuant to sections 82 and 83 and the percentage of Class I utilization for each handler.

#### PAYMENTS FOR MILK

**Sec. 80. Time and method of payment—(a) Semimonthly payments.** On or before the last day of each month each handler shall make a payment to producers for milk delivered during the first 15 days of such month at not less than a rate per hundredweight which he estimates will be his uniform price for such month.

(b) *Final payment.* On or before the 20th day after the end of each month, each handler shall make full payment, subject to sections 82 through 84, to each producer, for the total value of milk received from such producer during such month, at not less than the uniform price per hundredweight computed for such handler pursuant to sections 70 and 71 after taking credit for payment made pursuant to paragraph (a) of this section.

**Sec. 81. Errors in payment.** Errors in making payments for milk shall be corrected not later than the date for making payments next following the determination of such errors.

**Sec. 82. Butterfat differential.** If any handler has received from any producer, during the month, milk having an average butterfat content other than 4.0 percent, such handler, in making payments pursuant to section 80, shall add to the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk above 4.0 percent not less than, or shall deduct from the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk below 4.0 percent not more than 5 cents per hundredweight.

**Sec. 83. Location differentials.** In making payments pursuant to section 80, each handler shall deduct from payments to producers delivering milk to a plant located in a mileage zone set forth in section 42 a differential equal to the percentage of the pounds of all milk received from producers at all of the producer milk plants of the handler which was used in Class I times the Class I differential rate pursuant to section 42 at such

plant plus the percentage of Class II at the Class II rate pursuant to section 42.

**Sec. 84. Premium for Premium Grade A milk.** In addition to the uniform price and all other payments required pursuant to sections 80 through 83, each handler shall pay for milk, which he has designated as qualified under the State of Delaware State Board of Health requirements for sale as Premium Grade A milk and which is delivered to a plant similarly qualified (so long as such requirements are in effect as a separate grade) 40 cents per hundredweight of Premium Grade A milk received from producers times the ratio of such milk sold as Premium Grade A either in fluid form or as products manufactured from Premium Grade A milk to the total quantity of Premium Grade A milk received from producers, plus 2 cents for each one-tenth of one percent that the butterfat content is above 3.7 percent. In addition to the above payments each handler shall add to the value of his milk computed pursuant to section 70, 40 cents per hundredweight of milk sold by a handler as Premium Grade A in excess of the milk received from designated Premium Grade A producers qualifying for the 40-cent premiums described in this section.

#### EXPENSE OF ADMINISTRATION

**Sec. 90. Payments by handlers.** As his pro rata share of the expense of the administration of this subpart, each handler, on or before the 20th day after the end of each month shall pay to the market administrator, with respect to all milk received by such handler directly from producers, and all milk received from nonproducer milk plants, which are not producer milk plants under Order 61, § 961.6 of this chapter, which is allocated to Class I under section 34, an amount not exceeding 2 cents per hundredweight, the exact amount to be determined by the market administrator subject to review by the Secretary.

#### MISCELLANEOUS PROVISIONS

**Sec. 100. Termination of obligations.** The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on 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 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 an association of producers, the name of such producer(s) or association of producers, 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 subpart, to make available to the market administrator or his representatives all books and records required by this subpart 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 calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful 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 subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff 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.

**Sec. 101. Equivalent prices or indexes.** If for any reason a price or index specified by this subpart for use in computing class prices or other purposes is not reported or published in the manner described in this subpart, the market administrator shall use a price or index determined by the Secretary to be equivalent or comparable with the factor which is specified.

**Sec. 102. Agents.** The Secretary may, by designation in writing, name any officer or employee of the United States or name any bureau or division of the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this subpart.

The following proposals have been made by The Wilmington Milk Dealers' Association:

Proposal No. 2: Define the marketing area as follows:

SEC. 3. *Wilmington, Delaware, milk marketing area.* The term "Wilmington, Delaware, Milk Marketing Area," hereinafter called "the marketing area," means all the territory in the State of Delaware situated within and bounded on the north, east and west by the boundary line of the State of Delaware, and on the south by the Chesapeake and Delaware Canal (including the Town of St. George, Delaware) all of which milk marketing area is in New Castle County and State of Delaware.

Proposal No. 3: Provide a special pricing for Class I milk sold outside the proposed marketing area as follows:

SEC. 43. *Special pricing for Class I milk sold outside marketing area—(a) Class I milk disposed of outside marketing area.* The price to be paid by handlers for Class I milk disposed of outside the marketing area on the same trip, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, less the applicable transportation allowance in such outside market, but in no case more than 64 cents: *Provided, That, Class I milk disposed of in markets where the market administrator is unable to determine such a price the Class I price plus or minus the applicable differentials specified in this subpart shall apply. And provided further That, for Class I milk disposed of in an area where the handling of milk is regulated by another order of the Secretary the price effective under such other order shall apply.*

(b) *Class I milk disposed of outside of the marketing area within the State of Delaware.* For that milk sold in the State of Delaware, but outside of the marketing area, a differential of 25 cents per hundredweight shall apply.

