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Washington, Thursday, December 1, 1955

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.272]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts* is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following December 3, 1955, paragraph (a) is amended by the addition of the following posts:

Iwo Jima, Bonin Islands.
Tarija, Bolivia.

2. Effective as of the beginning of the first pay period following November 19, 1955, paragraph (b) is amended by the addition of the following post:

Cajamarca, Peru.

(Sec. 102, Part I, E. O. 10,000, 13 F. R. 5453; 3 CFR, 1948 Supp.)

Dated: November 22, 1955.

For the Secretary of State:

[SEAL] I. W. CARPENTER, JR.,
Assistant Secretary-Controller.

[F. R. -Doc. 55-9612; Filed, Nov. 30, 1955; 8:47 a. m.]

PART 350—TERRITORIAL POST DIFFERENTIALS AND TERRITORIAL COST-OF-LIVING ALLOWANCES

PAYMENT

Effective at the beginning of the first pay period after November 1, 1955, § 350.6 is amended as set out below.

§ 350.6 *Payment of territorial post differentials and territorial cost-of-living allowances.* (a) Additional compensation paid under authority of section 207 of the act shall not exceed in any instance 25 percent of the rate of basic compensation.

(b) Payments of territorial post differentials and territorial cost-of-living allowances shall begin as of the date of arrival at the post of duty on assignment,

transfer, or detail, and shall stop as of the close of business on the date of departure from the post of duty for separation, transfer, or detail, except that in the case of local recruitment such payments shall begin and stop as of the beginning and end of employment.

(c) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

(d) Payments shall be made for all periods of sick leave and annual leave taken during the period covered by paragraph (b) of this section and for transit time authorized for purposes of leave so taken.

(e) Payment shall not be made for any time for which an employee does not receive basic compensation.

(f) Neither a territorial post differential nor a territorial cost-of-living allowance shall be included in the base used in computing overtime pay, night differential, holiday pay, retirement deductions, or any other additional compensation, allowance, or pay differential.

(g) Payment of a territorial post differential or territorial cost-of-living allowance shall not be construed to be an "equivalent increase" in compensation within the meaning of the Classification Act of 1949, as amended.

(h) Payments of territorial post differentials represent "additional compensation properly includible in the gross income of the recipient for Federal income tax purposes." (Letter of Commissioner of Internal Revenue to Bureau of the Budget, August 28, 1948.) Payments of territorial cost-of-living allowances "are excludable from gross income and exempt from Federal income tax under the provisions of Section 116 (j) of the Internal Revenue Code." (Revenue Ruling 237, Internal Revenue Bulletin No. 22 of October 26, 1953, page 13.)

(Sec. 202, Part II, E. O. 10,000, Sept. 16, 1948, 13 F. R. 5453; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

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

[F. R. Doc. 55-9635 Filed, Nov. 30, 1955; 8:51 a. m.]

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TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter F—Banks for Cooperatives
[FCA Order 639]

PART 70—LOAN INTEREST RATES AND SECURITY

INCREASE IN INTEREST RATES BY CENTRAL BANK FOR COOPERATIVES

Effective December 1, 1955, the rate of interest which may be charged by the Central Bank for Cooperatives, as specified in § 70.4 of Chapter I, Title 6, Code of Federal Regulations, is hereby changed to 3½ per centum per annum.

Effective December 1, 1955, the rate of interest which may be charged by the Central Bank for Cooperatives, as specified in § 70.5 of Chapter I, Title 6, Code of Federal Regulations, is hereby changed to 3 per centum per annum.

Effective December 1, 1955, the rate of interest which may be charged by the Central Bank for Cooperatives, as specified in § 70.7 of Chapter I, Title 6, Code of Federal Regulations, is hereby changed to 4½ per centum per annum.

(Sec. 8, 46 Stat. 14, 12 U. S. C. 1141f)

[SEAL] R. B. TOOTELL,
Governor
Farm Credit Administration.

[F. R. Doc. 55-9613; Filed, Nov. 30, 1955; 8:47 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas
[Sugar Reg. 815, Amdt. 1]

PART 815—REQUIREMENTS RELATING TO MARKETING OF SUGAR AND LIQUID SUGAR PRODUCED FROM SUGAR BEETS AND SUGARCANE GROWN IN CONTINENTAL UNITED STATES

MISCELLANEOUS AMENDMENTS

Basis and purpose. The amendments herein are based on the provisions of the Sugar Act of 1948, as amended (61 Stat. 922 as amended by 65 Stat. 318, 7 U. S. C. 1100), and are made for the purpose of amending §§ 815.3 and 815.6 (c) (1) to

clarify the manner in which this regulation relates to the disposition of mainland sugar and to modify the requirements relating to the refining and storage of mainland sugar under bond until released within an applicable quota and allotment.

Paragraph (c) (1) of § 815.6 establishes a limit on the movement of mainland sugar which is permitted to be marketed by the processors for refining and storage until released within an applicable quota and allotment. In view of the continued increase in year-end inventories of processors of raw mainland cane sugar, it is imperative that the provision permit the fullest possible use of storage facilities ordinarily used by refiners who are permitted to receive such sugar under the provisions of this paragraph consistent with the maintenance of adequate quota controls. The amendment of this paragraph is believed to accomplish this purpose.

Section 815.3 has been amended to include a clarifying provision that mainland sugar removed from the continental United States for consumption out of the continental United States is not chargeable to the quotas and allotments thereof for the domestic beet sugar area or the mainland cane sugar area.

Prior to the adoption of these amendments notice was given (20 F. R. 7815) that the Secretary was considering amending the regulations in the manner herein provided, and that any interested person might express his views in writing in respect thereto. The data, views and recommendations received pursuant to the notice have been duly considered within the limits permitted by the Sugar Act of 1948, as amended.

Sugar is now being processed from 1955-crop sugarcane. In order that the amendments set forth herein may be given effect in connection with the quantities of sugar from 1955-crop sugarcane now being delivered to refiners in excess of allotments established pursuant to Sugar Regulation 814.22, Amendment 1 (20 F. R. 7987) it is necessary that such amendments be made effective at the earliest possible date. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 238, 5 U. S. C. 1103) is impracticable and contrary to the public interest and the amendment contained herein shall be effective upon publication in the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (60 Stat. 922, 65 Stat. 318, 7 U. S. C. 1100), and the Administrative Procedure Act, §§ 815.3 and 815.6 of Sugar Regulation 815 are hereby amended as follows:

1. The following paragraph (c) is added to § 815.3:

§ 815.3 *Effect of marketings on quotas and allotments.* * * *

(c) A marketing of mainland sugar for which it is established to the satisfaction of the Secretary by sales and shipping documents of the processor and buyers, available pursuant to § 815.7, or otherwise, that such mainland sugar was removed from the continental United

States for consumption outside thereof, shall not be effective for the purpose of filling a quota or allotments thereof.

2. Paragraph (c) (1) of § 815.6 is amended to read as follows:

§ 815.6 *Provisions of bond.* * * *
(c) *Conditions.* * * *

(1) In the case of any application approved by the Secretary to market to the principal named in the bond a quantity of mainland sugar for refining and storage, the principal shall hold and store, until release thereof is authorized by the Secretary, all of such quantity of mainland sugar, or an equivalent quantity of sugar or liquid sugar acquired within a quota or allotment. Such sugar or liquid sugar must be held and stored at the refinery where the mainland sugar was received or at other storage facilities where the quantity of sugar or liquid sugar refined or to be refined at such refinery is placed in storage after receipt of the mainland sugar under the bond.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153)

Done at Washington, D. C., this 28th day of November 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORRIS,
Acting Secretary of Agriculture.

[F. R. Doc. 55-9642; Filed, Nov. 30, 1955; 8:52 a. m.]

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

PART 903—MILK IN ST. LOUIS, MO. MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

§ 903.0 *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 of 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 certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, 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 the terms and conditions thereof, will tend

to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to Section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies and demand for milk in the said 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 necessary, in the public interest, to make this order amending the order, as amended, effective not later than December 1, 1955, so as to reflect current marketing conditions. Any delay beyond December 1, 1955, in the effective date of this order amending the order, as amended, will impair the orderly marketing of milk in the St. Louis, Missouri, marketing area. The changes effected by this order amending the order, as amended, do not require of persons affected, substantial or extensive preparation prior to the effective date.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective December 1, 1955, and that it would be impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order 30 days after its publication in the FEDERAL REGISTER (Sec. 4 (c) Administrative Procedure Act, 5 U. S. C. 1001 et seq.)

(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 amending the 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 St. Louis, Missouri, 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 amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area, and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the representative period (October 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 St. Louis, Missouri, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended and the aforesaid order, as amended, is hereby further amended as follows:

1. Add to § 903.51 (a) (2) the following proviso: "Provided, That for the months of April 1956 through June 1956, such rate shall be 4 cents, and for all other months from the effective date hereof through August 1956 such rate shall be 5 cents."

2. Amend § 903.51 (a) (3) to read as follows:

(3) For each month calculate a utilization percentage by (i) dividing the net pounds of Class I milk disposed of from all pool plants (except non-Grade A milk disposed of outside the marketing area and allocated to other source milk) plus the Class I milk disposed of in the marketing area from nonpool plants, all for the 12-month period ending with the beginning of the preceding month, into the total pounds of producer milk during such 12-month period, (ii) multiplying by 100, (iii) adding or subtracting, respectively, any amount by which such result is greater or less than a comparable 12-month utilization percentage as computed for the third month preceding, and (iv) rounding the resultant figure to the nearest whole percent.

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

Issued at Washington, D. C., this 29th day of November 1955, to be effective on and after the 1st day of December 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

[F. R. Doc. 55-9661; Filed, Nov. 30, 1955; 8:53 a. m.]

[Docket No. AO-247-RO-1]

PART 916—MILK IN UPSTATE MICHIGAN
MARKETING AREA

CORRECTION TO THE ORDER

In F. R. Doc. 55-8413 which appeared in the issue for Saturday October 15, 1955, make the following change on page 7772:

In § 916.70 (b) (1) change the phrase "on or before the 16th day of each month" to read "on or before the 15th day of each month"

Issued at Washington, D. C., this 25th day of November 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

[F. R. Doc. 55-9625; Filed, Nov. 30, 1955; 8:49 a. m.]

PART 945—TOMATOES GROWN IN FLORIDA
LIMITATION OF SHIPMENTS

§ 945.301 *Limitation of shipments—*
(a) *Findings.* (1) Notice of rule making

regarding proposed limitation of shipments, to be made effective under Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945, 20 F. R. 7357), regulating the handling of tomatoes grown in the State of Florida, was published in the FEDERAL REGISTER November 4, 1955 (20 F. R. 8295) This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and the data, views, and arguments filed by Herbert S. Young, P. O. Box 645, Boca Raton, Florida, W. H. Wahrendorff, President, Florida Hydroponic Growers' Cooperative Association Inc., P. O. Box 53, Kendall, Florida and J. R. Hime, President, Vita King Farms, Hypoluxo, Florida, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) 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 in that the handling of tomatoes grown in the production area will have begun by the effective date of this section, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the handling of tomatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted under the circumstances, for such preparation, and (v) notice has been given of the proposed limitation of shipments by publication thereof in the FEDERAL REGISTER of November 4, 1955 (20 F. R. 8295)

(b) *Order* (1) During the period from December 5, 1955, to May 31, 1956, both dates inclusive, and except as otherwise provided in this section, no person shall handle tomatoes of any variety grown in the production area unless such tomatoes meet the requirements of the U. S. No. 2 or better grade.

(2) Pursuant to § 945.53 each person may handle not in excess of 300 pounds of tomatoes per day without regard to the requirements of this part.

(3) The requirements of subparagraph (1) of this paragraph shall not be applicable to shipments of tomatoes (i) to registered handlers within the production area, (ii) to all State-operated auction markets and to the Sumter County Farmers Market, Webster, Flor-

ida, (iii) to canning plants, or (iv) for relief or charity.

(4) Each handler making shipments of tomatoes to canning plants or for relief or charity shall file an application pursuant to § 945.56 with the committee for a Certificate of Privilege for such shipments. Further, each handler who ships tomatoes for relief or charity shall, pursuant to § 945.80, furnish a record of such shipments to the committee. In addition, each application for a Certificate of Privilege to ship tomatoes for relief or charity or to canning plants shall be accompanied by the respective consignee's certification that the tomatoes to be shipped to him will be used only for canning or for relief or charity, as the case may be.

(5) No person shall handle any tomatoes for which inspection is required unless an appropriate inspection certificate had been issued with respect thereto and the certificate is valid at the time of handling. For purposes of operation under this part, each inspection certificate is hereby determined, pursuant to paragraph (c) of § 945.60, to be valid for a period not to exceed 72 hours following completion of inspection as shown on the applicable certificate.

(6) "U. S. No. 2 Grade," as used in this section, shall have the same meaning assigned this term in the United States Standards for Fresh Tomatoes (§§ 51.1855 to 51.1876 of this title; 18 F. R. 7142) including the tolerances set forth therein. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 125 and Order No. 45 (7 CFR Part 945; 20 F. R. 7357)

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

Dated: November 28, 1955.

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

[F. R. Doc. 55-9640; Filed, Nov. 30, 1955; 8:52 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter D—Exportation and Importation of Animals and Animal Products

[B. A. I. Order 378, Amdt. 3]

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION INSPECTION AND CERTIFICATION

Pursuant to the provisions of sections 4 and 5 of the Act of May 29, 1884, as amended (23 Stat. 32, as amended; 21 U. S. C. 112, 113) section 10 of the Act of August 30, 1890 (26 Stat. 417; 21 U. S. C. 105) section 1 of the Act of February 2, 1903, as amended (32 Stat. 791, as amended; 21 U. S. C. 112, 113, 120, 121), the Act of March 4, 1907 (34 Stat. 1263; 21 U. S. C. 80, 81, 82, 86) and the Act of July 24, 1919 (41 Stat. 241, 21 U. S. C. 96) Part 91 of Title 9 of the Code of

Federal Regulations, governing the inspection and handling of livestock for exportation, is hereby amended by changing the last sentence of paragraph (a) of § 91.4 to read as follows: "Certificates accompanying animals to the port of export shall show proper identification of the animals in the shipment with respect to breed, sex, and age and, when applicable, shall also show registration name, registration number, tattoo markings, tag number, or other natural or acquired markings, and shall be endorsed by the veterinarian in charge of Animal Disease Eradication Branch field activities of the Department in the State of origin of the animals, or by another Department veterinarian so authorized by the Chief of Branch."

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment clarifies the manner of identifying certain animals on certificates issued in connection with export shipments of such animals and will not adversely affect the rights or obligations of any persons subject to the regulations. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are unnecessary, impracticable, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 4, 5, 23 Stat. 32, as amended, sec. 10, 26 Stat. 417, sec. 1, 26 Stat. 833, as amended; 21 U. S. C. 105, 112, 113, 120, 46 U. S. C. 400a. Interprets or applies: 34 Stat. 1263, 41 Stat. 241, sec. 1, 32 Stat. 791, as amended; 21 U. S. C. 80-82, 86, 96, 121)

Done at Washington, D. C., this 28th day of November 1955.

[SEAL] M. R. CLARKSON,
Acting Administrator.

[F. R. Doc. 55-9641; Filed, Nov. 30, 1955; 8:52 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 22]

PART 3—AIRPLANE AIRWORTHINESS; NORMAL, UTILITY, AND ACROBATIC CATEGORIES

MISCELLANEOUS AMENDMENTS

Section 3.345-3 of this supplement makes available to the general aviation public minimum standards concerning pulleys for control systems.

Section 3.10-1 is no longer necessary as the change to § 3.241 (effective August 25, 1955) requires dynamic loading to be considered in evaluating the design loads under the ground load conditions.

1. A new § 3.345-3 is added as follows:

§ 3.345-3 *Approval of pulleys for control systems (CAA policies which apply to § 3.345)* The Administrator does not issue specific approval as such for pulleys

for general use on aircraft. Approval is limited to its use as a part of a specific airplane design. Conformance with the Army-Navy-Aeronautical Standards, National Aircraft Standards, or with standards established for pulleys previously approved for use in civil aircraft, or adequate substantiation of the manufacturer's own design through stress analysis or tests are the procedures utilized in complying with the "approved specifications" of CAR 3.345.

2. Section 3.10-1 as published in 19 F. R. 8653, December 17, 1954, is rescinded.

(Sec. 205, 52 Stat. 934; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007; 49 U. S. C. 551)

This supplement shall become effective December 30, 1955.

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

[F. R. Doc. 55-9601; Filed, Nov. 30, 1955; 8:45 a. m.]

[Supp. 18]

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

STRAIGHT-IN APPROACHES USING NON-DIRECTIONAL L/MF RADIO FACILITY

The purpose of this supplement is to clarify § 40.406-2 (c) (3). As presently written this subparagraph could be interpreted to mean that the CAA may establish circling minimums of 500-1 for four engine aircraft with stall speeds in excess of 75 m. p. h. Such an interpretation was not intended. Therefore, to eliminate any possibility of such an interpretation, § 40.406-2 (c) (3) is revised to read that when a non-directional L/MF radio facility is located on an airport, the minimum ceiling will be not less than 500 feet and the visibility minimums will be those specified in § 40.406-2 (c) (3) for circling approaches.

Section 40.406-2 (c) (3) is revised to read as follows:

§ 40.406-2 *Ceiling and visibility minimums—IFR (CAA policies which apply to § 40.406)* * * *

(c) *Landing minimums, regular refueling, or provisional airports.* * * *

(3) *Straight-in approaches using non-directional L/MF radio facility.* When a non-directional L/MF radio facility is located on an airport, the minimum ceiling will not be less than 500 feet and the visibility minimum as specified in subparagraph (1) of this paragraph for circling approaches.

(Sec. 205, 52 Stat. 924, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This supplement shall become effective December 30, 1955.

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

[F. R. Doc. 55-9602; Filed, Nov. 30, 1955; 8:45 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 144]

PART 608—RESTRICTED AREAS

ALTERATION

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

Part 608 is amended as follows:

1. In § 608.18, the Banana River, Florida, area (R-162) amended on September 27, 1955 in 20 F. R. 7189, is further amended by changing the "Designated Altitudes" column to read: "Unlimited excluding that portion overlapping the Orlando Control Area above 13,000 feet MSL."

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

This amendment shall become effective December 23, 1955.

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

[F. R. Doc. 55-9603; Filed, Nov. 30, 1955; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

Subchapter B—Export Regulations

[7th Gen. Rev. of Export Regs., Amdt. 46]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

TIME SCHEDULES FOR SUBMISSION OF APPLICATIONS FOR CERTAIN LICENSES

Section 373.71 *Supplement 1, Time schedules for submission of applications for licenses to export certain Positive List commodities* is amended by deleting the date "Before December 1, 1955" in the column headed "Fourth Quarter, 1955" and substituting in lieu thereof the date "Before December 16, 1955" for the following commodities:

Dept. of Commerce Schedule B No.	Commodity
630050	Aluminum scrap (new and old).
630070	Aluminum remelt ingots.
641300	Copper scrap (new and old) containing 40 percent or more copper.
644000	Copper-base alloy scrap (new and old) containing 40 percent or more copper.

This amendment shall become effective as of December 1, 1955.

(Sec. 3, 63 Stat. 7, as amended; 50 U. S. C. App. 2023. E. O. 9630, 10 F. R. 12245, 3 CFR,

1945 Supp., E. O. 9919, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,

Bureau of Foreign Commerce.

[F. R. Doc. 55-9655; Filed, Nov. 30, 1955; 8:52 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter A—Policies, Procedure, and Orders

[Docket 6383]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

AMERICAN BRAKE SHOE CO.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended—Price discrimination under 2 (a) § 13.715 Charges and price differentials.* Subpart—*Selling below cost: § 13.2180 Selling below cost.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U. S. C. 13) [Cease and desist order, American Brake Shoe Company, New York, N. Y., Docket 6383, November 15, 1955]

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission—charging the second largest bearing manufacturer in the industry, which, combined with the largest, accounted for more than 90 percent of that business, with violation of section 2 (a) of the Clayton Act through selling railroad car journal bearings at different prices in different trade areas from 1950 to 1954, and selling such bearings to a favored customer in the southeastern trade area (including the States of Virginia, North Carolina, Georgia, and Florida) at a lower price than that charged other customers in the same area, which was below the cost of manufacture and sale during much of the years 1953 and 1954—and an agreement between the parties providing for the entry of a consent order in accordance with § 3.25 of the Commission's rules of practice.