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

Issued at Washington, D. C., this 24th day of August 1955.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator  
[F. R. Doc. 55-6990; Filed, Aug. 26, 1955;  
8:50 a. m.]

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 a public hearing to be held at the State Office Building (Hearing Room No. 1) in Albany, New York, beginning on September 13, 1955 at 10:00 a. m., e. d. t., for the purpose of receiving evidence as to whether the tentative marketing agreement and the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area should be amended, with respect to the classification and pricing of milk on bulk tank pickup routes, as follows:

1. To provide that milk received at plants in the marketing area directly from farms on bulk tank pickup routes shall be assigned first to Class I-A milk.

2. To limit or exclude milk received directly from farms on bulk tank pickup routes from that to which location differentials apply, or to otherwise change provisions of the order concerning the application of location differentials to such milk.

These proposed amendments have not received the approval of the Secretary of Agriculture. A petition was filed by the Milk Dealers' Association of Metropolitan New York, Inc., and Sheffield Farms Company on July 25, 1955 for a hearing on proposed amendments, including a proposal to amend the order to provide for the proper pricing of milk to producers on bulk tank pickup routes. Based on an investigation of the proposed amendments contained in that petition, the proposed amendments herein set forth were determined to reflect those particular problems relating to the classification and pricing of bulk tank milk on which a public hearing at this time is justified pending more comprehensive consideration at a later hearing of location differentials and the classification and pricing of bulk tank milk.

Copies of this notice of hearing, the said order, as amended, and the said tentative marketing agreement may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, United States Department of Agriculture, Room 112 Administration Building, Washington 25, D. C., or may be there inspected.

Dated: August 24, 1955.  
[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.  
[F. R. Doc. 55-6989; Filed, Aug. 26, 1955;  
8:50 a. m.]

[7 CFR Part 943 I

[Docket No. AO231-A6]

HANDLING OF MILK IN NORTH TEXAS  
MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Correction

In F. R. Document 55-6671, appearing in the issue for Tuesday, August 16, 1955, at page 5939, make the following changes:

In column 1, line 10, page 5943, insert the material set forth below after the word "used" and in the same line delete the word "when" The inserted material will read as follows: "either for disposition as fluid milk products or processed into manufactured products. For those reasons, the transfer provisions should apply only to fluid milk and skim milk in bulk. As will be discussed more fully later, the present order provisions which apply to the transfers of bulk cream should not be modified.

"Under the current order, milk transferred or diverted to a nonpool plant located more than 300 miles from Dallas, Texas, or outside of a 'surplus disposal area' (certain named counties in Missouri and Arkansas) is classified as Class I milk. It was proposed at the hearing that the surplus disposal area be expanded. Since the inception of the order, the milkshed has been further expanded into the States of Oklahoma, Arkansas and Missouri. Since most of this milk is produced in an area more than 300 miles from the marketing area and more efficient marketing is accomplished by moving any reserve supplies, particularly seasonal reserves, directly to manufacturing plants in the area of production, provision should be made under the order to permit the transfer of such milk as Class II milk for processing into manufactured dairy products. The record also indicates that there are more manufacturing facilities available in the Missouri and Arkansas area than in Texas to handle seasonal reserve supplies and that additional facilities have become available as possible outlets for seasonal reserve milk. It was also proposed that certain counties in the State of Oklahoma where plants with manufacturing facilities are located be included in the surplus disposal area. The record shows that plants located in the proposed surplus disposal area together with those in the marketing area represent all plants to which North Texas"

[7 CFR Part 927 I

[Docket No. AO-71-A-30]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), No. 168—5

DEPARTMENT OF COMMERCE

Maritime Administration

BLOOMFIELD STEAMSHIP Co.

NOTICE OF APPLICATION

Notice is hereby given of the application of Bloomfield Steamship Company seeking the written permission of the

NOTICES

Maritime Administrator under section 805 (a) of the Merchant Marine Act, 1936, as amended, 46 U. S. C. 1223, to permit operation of its owned vessel "Marie Hamill" by the charterer of said vessel, States Marine Lines, for a voyage (commencing about September 6, 1955) carrying lumber from United States North Pacific ports to United States North Atlantic ports.

Under the provisions of section 805 (a) the Maritime Administrator may not grant any such application if the Administrator finds it will result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service or that it will be prejudicial to the objects and policy of the act.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 805 (a) should notify the Maritime Administrator within 7 days from the date of this publication.

Dated: August 26, 1955.

By order of the Deputy Maritime Administrator.

[SEAL] GEO. A. VIEHMANN,  
Assistant Secretary.

[F. R. Doc. 55-7037; Filed, Aug. 26, 1955;  
10:34 a. m.]

## DEPARTMENT OF AGRICULTURE

### Commodity Stabilization Service

[Notice 2 of Requirement of Certification—1955]

#### REPUBLIC OF THE PHILIPPINES

#### ENTRY OF SUGAR OR LIQUID SUGAR INTO CONTINENTAL UNITED STATES

Pursuant to § 817.4 (7 CFR 817.4) (16 F. R. 12847) notice is hereby given that the 1955 sugar quota for the Republic of the Philippines, amounting to 977,000 short tons, raw value, has been filled to the extent of 80 per centum or more. Accordingly, pursuant to § 817.4, after the close of business on August 26, 1955, and for the remainder of the calendar year 1955, Collectors of Customs shall not permit the entry into the continental United States from the Republic of the Philippines of any sugar unless and until the certification described in § 817.4 (a) is issued.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153; 16 F. R. 12847)

Issued this 24th day of August 1955.

[SEAL] LAWRENCE MYERS,  
Director Sugar Division,  
Commodity Stabilization Service.

[F. R. Doc. 55-7018; Filed, Aug. 26, 1955;  
8:51 a. m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[Aberdeen Area Office Redelegation Order 2, Amdt. 1]

#### SUPERINTENDENTS AND OTHER DESIGNATED EMPLOYEES

#### REDELEGATION OF AUTHORITY WITH RESPECT TO CREDIT, LOAN AGREEMENTS AND MODIFICATIONS

Order No. 2 (19 F. R. 8756) is amended as indicated below:

A new section and a new heading are added to Part 2 to read as follows:

#### FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.120 *Loan agreements and modifications.* \* \* \*

(b) The approval of applications of individuals for loans (subject to availability of funds) where the total indebtedness of the applicant to the lender does not exceed \$1,500.

W O. ROBERTS,  
Area Director

Approved: August 23, 1955.

W BARTON GREENWOOD,  
Acting Commissioner

[F. R. Doc. 55-6965; Filed, Aug. 26, 1955;  
8:45 a. m.]

[Aberdeen Area Office Redelegation Order 3]

#### ASSISTANT AREA DIRECTOR

#### REDELEGATIONS OF AUTHORITY WITH RESPECT TO CONSTRUCTION, SUPPLY AND SERVICE CONTRACTS

SECTION 1. *Authority.* The authority delegated to the Area Director by the Commissioner of Indian Affairs in Order No. 566 (19 F. R. 3971) pertaining to construction, supply and service contracts is hereby redelegated as indicated in this order.

SEC. 2. *Assistant Area Director Administration.* The Assistant Area Director, Administration, may enter into construction, supply and service contracts irrespective of the amounts involved; and perform the duties of Contracting Officer in regard to such contracts.

SEC. 3. *Authorized representative of contracting officer* (a) With respect to construction contracts entered into by the Area Director, the Assistant Area Director, Administration, is designated as the authorized representative of the contracting officer as such term is used in such contracts and may perform the duties of the contracting officer except as follows:

(1) Functions relating to the termination of a contract.

(2) Disputes concerning questions of fact which are not disposed of by agreement.

SEC. 4. *Appeals.* An appeal from a findings of fact or decision of a contracting officer shall be made by notice of appeal in writing addressed to the Board of Contract Appeals, Office of the Solicitor, Department of the Interior, Washington 25, D. C., and shall be mailed to or filed with the contracting officer, within the time allowed by the contract. The notice of appeal shall specify the portion of the findings of fact or decision from which the appeal is taken, and the reasons why the findings or decision are deemed erroneous. Immediately upon receipt of the notice of appeal, the contracting officer shall inform the Board by air mail that the appeal has been received. (Regulations governing appeals are published in 19 F. R. 9389.)

W O. ROBERTS,  
Area Director

Approved:

W. BARTON GREENWOOD,  
Acting Commissioner

[F. R. Doc. 55-6966; Filed, Aug. 26, 1955;  
8:45 a. m.]

## Bureau of Land Management

### COLORADO

RESTORATION ORDER 9 (AREA III) UNDER FEDERAL POWER ACT: CORRECTION

AUGUST 22, 1955.

Restoration Order No. 9 (Area III) under Federal Power Act, dated July 27, 1955, identified as F. R. Doc. 55-6226, filed August 4, 1955 8:45 a. m., appearing in FEDERAL REGISTER dated August 5, 1955, pages 5664-5665, is corrected as follows:

Under Sixth Principal Meridian, Colorado: T. 15 S., R. 104 W., Sec. 34, description should read: NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , SE $\frac{1}{4}$ .