On this basis, the hearing examiner made his initial decision and order to cease and desist which, by the Commissioner's order of November 15, 1955, became, pursuant to § 3.21 of the rules of practice, the "Decision of the Commission"

Said "Decision of the Commission and Order to File Report of Compliance" is as follows:

Whereas, the hearing examiner on October 6, 1955, filed his initial decision in this matter, which initial decision was based upon an agreement for a consent order executed on September 13, 1955, by all parties; and

Whereas, upon its review of said initial decision the Commission has noted that the order to cease and desist contained therein, through inadvertent omission of a definition of the term "trade area," varies from the order to cease and desist agreed upon by the parties; and

In order to correct this obviously clerical omission and to conform the order in the initial decision with the form of

order in the "Agreement Containing Consent Order to Cease and Desist" executed by the parties hereto:

It is ordered, That the order to cease and desist contained in said initial decision be modified so that the said order shall read in full as follows:

It is ordered, That respondent, American Brake Shoe Company, a corporation, and its officers, representatives, agents and employees, directly or indirectly, through the National Bearing Division or any other division, or through any corporate or other device, in or in connection with the sale of railroad car journal bearings in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from discriminating, directly or indirectly, in the price of said product by

Selling railroad car journal bearings of like grade and quality to a purchaser in any trade area at prices different from those charged any other purchaser in the same trade area, whether the sale is effected through respondent's plant which customarily supplies such area or through any of its other plants, where, in the sale of said bearings to any purchaser charged a lower price, respondent is in competition with any other seller.

The term "trade area" as used herein means the geographical area customarily supplied with railroad car journal bearings by each of respondent's several manufacturing plants.

As so modified, the initial decision of the hearing examiner shall, on the 15th day of November 1955, become the decision of the Commission; and, accordingly

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

Issued: November 15, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-9632; Filed, Nov. 30, 1955; 8:50 a. m.]

[Docket 6408]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

BERJON CO. ET AL.

Subpart—*Advertising falsely or misleadingly: § 13.30 Composition of goods; § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, The Berjon Company et al., Memphis, Tenn., Docket 6408, November 10, 1955]

In the Matter of E. R. Ferguson, Jr., and John R. Pepper Individually and as Copartners Trading as The Berjon Company; and Brick Muller and Associates, a Corporation

This proceeding was heard by William L. Pack, hearing examiner, on the complaint of the Commission—charging respondents with the dissemination of false advertisements in newspapers and

by radio broadcasts concerning their "Pep-Ti-Kon" vitamin and mineral preparation—and an agreement between the parties providing for the entry of a consent order in accordance with § 3.25 of the Commission's rules of practice.

Upon this basis, the hearing examiner made his initial decision and order to cease and desist, which by the Commission's order of November 10, 1955, became, pursuant to § 3.21 of the rules of practice, the "Decision of the Commission"

The order to cease and desist is as follows:

It is ordered, That respondents E. R. Ferguson, Jr., and John R. Pepper, individually and as copartners trading as The Berjon Company, and respondent Brick Muller and Associates, a corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation Pep-Ti-Kon, whether sold under the same or any other name, or any other preparation or possessing substantially similar properties, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Pep-Ti-Kon will prevent or overcome the discomforts caused by weather conditions or the lassitude experienced by some individuals in spring.
2. Bad teeth or false teeth cause, in all instances or in any percentage of instances contrary to established fact, the consumption of a diet which is deficient in iron.
3. Pep-Ti-Kon supplies essential minerals in the diet other than iron.
4. Boils or pimples are caused by iron or vitamin deficiencies or that Pep-Ti-Kon is an effective treatment for these conditions.
5. Loss of youth is due to iron deficiency.

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

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

Issued: November 10, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-9633; Filed, Nov. 30, 1955;
8:50 a. m.]

[Docket 6364]

PART 13—DIGEST OF CEASE AND DESIST
ORDERS

AMERICAN CREDIT BUREAU, INC., ET AL.

Subpart—*Misrepresenting oneself and goods—Services* § 13.1837 *Cost*;¹

¹New.

§ 13.1838 *Terms and conditions*.¹ Subpart—*Securing information deceptively*:¹ § 13.2168 *Securing information deceptively*.¹

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, The American Credit Bureau, Inc., et al., Chicago, Ill., Docket 6364, November 10, 1955]

In the Matter of The American Credit Bureau, Inc., a Corporation, and Larry Lawrence, Eugene E. Stewart, and D. B. Dolmyer Individually and as Officers and Directors of Said Corporation, and Victor Dolmyer Individually and as Director of Said Corporation

This proceeding was heard by James A. Purcell, hearing examiner, upon the complaint of the Commission—which charged a corporate collection agency and its officers with misrepresenting the cost and terms of services to customers and with making misleading statements in letters in attempts to obtain by subterfuge information concerning debtors—and an agreement between the parties providing for the entry of a consent order in accordance with § 3.25 of the Commission's rules of practice.

Upon this basis, the hearing examiner made his initial decision and order to cease and desist, which by the Commission's order of November 10, 1955, pursuant to § 3.21 of the rules of practice, became the "Decision of the Commission"

The order to cease and desist is as follows:

It is ordered, That respondents, The American Credit Bureau, Inc., a corporation, and its officers and directors, and Larry Lawrence, Eugene H. Stewart and D. B. Dolmyer, individually and as officers and directors of said corporation, and Victor Dolmyer, individually and as director of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That no charges will be made for accounts unless they are collected;
2. That personal collection calls will be made on all debtors;
3. That a maximum of 25 percent, or any other percent less than that actually charged, will be retained by respondents from accounts collected;
4. That no charge is made on any specific account unless a collection is made on said account;
5. That accounts will be returned after any specified period of time when there are conditions not clearly disclosed under which accounts will not be returned after said time;
6. That prompt, regular or periodic reports as to the status, or the progress made in the collection, of accounts will be made to creditors unless such reports are in fact rendered at or about the time respondents represent they will be made;
7. That remittances will be made within any specified period of time un-

less they are in fact made within the time specified.

It is further ordered, That The American Credit Bureau, Inc., a corporation, and its officers and directors, and Larry Lawrence, Eugene H. Stewart and D. B. Dolmyer, individually and as officers and directors of said corporation, and Victor Dolmyer, individually and as director of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the collection of, or attempts to collect, accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using any printed forms or written matter seeking information concerning delinquent debtors, which represents, directly or by implication, that the purpose for which the information is requested is other than that of obtaining information concerning delinquent debtors.

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

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

Issued: November 10, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-9634; Filed, Nov. 30, 1955;
8:51 a. m.]

Subchapter B—Trade Practice Conference Rules
[File No. 21-461]

PART 21—CORSET, BRASSIERE, AND ALLIED
PRODUCTS INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the Group I trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of December 1, 1955.

Statement by the Commission. Trade practice rules for the Corset, Brassiere, and Allied Products Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which these rules are established is composed of persons, firms, corporations, and organizations engaged in the manufacture, importation, or marketing at any level of distribution, of corsets, brassieres, girdles, combinations, garter belts, bust pads, and related foundation garments.

The rules are directed to the prevention and elimination of various practices deemed to be violative of laws adminis-

tered by the Commission. They are to be applied to such end and to the exclusion of any acts or practices which suppress competition or otherwise restrain trade.

Proceedings under which the rules have been established were instituted pursuant to a joint application by The Corset and Brassiere Association of America, Inc., and Associated Corset and Brassiere Manufacturers, Inc. A general industry conference was held under Commission auspices in New York City on April 22, 1954, at which proposals for rules were submitted for consideration of the Commission. Thereafter, proposed rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held in New York City on June 23, 1955, and all matters there presented, or otherwise received in the proceeding, were duly considered by the Commission.

Thereafter, and upon full consideration of the entire matter final action was taken by the Commission whereby it approved the rules as hereinafter set forth.

The rules as approved become operative thirty (30) days after the date of their promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

Sec.

- 21.0 Definitions.
- 21.1 Prohibited discrimination.
- 21.2 Misrepresentation in general.
- 21.3 Misrepresentation as to weight-reducing properties.
- 21.4 Identification and disclosure of fiber or material content.
- 21.5 Deception as to foreign origin.
- 21.6 Defamation of competitors or false disparagement of their products.
- 21.7 Commercial bribery.
- 21.8 Inducing breach of contract.
- 21.9 Prohibited forms of trade restraints (unlawful price fixing, etc.).
- 21.10 Exclusive deals.
- 21.11 Guarantees, warranties, etc.
- 21.12 Push money.
- 21.13 Discriminatory returns.
- 21.14 Consignment distribution.
- 21.15 Seconds, irregulars, or rejects.
- 21.16 Fictitious prices, price lists, etc.
- 21.17 Misuse of terms "close-outs," "discontinued lines," "special bargains," etc.
- 21.18 Aiding or abetting use of unfair trade practices:

AUTHORITY: §§ 21.0 to 21.18 issued under sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

§ 21.0 *Definitions:* As used in the rules in this part, the terms "industry

member" and "industry products" shall have the following meanings, respectively:

(a) *Industry member* Any person, firm, corporation, or organization engaged in the manufacture, importation, or marketing at any level of distribution, of industry products. Industry members who purchase industry products for resale are sometimes referred to in these rules as customers or competing customers.

(b) *Industry products.* Corsets, brassieres, girdles, combinations, garter belts, bust pads, and related foundation garments.

General statement: The unfair trade practices embraced in the rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

GROUP I

§ 21.1 *Prohibited discrimination*¹—

(a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential (whether in the guise of samples, or so-called free deals, or otherwise) where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for dif-

¹ As used in this section, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

ferences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE 1. Industry members giving advertising allowances to competing customers must exercise precaution and diligence in seeing that all of such allowances are used in accordance with the terms of their offers.

NOTE 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry

engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Exemptions.* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

NOTE: In complaint proceedings charging discrimination in price or services or facilities furnished, and upon proof having been made of such discrimination and resulting competitive injury, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged; and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing contained in this section shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor. See section 2 (b), Clayton Act. [Rule 11]

§ 21.2 *Misrepresentation in general.* It is an unfair trade practice to use, or cause or promote the use of, any false, untrue, or deceptive statement, representation, guarantee, warranty, testimonial, or endorsement, by way of advertising (through newspapers, magazines, circulars, booklets, or by radio, television, or any other medium), oral representation or otherwise, which has the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public with respect to the efficacy, curative or healthful properties, grade, quality, substance, weight, durability, serviceability, character, or manufacture of any product of the industry, or concerning the purported approval or endorsement of such product by State, Federal, medical, or other authority. [Rule 2]

§ 21.3 *Misrepresentation as to weight-reducing properties.* It is an unfair trade practice, in connection with the distribution, sale, or offering for sale of an industry product, to use, or cause or promote the use of, any statement, directly or indirectly, oral or otherwise, which represents or implies that an industry product has weight-reducing properties, when such is not the fact. [Rule 3]

§ 21.4 *Identification and disclosure of fiber or material content.* In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to misrepresent the fiber or material content of any such product, or fail to disclose the fiber content of products containing rayon or acetate, silk, or linen, in accordance with the requirements of trade practice rules heretofore promulgated by the Commission for the Rayon and Acetate Textile Industry, Silk Industry, and Linen Industry. *Provided, however*—

(a) That industry products containing both nonelastic fabric and elastic material² shall be identified as to fiber content solely on the basis of the fiber content of the nonelastic fabric, provided the nonelastic fabric constitutes at least 75 percent of the surface area of the product, in which event the elastic material shall be identified as elastic material;

(b) That the rubber content of industry products shall not be taken into account in identifying the fiber content of industry products;

(c) That the fiber content of industry products consisting entirely of elastic material, as defined in part (a) of footnote 2 to paragraph (a) of this section, and containing rayon, acetate, silk, or linen, with or without other fibers, shall be identified on the basis of the nonrubber thread and the covering, if any, of the rubber thread contained in the product: *Provided, however,* That the fiber content of the rubber thread covering, if any, shall be set forth in conjunction with a legend reading, "With ----- covered rubber thread" (the blank being filled in with the fiber content of the rubber thread covering).

(d) That the fiber content of industry products consisting entirely of elastic material, as defined in part (b) of footnote 2 to paragraph (a) of this section, shall be identified on the basis of the fiber content of the rubber thread covering;

(e) That in all cases where this section requires disclosure of the fiber content of the covering of rubber thread in elastic material, if the rubber thread is covered by more than one layer, each having a different fiber content, it shall be necessary only to disclose the fiber content of the outer or surface layer of such rubber thread covering: *Provided, however,* That the inner layer of such covering does not adversely affect the washability, drying time, and care and treatment, of the product, nor reduce or impair its use and general wearing qualities;

(f) That it shall not be necessary, in identifying the fiber content of industry products, to take into account the fiber content of any linings, paddings, trimmings, facings, casings, strippings, garter clasps, zippers, or hook and eye tapes, except those concerning which express or implied representations of fiber con-

²Elastic material means either (a) material composed of covered or uncovered rubber thread, woven or knitted with thread which does not contain rubber, or (b) material composed entirely of covered rubber thread.

tent are customarily made: *Provided,* That if any of the foregoing items purport to contain, or in any manner is represented as containing, rayon or acetate, silk, or linen, the provisions of the trade practice rules applicable thereto shall be complied with and the information required with respect to fiber content thereof shall be separately set forth and segregated. [Rule 4]

§ 21.5 *Deception as to foreign origin.* (a) It is an unfair trade practice falsely to represent, directly or by implication, through any means or device, the origin of any industry product or component part.

(b) It is also an unfair trade practice to fail to disclose, adequately and conspicuously, the foreign origin of any industry product or component thereof, where the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers. [Rule 5]

§ 21.6 *Defamation of competitors or false disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of the goods of competitors, their credit terms, values, policies, services, the nature or form of the business conducted, or in any other material respect, is an unfair trade practice. [Rule 6]

§ 21.7 *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 7]

§ 21.8 *Inducing breach of contract.* (a) Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers, or interfering with or obstructing the performance of any such contractual duties or services, under any circumstance having the capacity and tendency or effect of substantially injuring or lessening present or potential competition, is an unfair trade practice.

(b) Nothing in this section is intended to imply that it is improper for any industry member to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more

industry members not to solicit business from the customers of either of them, or from customers of any other industry member. [Rule 8]

§ 21.9 *Prohibited forms of trade restraints (unlawful price, price fixing, etc.)*³ It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 9]

§ 21.10 *Exclusive deals.* It is an unfair trade practice for any member of the industry to contract to sell or sell any industry product, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 10]

§ 21.11 *Guarantees, etc.* (a) It is an unfair trade practice to use any guarantee respecting an industry product which does not make reasonable disclosure of the conditions or limitations of such guarantee, or which contains statements, representations, or assertions which have the capacity and tendency or effect of misleading or deceiving in any respect, or which are of such form, text, or character as to represent or imply that the guarantee is broader than is in fact true.

(b) It is an unfair trade practice for the guarantor to fail to observe scrupulously his obligation under the guarantee by him used or caused to be used.

(c) This section shall be applicable also to warranties or any writing purported to be a guarantee or warranty. [Rule 11]

§ 21.12 *Push money.* It is an unfair trade practice for any industry member to pay or contract to pay anything of value to a salesperson employed by a customer of the industry member as compensation for, or as an inducement to obtain, special or greater effort or service on the part of the salesperson in promoting the resale of products supplied by the industry member to the customer.

(a) When the agreement or understanding under which the payment or payments are made or are to be made is without the knowledge and consent of the salesperson's employer; or

(b) When the terms and conditions of the agreement or understanding are such that any benefit to the salesperson or customer is dependent on lottery or chance; or

(c) When any provision of the agreement or understanding requires or contemplates practices or a course of conduct unduly and intentionally hampering sales of products of competitors of an industry member; or

(d) When, because of the terms and conditions of the agreement or understanding, including its duration, or the attendant circumstances, the effect may be to substantially lessen competition or tend to create a monopoly; or

(e) When similar payments are not accorded to salespersons of competing customers on proportionally equal terms in compliance with section 2 (d) and (e) of the Clayton Act.

NOTE: Payments made by an industry member to a salesperson or a customer under any agreement or understanding that all or any part of such payments is to be transferred by the salesperson to the customer, or is to result in a corresponding decrease in the salesperson's salary, are not to be considered within the purview of this section, but are to be considered as subject to the requirements and provisions of section 2 (a) of the Clayton Act.

[Rule 12]

§ 21.13 *Discriminatory returns.* It is an unfair trade practice for any member of the industry to discriminate in favor of one customer-purchaser against another customer-purchaser of industry products, bought from such member of the industry for resale, by contracting to furnish, or furnishing in connection therewith, upon terms not accorded to all customer-purchasers on proportionally equal terms, the service or facility whereby such favored customer is accorded the privilege of returning industry products so purchased and receiving therefor credit or refund of purchase price: *Provided, however* That nothing in the rules in this part shall prohibit or be used to prevent the return of merchandise by purchaser for credit or refund of purchase price, when and because such merchandise has not been properly labeled by the seller in accordance with these rules or has been otherwise falsely or deceptively labeled or

represented, or when and because such merchandise is defective in material, workmanship, or in any other respect is contrary to warranty or purchase contract: *And provided, further,* That nothing in this section shall prohibit a purchaser from exchanging the current season's merchandise for different sizes of the same style number in order to balance purchaser's stock. (Nothing in this section is intended to modify or affect any of the requirements of § 21.1, entitled "Prohibited Discrimination.") [Rule 13]

§ 21.14 *Consignment distribution.* (a) It is an unfair trade practice for any member of the industry to employ the practice of shipping goods on consignment, pretended consignment, or for delivery "on memorandum"

(1) When such practice is so used, or the terms and conditions thereof so varied or arranged, as to effectuate a discrimination contrary to the provisions of § 21.1, or

(2) When such consignment, pretended consignment, or delivery "on memorandum," is used for the purpose and with the effect of artificially closing trade outlets and unduly restricting competitors' use of said outlets in getting their products to purchasers or consumers through regular channels of distribution, and thereby injuring, destroying, or preventing competition, tending to create a monopoly or unreasonably restraining trade.

(b) Nothing in this section shall be construed as restricting or preventing consignment shipping, or marketing "on memorandum," when carried out in good faith and without illegal discrimination, suppression of competition, or undue interference with competitors' use of the usual channels of distribution. [Rule 14]

§ 21.15 *Seconds, irregulars, or rejects.* (a) Industry products which are "seconds," "irregulars," or "rejects," or which are represented as being "seconds," "irregulars," or "rejects," shall be so marked, clearly and conspicuously, to the end that confusion, misunderstanding, or deception of the purchasing or consuming public may be avoided and prevented. "Seconds" may be marked or referred to by the manufacturer as "seconds," "irregulars," or "rejects" provided that such marking or reference clearly indicates that the product is not of first quality. Such disclosure of "seconds," "irregulars," or "rejects" shall also be made on invoices as well as on the garment itself, and on the immediate package, if any, in which it is sold to the consumer, and on display cards, advertisements, or other representations under which such "seconds," "irregulars," or "rejects" are offered for sale or advertised to the purchasing or consuming public.

(b) It is an unfair trade practice deceptively to conceal the fact that said industry products are "seconds," "irreg-

³The inhibitions of this section are subject to Public Law 542, approved July 14, 1952—66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

⁴It is the consensus of the industry that where a purchaser is entitled to return goods for any of the reasons hereinabove set forth, such return shall be made within fifteen (15) days after receipt of the goods.

ulars," or "rejects," or to fail or refuse to make such disclosure to the end specified in paragraph (a) of this section. [Rule 15]

§ 21.16 *Fictitious prices, price lists, etc.* (a) The publishing or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, or reports as to production or sales, with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, or the advertising, sale, or offering for sale of industry products at prices purporting to be reduced from what are in fact fictitious prices, or at purported reductions in prices when such purported reductions are in fact fictitious or are otherwise misleading or deceptive, is an unfair trade practice.

(b) It is an unfair trade practice, in connection with the sale, offering for sale, or distribution of industry products at prices that are in any manner represented as reduced from or lower than current, former, or regular prices, to use, or to furnish or supply for such use, price tags, labels, or advertising material that set forth a false, fictitious, or exaggerated current, former, or regular price, or a false, fictitious, or exaggerated manufacturer's or distributor's suggested retail selling price; or that contain what purport to be bona fide price quotations which are in fact higher than the prices at which such products are regularly and customarily sold in bona fide retail transactions. It is likewise an unfair trade practice to distribute, sell, or offer for sale to the consuming public in such manner products bearing such false, fictitious, or exaggerated price tags or labels. [Rule 16]

§ 21.17 *Misuse of terms "close-outs," "discontinued lines," "special bargains," etc.* It is an unfair trade practice to offer for sale, sell, advertise, describe, or otherwise represent, industry products as "Close-outs," "Discontinued Lines," or "Special Bargains," by use of such terms or by words or representations of similar import, when such is not true in fact; or to so offer for sale, sell, advertise, describe, or otherwise represent industry products where the capacity and tendency or effect thereof is to lead the purchasing or consuming public to believe such products are being offered for sale or sold at greatly reduced prices, or at so-called "bargain" prices, when such is not the fact. [Rule 17]

§ 21.18 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly, or indirectly, to use or promote the use of any unfair trade practice specified in these rules. [Rule 18]

Promulgated by the Federal Trade Commission December 1, 1955.