Under New Mexico Principal Meridian, Colorado, T. 48 N., R. 18 W., Sec. 4, description should read Lots 1, 2, 4, 7, 8, 11, 13, 14, 17 to 21, inclusive.

MAX CAPLAN,  
State Supervisor

[F. R. Doc. 55-6985; Filed, Aug. 26, 1955;  
8:49 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 7278]

LINEAS AEREAS DE NICARAGUA, S. A.

NOTICE OF POSTPONEMENT OF PREHEARING CONFERENCE

At the request of Counsel for the applicant in this proceeding the prehearing conference in this matter is postponed to September 9, 1955, at 2:30 p. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before the undersigned.

Dated at Washington, D. C., August 23, 1955.

[SEAL] JOSEPH L. FITZMAURICE,  
Hearing Examiner

[F. R. Doc. 55-6992; Filed, Aug. 26, 1955;  
8:50 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11294; FCC 55M-733]

STANISLAUS COUNTY BROADCASTERS, INC., AND MCCLATCHY BROADCASTING CO:

ORDER FOLLOWING THIRD CONFERENCE SCHEDULING HEARING

In re applications of Stanislaus County Broadcasters, Inc., (Assignor), McClatchy Broadcasting Company, (Assignee) Docket No. 11294, File No. BAL-1912 BALRY-116; for assignment of the Broadcast License for Station KBOX, and Remote Pickup License KA-8652, Modesto, California.

1. A prehearing conference was held on May 17, 1955. A formal further conference, under Rule 1.841, was held on July 7, 1955. Originally scheduled by the Commission for July 19, the opening of the hearing was indefinitely extended because of developments at the further conference (see Hearing Examiner's orders of July 8 and July 13)

2. A third conference was held before the Hearing Examiner on August 2, for the purpose of arriving at a suitable date for the commencement of the hear-

ing and to consider the problems which arose at the July 7 conference, summarized in the order of July 13.

3. The following dates were arrived at as the result of the August 2 conference and shall govern the course of the proceeding unless changed by subsequent order:

September 7, 1955: Submission by McClatchy Broadcasting Company of its affirmative testimony in written form;

September 9, 1955: Notification by counsel for the Commission's Broadcast Bureau of the witnesses, if any, desired for cross-examination;

September 14, 1955: Commencement of the hearing.

4. There was discussion between counsel for the Broadcast Bureau and counsel for McClatchy Broadcasting Company with respect to its program proposals, and it was generally agreed that evidence relating to the proposals is admissible under the issues. The Broadcast Bureau and McClatchy were not in agreement that the past record of McClatchy was relevant or material to a resolution of the issues in this proceeding. However, it was agreed that if such evidence is relevant, aspects of McClatchy's past record could be introduced by reference to and reliance placed upon the findings in the Commission's decision in re Application of McClatchy Broadcasting Company, 9 Pike & Fischer RR 1190 (1954) as part of its showing with respect to its past record without the need for further proof.

5. It was further agreed between counsel that it would be unnecessary for McClatchy to introduce evidence relating to the past programming of existing McClatchy stations for the purpose of relating that programming to the proposed programming for the Modesto station.

6. The foregoing recites the significant actions at the third hearing conference.

*So ordered*, This 16th day of August 1955.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WM. P. MASSING,  
Acting Secretary.

[F. R. Doc. 55-6982; Filed, Aug. 26, 1955;  
8:48 a. m.]

[Docket No. 11478]

PLASTIC HEAT SEALING CO.  
ORDER SCHEDULING HEARING

In the matter of Cease and Desist Order to be directed to M. Robert Saslaw and Elias J. Bramley, tr/as Plastic Heat Sealing Company, 4 Winnikee Avenue, Poughkeepsie, N. Y., Docket No. 11478.

The Commission having under consideration the issuance of an order pursuant to section 312 (b) of the Communications Act of 1934, as amended, to M. Robert Saslaw and Elias J. Bramley, tr/as Plastic Heat Sealing Co., 4 Winnikee Avenue, Poughkeepsie, N. Y. (hereinafter referred to as Plastic Heat-Sealing Company) to cease and desist from violating Part 18 of the Commission's rules by operating industrial heating

equipment which (1) is the source of interference to authorized radio services, (2) transmits radio frequency energy in excess of the limits permitted by the Commission's rules, and (3) is not certified or licensed in accordance with the Commission's rules;

It appearing that the Plastic Heat-Sealing Company operates in its plant at 4 Winnikee Avenue, Poughkeepsie, N. Y. certain industrial heating equipment which utilizes a radio frequency generator and transmits radio frequency energy on approximately 18.3 megacycles and with spurious emissions in television channel No. 2, and;

It further appearing that said industrial heating equipment is subject to the provisions of sections 18.1, 18.2 (c) 18.3, 18.4, 18.21, 18.22, 18.23, 18.24 and 18.41 through 18.49 of the Commission's Rules; and

It further appearing that the aforementioned industrial heating equipment has caused interference to reception of radio communications in Poughkeepsie, New York; and

It further appearing that the aforementioned industrial heating equipment radiates energy in excess of the limit of 10 microvolts per meter at one mile as specified in section 18.21 (b) of the Commission's Rules; and

It further appearing that the aforementioned industrial equipment has not been certified by a duly qualified engineer or the manufacturer of the equipment as required by section 18.22 of the Commission's Rules, nor has the equipment been licensed pursuant to section 18.41 of the Commission's Rules; and

It further appearing that the above facts have been called to the attention of the Plastic Heat-Sealing Company by the Commission both orally and in writing, and that the Company has been afforded an opportunity to demonstrate or achieve compliance with all lawful requirements but such demonstration has not been made and such compliance has not been accomplished;

*It is ordered*, This 17th day of August 1955, pursuant to section 312 (c) of the Communications Act of 1934, as amended, and pursuant to section 0.271 (d) of the Commission's rules to show cause why there should not be issued an order commanding Plastic Heat Sealing Company to cease and desist from violating the provisions of Part 18 of the Commission's Rules by operating industrial heating equipment without the certification or license required by Part 18 of the Commission's Rules, and by operating such equipment in a manner which causes interference to authorized radio services; and

*It is further ordered*, That a hearing in this matter be held in New York, New York, at 10:00 a. m., on the 29th day of September 1955, in order to determine whether said cease and desist order should be issued, and that Plastic Heat-Sealing Company is herewith called upon to appear at this hearing and give evidence upon the matters specified herein; and

*It is further ordered*, Pursuant to section 1.402 of the rules, that said Plastic Heat-Sealing Company is directed to file

with the Commission within thirty days of the receipt of this order a written appearance in triplicate, stating that Plastic Heat-Sealing Company will appear and present evidence on the matter specified in this Order if Plastic Heat-Sealing Company desires to avail itself of its opportunity to appear before the Commission. If said Plastic Heat-Sealing Company does not desire to appear before the Commission and give evidence on the matter specified herein, it shall within thirty days of the receipt of this Order, file with the Commission, in triplicate, a written waiver of hearing. Such waiver may be accompanied by a statement of reasons why Plastic Heat-Sealing Company believes that cease and desist order shall not be issued, and

*It is further ordered*, That failure of said Plastic Heat-Sealing Company timely to respond to this order or failure to appear at the hearing designated herein will be deemed a waiver of hearing.

Released: August 18, 1955.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] WM. P. MASSING,  
Acting Secretary.

[F. R. Doc. 55-6983; Filed, Aug. 25, 1955;  
8:48 a. m.]

[Docket No. 11479]

RAWAL PLASTIC CO., INC.  
ORDER SCHEDULING HEARING

In the matter of Cease and Desist Order to be directed to Rawal Plastic Company, Inc., 12 West 17th Street, New York 11, New York, Docket No. 11479.

The Commission having under consideration the issuance of an order pursuant to section 312 (b) of the Communications Act of 1934, as amended, to the Rawal Plastic Company, Inc., 12 West 17th Street, New York 11, New York, to cease and desist from violating Part 18 of the Commission's Rules by operating industrial heating equipment which, (1) is a source of interference to authorized radio services and (2) is not certified or licensed in accordance with the Commission's Rules;

It appearing that the Rawal Plastic Company, Inc., operates in its plant at 12 West 17th Street, New York, New York, certain industrial heating equipment which utilizes a radio frequency generator or generators and transmits radio frequency energy on a frequency used by the United States Army; and

It further appearing that said industrial heating equipment is subject to the provisions of sections 18.1, 18.2 (c) 18.3, 18.4, 18.21, 18.22, 18.23, 18.24 and 18.41 through 18.49 of the Commission's Rules; and

It further appearing that the aforementioned industrial heating equipment causes interference to United States Army radio communications in the New York City area; and

It further appearing that the aforementioned industrial heating equipment has not been certified by a duly qualified

engineer or by the manufacturer of the equipment as required by section 18.22 of the Commission's rules, nor has the equipment been licensed pursuant to section 18.41 of the Commission's rules; and

It further appearing that the above facts have been called to the attention of the Rawal Plastic Company, Inc., by the Commission both orally and in writing, and that the Rawal Plastic Company, Inc., has been afforded an opportunity to demonstrate or achieve compliance with all lawful requirements but such demonstration has not been made and such compliance has not been accomplished;