Issued: November 28, 1955.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-9639; Filed, Nov. 30, 1955; 8:52 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 545—HOMEWORERS IN THE NEEDLE- WORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

CLARIFICATION

The amendment of Part 545, as contained in the November 9, 1955 issue of the FEDERAL REGISTER (20 F. R. 8372), to become effective December 9, 1955, amended §§ 545.1-545.14 but does not affect § 545.100 of this title which remains in full force and effect.

Signed at Washington, D. C., this 28th day of November 1955.

NEWELL BROWN,
Administrator,

Wage and Hour Division.

[F. R. Doc. 55-9636; Filed, Nov. 30, 1955; 8:51 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS JAMAICA BAY, LONG ISLAND, NEW YORK

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 207.37 is hereby prescribed establishing and governing the use and navigation of a seaplane restricted area in Jamaica Bay, Long Island, New York, as follows:

§ 207.37 *Jamaica Bay, Long Island, New York; seaplane restricted area—*
(a) *The restricted area.* An area in Jamaica Bay bounded as follows: Beginning at Island Channel Range Front Light; thence 157° 00' true, 1,125 yards to Runway Channel Lighted Buoy A, thence 113° 00' true, 3,000 yards through Big Fishkill Channel Lighted Buoy 3, and Runway Channel Lighted Buoy D to Runway Channel Lighted Buoy E; thence 194° 00' true, 250 yards to a point on a line ranging with Church Spire, Rockaway Beach; thence 238° 00' true, 3,275 yards to a point on a line ranging with the Cupola, Rockaway Point Coast Guard Station No. 92; thence 326° 00' true, 465 yards to a point on a line ranging between the West Tower of the Twin Towers, Jacob Riis Park and the westerly side of seaplane runway at south side of Naval Air Station, Floyd Bennett Field; thence 30° 00' true, 875 yards to Fourteen Foot Spot Lighted Buoy on a line ranging with the Cupola, Rockaway Point Coast Guard Station No. 92; thence 344° 00' true, 3,000 yards through Island Channel Lighted Buoy 7 to Island Channel Can Buoy 7, thence 60° 00' true, 325 yards to the point of beginning, excluding therefrom Nova Scotia Bar defined by lines connecting the following buoys: Nova Scotia Bar Lighted Buoy, Island Channel Lighted Buoy 6, Runway Channel Lighted Buoy B, Runway Channel Lighted Buoy C, and Beach Channel Lighted Buoy 1A.

(b) *The regulations.* (1) Vessels shall not anchor or moor within the restricted area.

(2) All vessels traversing the area shall pass directly through without unnecessary delay, and shall give seaplanes the right-of-way at all times.

(3) The regulations in this section shall be enforced by the Commander, Third Coast Guard District, and such agencies as he may designate.

[Regs., November 7, 1955, 800.2121 (Jamaica Bay, N. Y.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

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

[F. R. Doc. 55-9600; Filed, Nov. 30, 1955; 8:45 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53958]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

WAIVER OF COASTWISE TOWING LAWS

NOVEMBER 23, 1955.

Upon the written recommendation of the Secretary of the Army, acting under the delegation of August 18, 1955 (20 F. R. 6361), of certain powers of the Secretary of Defense with respect to matters concerning the St. Lawrence Seaway Power Project or the St. Lawrence Seaway Navigation Project, and by virtue of the authority vested in me by the Act of December 27, 1950 (64 Stat. 1120) and Revised Treasury Department Order No. 165 (T. D. 53654), I hereby waive compliance with section 316, title 46, United States Code, to the extent necessary to permit the Canadian tug "Newfie Queen" to tow an American barge loaded with construction equipment for work on the Galop South Channel in the St. Lawrence Seaway on a single movement from Lyons, New York, to Oswego, New York; the Canadian tug "Salvage Prince" to tow that barge on a single movement from Oswego, New York, to Clayton, New York; and the Canadian tug "Newfie Queen" to conclude the operation by towing that barge on a single movement from Clayton, New York, to Ogdensburg, New York, the towing operation to commence on or about this date.

(Sec. 1, 64 Stat. 1120; 46 U. S. C. prec. sec. 1)

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 55-9638; Filed, Nov. 30, 1955; 8:51 a. m.]

[T. D. 53960]

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

ENTRY OF MERCHANDISE ARRIVING UNDER IMMEDIATE TRANSPORTATION ENTRIES AND SHIPMENTS OF BAGGAGE IN BOND

In view of the amendment of section 484 (f) Tariff Act of 1930, by section 3 (b) of the Customs Simplification Act of

1953 (67 Stat. 509) the Customs Regulations are hereby amended as follows:

1. The last sentence of § 18.12 (e) is deleted.
2. The first sentence of § 18.13 (a) is amended to read: "Baggage may be forwarded in bond to another port of entry (see also § 18.11 (c)) at the request of the passenger, the transportation company, or the agent of either, under cord and seal and baggage manifest described in paragraph (c) of this section without examination or assessment of duty at the port of first arrival."

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: November 22, 1955.

DAVID W KENDALL,
Acting Secretary of the Treasury.
[F. R. Doc. 55-9637; Filed, Nov. 30, 1955;
8:51 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 221—TIMBER

WHERE TIMBER MAY BE CUT

Part 221 is hereby amended by the revision of § 221.5 to read as follows:

§ 221.5 *Where timber may be cut.*

(a) The cutting of timber may be authorized as prescribed by regulation on any national forest land whether reserved from the public domain, purchased, acquired by exchange, donated, or transferred from other Federal agencies, or on land administered by the Forest Service under an authorization for the application to it of the regulations for the occupancy and use of the national forests, except for:

(1) Timber reserved by a grantor of land during the life of such reservation.

(2) Timber reserved from cutting under other regulations.

(3) Timber on valid unpatented mining claims located prior to July 23, 1955, unless the claimant has executed a waiver pursuant to section 6 of the act of July 23, 1955 (69 Stat. 367) or unless, pursuant to a proceeding under section 5 of that act; the claimant has failed to file a verified statement or has failed to establish the validity and effectiveness of his asserted rights, and timber on valid claims other than mining claims, when any of such claims were located or entered prior to:

(i) The first publication of the notice of sale.

(ii) The execution of the sale contract or approval of permit for timber where disposal is without publication of notice.

(iii) The recommendation by the Department of Agriculture to the Department of the Interior for an exchange in which timber on the area is to be given to the proponent.

(iv) The first publication of a notice of hearing under the provisions of § 221.4 on a cooperative or Federal sustained yield unit including the area.

(b) The cutting of timber on mining claims shall be conducted in such manner as not to endanger or materially interfere with prospecting, mining or processing operations.

(c) No person shall prevent or interfere with the cutting and removal of timber under any sale, permit, grant, contract, or establishment of a sustained yield unit because of a location or entry made subsequent to authorized actions for timber disposal.

(d) Timber on an unpatented claim to which the United States does not otherwise have disposal rights may be disposed of with the written consent of the claimant, or, in emergencies arising from insect infestations, disease infections, or rapid deterioration of timber killed or dying from fire or other causes, without the consent of the claimant.

(e) Timber on an unpatented claim may be cut by the claimant only for the actual development of the claim or for uses consistent with the purposes for which the claim was entered. Any severance or removal of timber, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management as applied in the severance and removal of timber from the surrounding national forest lands.

(f) Timber on unapproved selections or other lands of unsettled status may be sold, or otherwise disposed of with prior approval of the Regional Forester, in emergencies to prevent loss, under arrangement guaranteeing payment of not less than the stipulated price for the timber cut if title is not perfected adversely to the United States within a specified period, or if claim of title there- adverse to the United States is determined to be invalid.

(g) With prior approval by the Regional Forester, timber on lands under option by the United States or on offered lands included in an approved land exchange agreement may be sold. Before the sale is made, a cooperative agreement must be made with the owner of the land authorizing the Forest Service to conduct the sale and providing for return of stumpage receipts to the owner if title to the land is not accepted by the United States.

(Sec. 1, 30 Stat. 35, as amended, 16 U. S. C. 551. Interprets or applies sec. 4, Pub. Law 167, 84th Cong., 69 Stat. 368)

In testimony whereof, I have hereunto set my hand and caused the official seal

of the Department of Agriculture to be affixed, in the City of Washington, this 28th day of November 1955.

[SEAL] E. L. PETERSON,
Assistant Secretary.

[F. R. Doc. 55-9643; Filed, Nov. 30, 1955;
8:52 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1255]

[Spokane 015025]

WASHINGTON

RESERVING PUBLIC LANDS IN CONNECTION WITH SUNNYSIDE WATERFOWL MANAGEMENT AREA

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, the act of September 2, 1937 (50 Stat. 917; 16 U. S. C. 669-669i) and the act of March 10, 1934, as amended by the act of August 14, 1946 (48 Stat. 401, 60 Stat. 1080; 16 U. S. C. 661-666c), it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Washington are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved under the jurisdiction of the Department of the Interior for use of the Department of Game of the State of Washington in connection with the Sunnyside Waterfowl Management Area, under such conditions as may be prescribed by the Secretary of the Interior:

WILLAMETTE MERIDIAN

T. 8 N., R. 23 E.,
Sec. 2, S $\frac{1}{2}$ SE $\frac{1}{4}$,
Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$,
Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 320 acres.

WESLEY A. D'EWART,
Assistant Secretary of the Interior

NOVEMBER 25, 1955.