*It is ordered*, This 18th day of August 1955, pursuant to section 312 (e) of the Communications Act of 1934, as amended, and pursuant to section 0.271 (d) of the Commission's rules to show cause why there should not be issued an order commanding the Rawal Plastic Company, Inc., to cease and desist from violating the provisions of Part 18 of the Commission's rules by operating industrial heating equipment without the certification or license required by Part 18 of the Commission's rules, and by operating such equipment in a manner which causes interference to authorized radio services; and

*It is further ordered*, That a hearing in this matter be held in New York, New York, at 10:00 a. m., on the 29th day of September 1955, in order to determine whether said cease and desist order should be issued, and that the Rawal Plastic Company, Inc., is herewith called upon to appear at this hearing and give evidence upon the matters specified herein; and

*It is further ordered*, Pursuant to section 1.402 of the rules, that Rawal Plastic Company, Inc., is directed to file with the Commission within thirty days of the receipt of this order a written appearance in triplicate, stating that the Rawal Plastic Company, Inc., will appear and present evidence on the matter specified in this order if the Rawal Plastic Company, Inc., desires to avail itself of its opportunity to appear before the Commission. If said Rawal Plastic Company, Inc., does not desire to appear before the Commission and give evidence on the matter specified herein, it shall, within thirty days of the receipt of this order, file with the Commission, in triplicate, a written waiver of hearing. Such waiver may be accompanied by a statement of reasons why Rawal Plastic Company, Inc., believes that cease and desist order shall not be issued; and

*It is further ordered*, That failure of said Rawal Plastic Company, Inc., timely to respond to this Order or failure to appear at the hearing designated herein will be deemed a waiver of hearing.

Released: August 18, 1955.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] Wm. P. MASSING,  
Acting Secretary.

[F. R. Doc. 55-6984; Filed, Aug. 26, 1955;  
8:48 a. m.]

## FARM CREDIT ADMINISTRATION

### Federal Farm Mortgage Corporation

NEBRASKA

#### DISPOSAL OF MINERAL INTERESTS: REVISED AREA DESIGNATION

For the purpose of the mineral disposal program of the Federal Farm Mortgage Corporation, pursuant to Public Law 760, 81st Congress, Washington County, Nebraska, is hereby determined to be a Fair Market Value Area (area in which mineral interests are to be sold for their fair market value) instead of a One Dollar Area (area in which mineral interests covered by a single application are to be sold for a consideration of \$1.00)

(Sec. 3, 64 Stat. 769; sec. 7 (a), 67 Stat. 393)

[SEAL] J. L. WILKINSON,  
Treasurer  
Federal Farm Mortgage Corporation.

Approved at Washington, D. C., on August 23, 1955.

A. T. ESGATE,  
Acting Governor  
Farm Credit Administration.

[F. R. Doc. 55-6977; Filed, Aug. 26, 1955;  
8:47 a. m.]

## FEDERAL POWER COMMISSION

[Docket Nos. G-3556-G-3563]

LLOYD H. SMITH, INC., ET AL.

#### NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 23, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its findings and order adopted August 3, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6972; Filed, Aug. 26, 1955;  
8:46 a. m.]

[Docket No. E-6337]

#### DEPARTMENT OF THE INTERIOR, SOUTH- WESTERN POWER ADMINISTRATION

#### NOTICE OF ORDER APPROVING AMENDMENT TO RATE SCHEDULE

AUGUST 23, 1955.

Notice is hereby given that on August 10, 1955, the Federal Power Commission issued its order adopted August 5, 1955, in the above-entitled matter, confirming and approving amendment to rate schedule between Southwestern Power Administration, Public Service Company of Oklahoma and Oklahoma Gas and Electric Company.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6973; Filed, Aug. 26, 1955;  
8:46 a. m.]

[Docket Nos. G-8815, G-8816]

BURK ROYALTY CO. (OPERATOR) AND  
HUMBLE OIL & REFINING CO.

#### NOTICE OF FINDINGS AND ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 23, 1955.

In the matters of Burk Royalty Company (Operator) Docket No. G-8815; Humble Oil & Refining Company, Docket No. G-8816.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its findings and orders adopted August 3, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6974; Filed, Aug. 26, 1955;  
8:46 a. m.]

[Docket No. G-8903]

WILCOX TREND GATHERING SYSTEMS, INC.

#### NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 23, 1955.

Notice is hereby given that on August 5, 1955, the Federal Power Commission issued its findings and order adopted August 3, 1955, issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6975; Filed, Aug. 26, 1955;  
8:46 a. m.]

[Docket No. G-8772, etc.]