[F. R. Doc. 55-9607; Filed, Nov. 30, 1955;
8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

GAIN OR LOSS ON DISPOSITION OF PROPERTY

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set

forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. Prior to 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 sections 1051, 1071, 1081, 1082, 1091, and 7805 of the Internal Revenue Code of 1954 (68A Stat. 310, 311, 312, 315, 319, 917; 26 U. S. C. 1051, 1071, 1081, 1082, 1091, 7805)

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

The following regulations relating to gain or loss on the disposition of property are hereby prescribed under parts IV V VI, and VII. of subchapter O of chapter 1 of the Internal Revenue Code of 1954, and are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954:

- Sec.
- 1.1051 Statutory provisions; property acquired during affiliation.
 - 1.1051-1 Basis of property acquired during affiliation.
 - 1.1052 Statutory provisions; basis established by the Revenue Act of 1932 or 1934 or by the Internal Revenue Code of 1939.
 - 1.1052-1 Basis of property established by Revenue Act of 1932.
 - 1.1052-2 Basis of property established by Revenue Act of 1934.
 - 1.1052-3 Basis of property established by the Internal Revenue Code of 1939.
 - 1.1053 Statutory provisions; basis of property acquired before March 1, 1913.
 - 1.1053-1 Property acquired before March 1, 1913.
 - 1.1054 Statutory provisions; cross references.
 - 1.1071 Statutory provisions; gain from sale or exchange to effectuate policies of Federal Communications Commission.
 - 1.1071-1 Gain from sale or exchange to effectuate policies of Federal Communications Commission.
 - 1.1071-2 Nature and effect of election.
 - 1.1071-3 Reduction of basis of property pursuant to election under section 1071.
 - 1.1071-4 Manner of election.
 - 1.1081 Statutory provisions; exchanges and distributions in obedience to orders of the Securities and Exchange Commission; nonrecognition of gain or loss.
 - 1.1081-1 Terms used.
 - 1.1081-2 Purpose and scope of exception.
 - 1.1081-3 Exchanges of stock or securities solely for stock or securities.
 - 1.1081-4 Exchanges of property for property by corporations.
 - 1.1081-5 Distribution solely of stock or securities.
 - 1.1081-6 Transfers within system group.
 - 1.1081-7 Sale of stock or securities received upon exchange by members of system group.
 - 1.1081-8 Exchanges in which money or other nonexempt property is received.
 - 1.1081-9 Requirements with respect to order of Securities and Exchange Commission.
 - 1.1081-10 Nonapplication of other provisions of the Internal Revenue Code of 1954.
 - 1.1081-11 Records to be kept and information to be filed with returns.
 - 1.1082 Statutory provisions; basis of property acquired in exchanges and distributions made in obedience to orders of the Securities and Exchange Commission.
 - 1.1082-1 Basis for determining gain or loss.

- Sec.
- 1.1082-2 Basis of property acquired upon exchanges under section 1081 (a) or (e).
- 1.1082-3 Reduction of basis of property by reason of gain not recognized under section 1081 (b).
- 1.1082-4 Basis of property acquired by corporation under section 1081 (a), 1081 (b), or 1081 (e) as contribution of capital or surplus, or in consideration for its own stock or securities.
- 1.1082-5 Basis of property acquired by shareholder upon tax-free distribution under section 1081 (c) (1) or (2).
- 1.1082-6 Basis of property acquired under section 1081 (d) in transactions between corporations of the same system group.
- 1.1083 Statutory provisions; exchanges and distributions in obedience to orders of the Securities and Exchange Commission; definitions.
- 1.1083-1 Definitions.
- 1.1091 Statutory provisions; losses from wash sales of stock or securities; basis.
- 1.1091-1 Losses from wash sales of stock or securities.
- 1.1091-2 Basis of stocks or securities acquired in "wash sales"

SPECIAL RULES

§ 1.1051 Statutory provisions; property acquired during affiliation.

Sec. 1051. *Property acquired during affiliation.* In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined in accordance with regulations prescribed by the Secretary or his delegate, without regard to inter-company transactions in respect of which gain or loss was not recognized. For purposes of this section, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return was made by such corporation under chapter 6 of this subtitle (sec. 1501 and following) or under section 141 of the Internal Revenue Code of 1939 or of the Revenue Act of 1938, 1936, 1934, 1932, or 1928 shall be determined in accordance with regulations prescribed under section 1502 or in accordance with regulations prescribed under the appropriate section 141, as the case may be. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return was made by such corporation under chapter 6 of this subtitle or such section 141 shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 1502 or in accordance with regulations prescribed under the appropriate section 141, as the case may be.

§ 1.1051-1 *Basis of property acquired during affiliation.* (a) (1) The basis of property acquired by a corporation during a period of affiliation from a corporation with which it was affiliated shall be the same as it would be in the hands of the corporation from which acquired.

This rule is applicable if the basis of the property is material in determining tax liability for any year, whether a separate return or a consolidated return is made in respect of such year. For the purpose of this section, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928.

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

Example. The X Corporation, the Y Corporation, and the Z Corporation were affiliated for the taxable year 1929. During that year the X Corporation transferred assets to the Y Corporation for \$120,000 cash, and the Y Corporation in turn transferred the assets during the same year to the Z Corporation for \$130,000 cash. The assets were acquired by the X Corporation in 1916 at a cost of \$100,000. The basis of the assets in the hands of the Z Corporation is \$100,000.

(b) The basis of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return was made or was required under the regulations governing the making of consolidated returns, shall be determined in accordance with such regulations. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made or is required under the regulations governing the making of consolidated returns, shall be adjusted in respect of any items relating to such period in accordance with such regulations.

(c) Except as otherwise provided in the regulations promulgated under section 1502, or the regulations under section 141 of the Internal Revenue Code of 1939 or the Revenue Acts of 1938, 1936, 1934, 1932, or 1928, the basis of property after a consolidated return period shall be the same as the basis immediately prior to the close of such period.

§ 1.1052 Statutory provisions; basis established by the Revenue Act of 1932 or 1934 or by the Internal Revenue Code of 1939.

Sec. 1052. *Basis established by the Revenue Act of 1932 or 1934 or by the Internal Revenue Code of 1939—*(a) *Revenue Act of 1932.* If the property was acquired, after February 28, 1913, in any taxable year beginning before January 1, 1934, and the basis thereof, for purposes of the Revenue Act of 1932 was prescribed by section 113 (a) (6), (7), or (9) of such Act (47 Stat. 199), then for purposes of this subtitle the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(b) *Revenue Act of 1934.* If the property was acquired, after February 28, 1913, in any taxable year beginning before January 1, 1936, and the basis thereof, for purposes of the Revenue Act of 1934, was prescribed by section 113 (a) (6), (7), or (8) of such Act (48 Stat. 706), then for purposes of this subtitle the basis shall be the same as the basis therein prescribed in the Revenue Act of 1934.

(c) *Internal Revenue Code of 1939.* If the property was acquired, after February 28,

1913, in a transaction to which the Internal Revenue Code of 1939 applied, and the basis thereof, for purposes of the Internal Revenue Code of 1939, was prescribed by section 113 (a) (6), (7), (8), (13), (15), (18), (19), or (23) of such code, then for purposes of this subtitle the basis shall be the same as the basis therein prescribed in the Internal Revenue Code of 1939.

§ 1.1052-1 *Basis of property established by Revenue Act of 1932.* Section 1052 (a) provides that if property was acquired after February 28, 1913, in any taxable year beginning before January 1, 1934, and the basis of the property, for the purposes of the Revenue Act of 1932, was prescribed by section 113 (a) (6) (7) or (9) of that act, then for purposes of subtitle A the basis shall be the same as the basis prescribed in the Revenue Act of 1932. For the rules applicable in determining the basis of stocks or securities under section 113 (a) (9) of the Revenue Act of 1932 in case of certain distributions after December 31, 1923, and in any taxable year beginning before January 1, 1934, see 26 CFR (1939) 39.113 (a) (12)-1 (Regulations 118)

§ 1.1052-2 *Basis of property established by Revenue Act of 1934.* Section 1052 (b) provides that if property was acquired after February 28, 1913, in any taxable year beginning before January 1, 1936, and the basis of the property for the purposes of the Revenue Act of 1934 was prescribed by section 113 (a) (6) (7), or (8) of that act, then for purposes of subtitle A the basis shall be the same as the basis prescribed in the Revenue Act of 1934. For example, if after December 31, 1920, and in any taxable year beginning before January 1, 1936, property was acquired by a corporation by the issuance of its stock or securities in connection with a transaction which is not described in section 112 (b) (5) of the Internal Revenue Code of 1939 but which is described in section 112 (b) (5) of the Revenue Act of 1934, the basis of the property so acquired shall be the same as it would be in the hands of the transferor, with proper adjustments to the date of the exchange.

§ 1.1052-3 *Basis of property established by the Internal Revenue Code of 1939.* Section 1052 (c) provides that if property was acquired after February 28, 1913, in a transaction to which the Internal Revenue Code of 1939 applied and the basis thereof was prescribed by section 113 (a) (6) (7) (8) (13) (15) (18) (19) or (23) of such code, then for purposes of subtitle A the basis shall be the same as the basis prescribed in the Internal Revenue Code of 1939. In such cases see section 113 (a) of the Internal Revenue Code of 1939 and the regulations thereunder.

§ 1.1053 *Statutory provisions; basis of property acquired before March 1, 1913.*

Sec. 1053. *Property acquired before March 1, 1913.* In the case of property acquired before March 1, 1913, if the basis otherwise determined under this part, adjusted (for the period before March 1, 1913) as provided in section 1016, is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation

as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

§ 1.1053-1 *Property acquired before March 1, 1913—(a) Basis for determining gain.* In the case of property acquired before March 1, 1913, the basis as of March 1, 1913, for determining gain is the cost or other basis, adjusted as provided in section 1016 and other applicable provisions of chapter 1, or its fair market value as of March 1, 1913, whichever is greater.

(b) *Basis for determining loss.* In the case of property acquired before March 1, 1913, the basis as of March 1, 1913, for determining loss is the basis determined in accordance with part II of subchapter O, or other applicable provisions of chapter 1, without reference to the fair market value as of March 1, 1913.

(c) *Example.* The application of paragraphs (a) and (b) of this section may be illustrated by the following example:

Example. (i) On March 1, 1908, a taxpayer purchased for \$100,000, property having a useful life of 50 years. Assuming that there were no capital improvements to the property, the depreciation sustained on the property before March 1, 1913, was \$10,000 (5 years @ \$2,000), so that the original cost adjusted, as of March 1, 1913, for depreciation sustained prior to that date is \$90,000. On that date the property had a fair market value of \$94,500 with a remaining life of 45 years.

(ii) For the purpose of determining gain from the sale or other disposition of the property on March 1, 1954, the basis of the property is the fair market value of \$94,500 as of March 1, 1913, adjusted for depreciation allowed or allowable after February 28, 1913, computed on \$94,500. Thus, the substituted basis, \$94,500, is reduced by the depreciation adjustment from March 1, 1913, to February 28, 1954, in the aggregate of \$86,100 (41 years @ \$2,100), leaving an adjusted basis for determining gain of \$8,400 (\$94,500 less \$86,100).