CLARENDON, ARK., ET AL.

#### NOTICE OF ORDER TO SELL AND DELIVER NATURAL GAS

AUGUST 23, 1955.

In the matters of City of Clarendon, Arkansas, Docket No. G-8772; Town of Holly Grove, Arkansas, Docket No. G-8773; City of Marvell, Arkansas, Docket No. G-8774.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its order adopted August 3, 1955, in the above-entitled matters, directing Texas Gas Transmission Company to establish physical connections with and sell and deliver natural gas to the Town of Holly Grove and Cities of Clarendon and Marvell.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6967; Filed, Aug. 26, 1955;  
8:45 a. m.]

[Docket No. G-8760]

CINCINNATI GAS & ELECTRIC CO.

#### NOTICE OF ORDER TO SELL AND DELIVER NATURAL GAS

AUGUST 23, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission

issued its order adopted August 3, 1955, in the above-entitled matter, directing Texas Gas Transmission Company to establish physical connection with and sell and deliver natural gas to The Cincinnati Gas & Electric Company.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6968; Filed, Aug. 26, 1955; 8:45 a. m.]

[Docket No. G-8850]

MISSOURI UTILITIES Co.

NOTICE OF ORDER TO SELL AND DELIVER NATURAL GAS

AUGUST 23, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its order adopted August 3, 1955, in the above-entitled matter, directing Panhandle Eastern Pipe Line Company to establish physical connection with and sell and deliver natural gas to Missouri Utilities Company.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6969; Filed, Aug. 26, 1955; 8:45 a. m.]

[Docket No. G-9137]

MID-ATLANTIC OIL AND GAS Co.

NOTICE OF FINDINGS AND ORDER AUTHORIZING ABANDONMENT BY SALE OF NATURAL GAS FACILITIES

AUGUST 23, 1955.

Notice is hereby given that on August 19, 1955, the Federal Power Commission issued its findings and order adopted August 17, 1955, in the above-entitled matter, authorizing abandonment by sale of certain natural gas facilities to New York State Natural Gas Corporation.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6970; Filed, Aug. 26, 1955; 8:45 a. m.]

**SMALL BUSINESS ADMINISTRATION**

[Declaration of Disaster Area 63, Amdt. 2]

MASSACHUSETTS

DECLARATION OF DISASTER AREA

1. Declaration of Disaster Area 63 dated August 22, 1955, as amended, for the State of Massachusetts is hereby further amended by adding the County of Middlesex to the counties referred to in paragraph 1 of said Declaration.

Dated: August 24, 1955.

W. NORBERT ENGLS,  
Deputy Administrator

[F. R. Doc. 55-7036; Filed, Aug. 26, 1955; 10:07 a. m.]

[Declaration of Disaster Area 64; Amdt. 1]

NEW YORK

DECLARATION OF DISASTER AREA

1. Declaration of Disaster Area 64 dated August 22, 1955, for the State of New York is hereby amended by adding the County of Columbia to the counties referred to in paragraph 1 of said Declaration.

Dated: August 25, 1955.

W. NORBERT ENGLS,  
Deputy Administrator

[F. R. Doc. 55-7035; Filed, Aug. 26, 1955; 10:07 a. m.]

**GENERAL SERVICES ADMINISTRATION**

SECRETARY OF THE INTERIOR

DELEGATION OF AUTHORITY AUTHORIZING NEGOTIATION FOR SERVICES OF ARCHITECTURAL AND ENGINEERING FIRMS; ALASKA PUBLIC WORKS PROGRAM

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, (63 Stat. 377) as amended, herein called the Act, authority is hereby delegated for the period ending September 1, 1956 to the Secretary of the Interior, to negotiate, without advertising, under section 302 (c) (4) of the Act, contracts for the services of architectural and engineering

firms in connection with the construction activities under the Alaska Public Works Program authorized by the Act of August 24, 1949 (63 Stat. 627) as amended by the Act of July 15, 1954 (68 Stat. 483).

2. This authority shall be exercised in accordance with the applicable limitations and requirements in the Act, particularly sections 304 and 307, and in accordance with policies, procedures and controls prescribed by the General Services Administration.

3. The authority herein delegated may be redelegated to any officer or employee of the Department of the Interior.

4. This delegation shall be effective as of the date hereof.

Dated: August 22, 1955.

EDMUND F. MANSURE,  
Administrator.

[F. R. Doc. 55-7030; Filed, Aug. 25, 1955; 4:39 p. m.]

**QUARTERLY REPORT OF PURCHASE UNDER DOMESTIC PURCHASE REGULATIONS**

Activities under the Defense Production Act as Amended. Quarterly report of purchases under Domestic Purchase Regulations as of June 30, 1955.