(iii) For the purpose of determining loss from the sale or other disposition of such property on March 1, 1954, the basis of the property is its cost, adjusted for depreciation sustained before March 1, 1913, computed on cost, and the amount of depreciation allowed or allowable after February 28, 1913, computed on the fair market value of \$94,500 as of March 1, 1913. In this example, the amount of depreciation sustained before March 1, 1913, is \$10,000 and the amount of depreciation determined for the period after February 28, 1913, is \$86,100. Therefore, the aggregate amount of depreciation for which the cost (\$100,000) should be adjusted is \$96,100 (\$10,000 plus \$86,100), and the adjusted basis for determining loss on March 1, 1954, is \$3,900 (\$100,000 less \$96,100).

(d) *Fair market value.* The determination of the fair market value of property on March 1, 1913, is generally a question of fact and shall be established by competent evidence. In determining the fair market value of stock or other securities, due regard shall be given to the fair market value of the corporate assets as of such date, and other pertinent factors. In the case of property traded in on public exchanges, actual sales on or near the basic date afford evidence of value. In general, the fair market value of a block or aggregate of a particular kind of property is not to be determined by a forced-sale price,

or by an estimate of what a whole block or aggregate would bring if placed upon the market at one and the same time. In such a case the value should be determined by ascertaining as the basis the fair market value of each unit of the property. All relevant facts and elements of value as of the basic date should be considered in each case.

§ 1.1054 *Statutory provisions; cross references.*

Sec. 1054. *Cross references.* (1) For non-recognition of gain in connection with the transfer of obsolete vessels to the Maritime Administration under section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U. S. C. 1160).

(2) For recognition of gain or loss in connection with the construction of new vessels, see section 511 of such Act, as amended (46 U. S. C. 1161).

(3) For nonrecognition of gain in connection with vessels exchanged with the Maritime Administration under section 8 of the Merchant Ship Sales Act of 1946, see subsection (a) of that section (50 U. S. C. App. 1741).

CHANGES TO EFFECTUATE F. C. C. POLICY

§ 1.1071 *Statutory provisions; gain from sale or exchange to effectuate policies of Federal Communications Commission.*

Sec. 1071. *Gain from sale or exchange to effectuate policies of F. C. C.—(a) Nonrecognition of gain or loss.* If the sale or exchange of property (including stock in a corporation) is certified by the Federal Communications Commission to be necessary or appropriate to effectuate the policies of the Commission with respect to the ownership and control of radio broadcasting stations, such sale or exchange shall, if the taxpayer so elects, be treated as an involuntary conversion of such property within the meaning of section 1033. For purposes of such section as made applicable by the provisions of this section, stock of a corporation operating a radio broadcasting station, whether or not representing control of such corporation, shall be treated as property similar or related in service or use to the property so converted. The part of the gain, if any, on such sale or exchange to which section 1033 is not applied shall nevertheless not be recognized, if the taxpayer so elects, to the extent that it is applied to reduce the basis for determining gain or loss on sale or exchange of property, of a character subject to the allowance for depreciation under section 167, remaining in the hands of the taxpayer immediately after the sale or exchange, or acquired in the same taxable year. The manner and amount of such reduction shall be determined under regulations prescribed by the Secretary or his delegate. Any election made by the taxpayer under this section shall be made by a statement to that effect in his return for the taxable year in which the sale or exchange takes place, and such election shall be binding for the taxable year and all subsequent taxable years.

(b) *Basis.* For basis of property acquired on a sale or exchange treated as an involuntary conversion under subsection (a), see section 1033 (c).

§ 1.1071-1 *Gain from sale or exchange to effectuate policies of Federal Communications Commission.* (a) At the election of the taxpayer, section 1071 in effect postpones the recognition of gain upon the sale or exchange of property, if the Federal Communications Commission certifies such sale or exchange to be necessary or appropriate to effectuate

ate the policies of the Commission with respect to the ownership and control of radio broadcasting stations. Any taxpayer desiring to obtain the benefits of section 1071 shall file with the Commissioner of Internal Revenue, or the district director of internal revenue for the district in which the income tax return of the taxpayer is required to be filed, a certificate from the Federal Communications Commission clearly identifying the property and showing that the sale or exchange of such property is necessary or appropriate to effectuate the policies of the Commission with respect to the ownership and control of radio broadcasting stations. Such certificate shall be accompanied by a detailed statement showing: The kind of property, the date of acquisition, the cost or other basis of the property, the date of sale or exchange, the name and address of the transferee, and the amount of money and the fair market value of the property other than money received upon such sale or exchange.

(b) Section 1071 applies only in the case of a sale or exchange made necessary by reason of the Federal Communications Commission's policies as to ownership or control of radio facilities. Section 1071 does not apply in the case of a sale or exchange made necessary as a result of other matters, such as the operation of a broadcasting station in a manner determined by the Commission to be not in the public interest or in violation of Federal or State law.

(c) An election to have the benefits of section 1071 shall be made in the manner prescribed in § 1.1071-4.

(d) For purposes of section 1071, the term "radio broadcasting" includes telecasting.

§ 1.1071-2 *Nature and effect of election—(a) Alternative elections.* (1) A taxpayer entitled to the benefits of section 1071 in respect of a sale or exchange of property may elect—

(i) To treat such sale or exchange as an involuntary conversion under the provisions of section 1033; or

(ii) To treat such sale or exchange as an involuntary conversion under the provisions of section 1033, and in addition elect to reduce the basis of property, in accordance with the regulations prescribed in § 1.1071-3, by all or part of the gain that would otherwise be recognized under section 1033; or

(iii) To reduce the basis of property, in accordance with the regulations prescribed in § 1.1071-3, by all or part of the gain realized upon the sale or exchange.

(2) The effect of the provisions of subparagraph (1) of this paragraph is, in general, to grant the taxpayer an election to treat the proceeds of the sale or exchange as the proceeds of an involuntary conversion subject to the provisions of section 1033, and a further election to reduce the basis of certain property owned by the taxpayer by the amount of the gain realized upon the sale or exchange to the extent of that portion of the proceeds which is not treated as the proceeds of an involuntary conversion.

(3) An election under section 1071 for any taxable year shall be irrevocable and shall be binding for such taxable year and all subsequent taxable years.

(b) *Application of section 1033.* (1) If the taxpayer elects, under either paragraph (a) (1) (i) or (ii) of this section, to treat the sale or exchange as an involuntary conversion, the provisions of section 1033, as modified by section 1071, together with the regulations prescribed under such sections, shall be applicable in determining the amount of recognized gain and the basis of property acquired as a result of such sale or exchange. For the purposes of section 1071 and the regulations thereunder, stock of a corporation operating a radio broadcasting station shall be treated as property similar or relates in service or use to the property sold or exchanged. Securities of such a corporation other than stock, or securities of a corporation not operating a radio broadcasting station, do not constitute property similar or related in service or use to the property sold or exchanged. If the taxpayer exercises the election referred to in paragraph (a) (1) (i) of this section, the gain realized upon such sale or exchange shall be recognized to the extent of that part of the money received upon the sale or exchange which is not expended in the manner prescribed in section 1033 and the regulations thereunder. If, however, the taxpayer exercises the elections referred to in paragraph (a) (1) (ii) of this section, the amount of the gain which would be recognized, determined in the same manner as in the case of an election under paragraph (a) (1) (i) of this section, shall not be recognized but shall be applied to reduce the basis of property, remaining in the hands of the taxpayer after such sale or exchange or acquired by him during the same taxable year, which is of a character subject to the allowance for depreciation under section 167. Such reduction of basis shall be made in accordance with and under the conditions prescribed by § 1.1071-3.

(2) In the application of section 1033 to determine the recognized gain and the basis of property acquired as a result of a sale or exchange pursuant to an election under paragraph (a) (1) (i) or (ii) of this section, the entire amount of the proceeds of such sale or exchange shall be taken into account.

(c) *Example.* The application of the provisions of section 1071 may be illustrated by the following example:

Example. A, who makes his return on a calendar year basis, sold in 1954, for \$100,000 cash, stock of X Corporation, which operates a radio broadcasting station. A's basis of this stock was \$75,000. The sale was certified by the Federal Communications Commission as provided in section 1071. Soon after, in the same taxable year, A used \$50,000 of the proceeds of the sale to purchase stock in Y Corporation, which operates a radio broadcasting station. A elected in his 1954 return to treat such sale and purchase as an involuntary conversion subject to the provisions of section 1033. He also elected at the same time to reduce the basis of depreciable property by the amount of the gain that otherwise would be recognized under the provisions of section 1033, as made applicable by section 1071. The sale results in a recognized gain of \$25,000 under section 1033. However,

this gain is not recognized in this case because the taxpayer elected to reduce the basis of other property by the amount of the gain. This may be shown as follows:

(1) Sale price of X Corporation stock	\$100,000
Basis for gain or loss	75,000
Gain realized	25,000
Proceeds of sale	100,000
Amount expended to replace property sold	50,000
Amount not expended in manner prescribed in section 1033	50,000
Realized gain, recognized under section 1033 (not to exceed the unexpended portion of proceeds of sale)	25,000
Less: Amount applied as a reduction of basis of depreciable property	25,000
Recognized gain for tax purposes	None

(2) The basis of Y Corporation stock in the hands of A is \$50,000, computed in accordance with section 1033 and the regulations prescribed under that section. The \$50,000 basis is computed as follows:

Basis of property sold (converted)	\$75,000
Less: Amount of proceeds not expended	25,000
Balance	50,000
Plus amount of gain recognized under section 1033	25,000
Basis of Y Corporation stock in A's hands	75,000

§ 1.1071-3 *Reduction of basis of property pursuant to election under section 1071—(a) General rule.* (1) In addition to the adjustments provided in section 1016 and other applicable provisions of chapter 1, which adjustments are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in the amount of the unrecognized gain under section 1071, if the taxpayer so elects. Such further adjustment shall be made only with respect to the cost or other basis of property which is of a character subject to the allowance for depreciation under section 167, and which remains in the hands of the taxpayer immediately after the sale or exchange in respect of which the election is made, or which is acquired by the taxpayer in the same taxable year in which such sale or exchange occurs. If the property is in the hands of the taxpayer immediately after the sale or exchange, the time of reduction of the basis is the date of the sale or exchange; in all other cases the time of reduction of the basis is the date of acquisition.

(2) The reduction of the basis under section 1071 in the amount of the unrecognized gain shall be made in respect of the cost or other basis, as of the time prescribed, of all units of property of the specified character. The cost or other basis of each unit shall be decreased in an amount equal to such proportion of the unrecognized gain as the adjusted basis (for determining gain, determined without regard to this section) of such unit bears to the aggregate of such ad-

justed bases of all units of such property, but the amount of the decrease shall not be more than the amount of such adjusted basis. If in the application of such rule the adjusted basis of any unit is reduced to zero, the process shall be repeated to reduce the adjusted basis of the remaining units of property by the portion of the unrecognized gain which is not absorbed in the first application of the rule. For such purpose the "adjusted basis" of the remaining units shall be the adjusted basis for determining gain reduced by the amount of the adjustment previously made under this section. The process shall be repeated until the entire amount of the unrecognized gain has been absorbed.