Pursuant to Section 4, Public Law 206, 83rd Congress, the tabulation below details the quarterly and cumulative purchases under Purchase Regulation noted.

Regulation	Termination date	Units	Quantity		
			Program limitation	Purchases during quarter	Cumulative purchases through end of quarter
Asbestos.....	Oct. 1, 1957	Short tons, crude No. 1 and/or crude No. 2, asbestos.	1,500	116	963
Beryl.....	June 30, 1957	Short tons, crude No. 3.	1,500	72	456
Chrome.....	do.	Long dry tons, beryl ore.	200,000	5,431	708
Columbium-tantalum <sup>1</sup> ...	Dec. 31, 1953	Long dry tons, chrome ore and/or chrome concentrates.	15,000,000	2,753,003	87,933
Manganese: Butte-Phillipsburg...	June 30, 1953	Pounds contained combined pentoxide.	6,000,000	237,995	11,842,162
Deming.....	do.	Long ton units, recoverable, manganese.	6,000,000	942,823	1,723,601
Wenden.....	do.	do.	6,000,000	702,197	3,250,174
Domestic small producers.	do.	Long ton units, contained, manganese.	19,000,000	916,773	6,108,316
Mica.....	June 30, 1957	Short tons, hand-cobbed mica or equivalent.	25,000	782	3,642,634
Tungsten.....	July 1, 1953	Short tons units, tungsten trioxide.	3,000,000	252,575	6,235

<sup>1</sup> Quantities represent deliveries.  
<sup>2</sup> Columbium-tantalum regulation provides for both domestic and foreign purchases. Report includes both. Foreign forward commitments have caused the program limitation to be exceeded. No further purchases of foreign ore or concentrates will be made.

Dated: August 23, 1955.

EDMUND F. MANSURE,  
Administrator.

[F. R. Doc. 55-7031; Filed, Aug. 25, 1955; 4:39 p. m.]

**INTERSTATE COMMERCE COMMISSION**

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 24, 1955.

Protests to the granting of an application must be prepared in accordance

with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

**LONG-AND-SHORT HAUL**

FSA No. 30996: Pipe or tubing—Alabama City, Ala., to Official Territory. Filed by J. G. Kerr, Agent, for interested rail carriers. Rates on wrought iron or steel pipe or tubing, carloads, from Alabama City, Ala., to points in official (including Illinois) territory.

Grounds for relief: Short-line distance formula, market competition, and curculty.

Tariff: Supplement 12 to Agent Spaninger's I. C. C. 1454.

FSA No. 30997: *Substituted service—Pennsylvania Railroad.* Filed by Motor Carrier's Tariff Bureau, Agent, for and on behalf of the Long Transportation Company and the Pennsylvania Railroad Company. Rates on various commodities, in highway trailers, on railroad flat cars between Chicago, Ill., on the one hand, and Pittsburgh, Pa., on the other.

Grounds for relief: "Trailer-on-flat-car" motor-truck competition.

Tariff: Motor Carriers Tariff Bureau, Agent, MF-I. C. C. No. 54.

FSA No. 30998: *Merchandise from Michigan and Wisconsin to the East.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on freight, all kinds, in mixed carloads, from specified points in Michigan and Wisconsin to specified points in trunk-line and New England territories.

Grounds for relief: Motor-truck competition and circuitry.

Tariff: Grand Trunk Western Railroad Company tariff I. C. C. A-93.

FSA No. 30999: *Sand—Indiana Pits to Shelbyville, Ill.* Filed by R. G. Raasch, Agent, for and on behalf of the Chicago and Eastern Illinois Railroad Company. Rates on sand (other than bank, blast, core, engine, etc.) carloads from Cayuga, Dickason Pit, Standard Pit and Terre Haute, Ind., to Shelbyville, Ill.

Grounds for relief: Wayside pit motor-truck competition.

Tariff: Supplement 56 to C. & E. I. Railroad tariff I. C. C. 414.

FSA No. 31000: *Gravel—Dickason Pit, Ind., to Hoopeston, Ill.* Filed by R. G. Raasch, Agent, for and on behalf of the Chicago and Eastern Illinois Railroad Company. Rates on gravel, carloads from Dickason Pit, Ind., to Hoopeston, Ill.

Grounds for relief: Wayside pit motor truck competition.

Tariff: Supplement 56 to C. & E. I. Railroad tariff I. C. C. 144.

FSA No. 31001: *Fertilizer compounds—Selma, Mo., to South.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on fertilizer compounds and related articles, carloads from Selma, Mo., to specified points in southern territory.

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

Tariff: Supplement 79 to Agent Kratzmeir's I. C. C. 4112.

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 55-6976; Filed, Aug. 26, 1956;  
8:46 a. m.]