(3) The application of the provisions of this section may be illustrated by the following example:

Example. Using the facts given in the example set forth in § 1.1071-2 (c), except that the taxpayer elects to reduce the basis of depreciable property in accordance with paragraph (a) (1) (iii) of § 1.1071-2, the computation may be illustrated as follows:

Sale price of X Corporation stock	\$100,000
Basis for gain or loss	75,000
Realized gain (recognized except for the election under § 1.1071-1)	25,000
Adjusted basis of other depreciable property in hands of A immediately after sale:	
Building	80,000
Transmitter	16,000
Fixtures	4,000
Total	100,000
Computation of reduction:	
Building $\frac{80,000}{100,000} \times \$25,000$ (gain)	20,000
Transmitter $\frac{16,000}{100,000} \times \$25,000$	4,000
Fixtures $\frac{4,000}{100,000} \times \$25,000$	1,000
Total reduction	25,000
New basis of assets:	
Building (\$80,000 minus \$20,000)	60,000
Transmitter (\$16,000 minus \$4,000)	12,000
Fixtures (\$4,000 minus \$1,000)	3,000
Total adjusted basis after reduction under section 1071	75,000
Realized gain upon sale of X Corporation stock	25,000
Less: Amount applied as a reduction to basis of depreciable property	25,000
Recognized gain for tax purposes	None

(b) *Special cases.* With the consent of the Commissioner, the taxpayer may, however, have the basis of the various units of property of the class specified in section 1071 and this section adjusted in a manner different from the general rule set forth in paragraph (a) of this section. Variations from such general rule may, for example, involve adjusting the basis of only certain units of such property. The request for variations from such general rule should be filed by the taxpayer with his return for the taxable year in which he elects to have the basis

of property reduced under section 1071. Agreement between the taxpayer and the Commissioner as to any variations from such general rule shall be effective only if incorporated in a closing agreement entered into under the provisions of section 7121.

§ 1.1071-4 *Manner of election.* (a) An election under the provisions of section 1071 shall be in the form of a written statement and shall be executed and filed in duplicate. Such statement shall be signed by the taxpayer or his authorized representative. In the case of a corporation the statement shall be signed with the corporate name, followed by the signature and title of an officer of the corporation empowered to sign for the corporation, and the corporate seal must be affixed. An election under section 1071 to reduce the basis of property and an election under such section to treat the sale or exchange as an involuntary conversion under section 1033 may be exercised independently of each other. An election under section 1071 must be filed with the return for the taxable year in which the sale or exchange occurs. Where practicable, the certificate of the Federal Communications Commission required by § 1.1071-1 should be filed with the election.

(b) If, in pursuance of an election to have the basis of its property adjusted under section 1071, the taxpayer desires to have such basis adjusted in any manner different from the general rule set forth in § 1.1071-3 (a) the precise method (including allocation of amounts) should be set forth in detail on separate sheets accompanying the election. Consent by the Commissioner to any departure from such general rule shall be effected only by a closing agreement entered into under the provisions of section 7121.

EXCHANGES IN OBEDIENCE TO S. E. C. ORDERS

§ 1.1081 *Statutory provisions; exchanges and distributions in obedience to orders of the Securities and Exchange Commission, nonrecognition of gain or loss.*

Sec. 1081. *Nonrecognition of gain or loss on exchanges or distributions in obedience to orders of S. E. C.—(a) Exchanges of stock or securities only.* No gain or loss shall be recognized to the transferor if stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are transferred to such corporation or to an associate company thereof which is a registered holding company or a majority-owned subsidiary company solely in exchange for stock or securities (other than stock or securities which are nonexempt property), and the exchange is made by the transferee corporation in obedience to an order of the Securities and Exchange Commission.

(b) *Exchanges and sales of property by corporations—(1) General rule.* No gain shall be recognized to a transferor corporation which is a registered holding company or an associate company of a registered holding company, if such corporation, in obedience to an order of the Securities and Exchange Commission, transfers property in exchange for property, and such order recites that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor cor-

poration is a member. Any gain, to the extent that it cannot be applied in reduction of basis under section 1082 (a) (2), shall be recognized.

(2) *Nonexempt property.* If any such property so received is nonexempt property, gain shall be recognized unless such nonexempt property or an amount equal to the fair market value of such property at the time of the transfer is, within 24 months of the transfer, under regulations prescribed by the Secretary or his delegate, and in accordance with an order of the Securities and Exchange Commission, expended for property other than nonexempt property or is invested as a contribution to the capital, or as paid-in surplus, of another corporation, and such order recites that such expenditure or investment by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member. If the fair market value of such nonexempt property at the time of the transfer exceeds the amount expended and the amount invested, as required in the preceding sentence, the gain, if any, to the extent of such excess, shall be recognized.

(3) *Cancellation or redemption of stock or securities.* For purposes of this subsection, a distribution in cancellation or redemption (except a distribution having the effect of a dividend) of the whole or a part of the transferor's own stock (not acquired on the transfer) and a payment in complete or partial retirement or cancellation of securities representing indebtedness of the transferor or a complete or partial retirement or cancellation of such securities which is a part of the consideration for the transfer shall be considered an expenditure for property other than nonexempt property, and if, on the transfer, a liability of the transferor is assumed, or property of the transferor is transferred subject to a liability, the amount of such liability shall be considered to be an expenditure by the transferor for property other than nonexempt property.

(4) *Consents.* This subsection shall not apply unless the transferor corporation consents, at such time and in such manner as the Secretary or his delegate may by regulations prescribe to the regulations prescribed under section 1082 (a) (2) in effect at the time of filing its return for the taxable year in which the transfer occurs.

(c) *Distribution of stock or securities only—(1) In general.* If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.

(2) *Special rule.* If—

(A) There is distributed to a shareholder in a corporation rights to acquire common stock in a second corporation without the surrender by such shareholder of stock in the first corporation,

(B) Such distribution is in accordance with an arrangement forming a ground for an order of the Securities and Exchange Commission issued pursuant to section 3 of the Public Utility Holding Company Act of 1935 (49 Stat. 810; 15 U. S. C. 790) that such corporation is exempt from any provision or provisions of such Act, and

(C) Before January 1, 1958, the first corporation disposes of all of the common stock in the second corporation which it owns,

then no gain to the distributee from the receipt of the rights so distributed shall be recognized. If the first corporation does not, before January 1, 1958, dispose of all

of the common stock which it owns in the second corporation, then the periods of limitation provided in sections 6501 and 6502 on the making of an assessment or the collection by levy or a proceeding in court shall, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of such rights to acquire stock, include one year immediately following the date on which the first corporation notifies the Secretary or his delegate whether or not the requirements of subparagraph (C) of the preceding sentence have been met; and such assessment and collection may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment and collection.

(d) *Transfers within system group*—(1) *General rule.* No gain or loss shall be recognized to a corporation which is a member of a system group—

(A) If such corporation transfers property to another corporation which is a member of the same system group in exchange for other property, and the exchange by each corporation is made in obedience to an order of the Securities and Exchange Commission, or

(B) If there is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, property, without the surrender by such shareholder of stock or securities in the corporation making the distribution, and the distribution is made and received in obedience to an order of the Securities and Exchange Commission.

If an exchange by or a distribution to a corporation with respect to which no gain or loss is recognized under any of the provisions of this paragraph may also be considered to be within the provisions of subsection (a), (b), or (c), then the provisions of this paragraph only shall apply.

(2) *Sales of stock or securities.* If the property received on an exchange which is within any of the provisions of paragraph (1) consists in whole or in part of stock or securities issued by the corporation from which such property was received, and if in obedience to an order of the Securities and Exchange Commission such stock or securities (other than stock which is not preferred as to both dividends and assets) are sold and the proceeds derived therefrom are applied in whole or in part in the retirement or cancellation of stock or of securities of the recipient corporation outstanding at the time of such exchange, no gain or loss shall be recognized to the recipient corporation on the sale of the stock or securities with respect to which such order was made; except that if any part of the proceeds derived from the sale of such stock or securities is not so applied, or if the amount of such proceeds is in excess of the fair market value of such stock or securities at the time of such exchange, the gain, if any, shall be recognized, but in an amount not in excess of the proceeds which are not so applied, or in an amount not more than the amount by which the proceeds derived from such sale exceed such fair market value, whichever is the greater.

(e) *Exchanges not solely in kind*—(1) *General rule.* If an exchange (not within any of the provisions of subsection (d)) would be within the provisions of subsection (a) if it were not for the fact that property received in exchange consists not only of property permitted by such subsection to be received without the recognition of gain or loss, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property, and the loss, if any, to the recipient shall not be recognized.

(2) *Distribution treated as dividend.* If an exchange is within the provisions of para-

graph (1) and if it includes a distribution which has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under such paragraph as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(f) *Conditions for application of section.* Except in the case of a distribution described in subsection (c) (2), the provisions of this section shall not apply to an exchange, expenditure, investment, distribution, or sale unless—

(1) The order of the Securities and Exchange Commission in obedience to which such exchange, expenditure, investment, distribution, or sale was made recites that such exchange, expenditure, investment, distribution, or sale is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (49 Stat. 820; 15 U. S. C. 79k (b)),

(2) Such order specifies and itemizes the stock and securities and other property which are ordered to be acquired, transferred, received, or sold on such exchange, acquisition, expenditure, distribution, or sale, and, in the case of an investment, the investment to be made, and

(3) Such exchange, acquisition, expenditure, investment, distribution, or sale was made in obedience to such order, and was completed within the time prescribed therefor.

(g) *Nonapplication of other provisions.* If a distribution described in subsection (c) (2), or an exchange or distribution made in obedience to an order of the Securities and Exchange Commission, is within any of the provisions of this part and may also be considered to be within any of the other provisions of this subchapter or subchapter C (sec. 301 and following, relating to corporate distributions and adjustments), then the provisions of this part only shall apply.

§ 1.1081-1 *Terms used.* The following terms, when used in this section and §§ 1.1081-2 to 1.1083-1, inclusive, shall have the meanings assigned to them in section 1083: "Order of the Securities and Exchange Commission"; "registered holding company"; "holding company system"; "associate company"; "majority-owned subsidiary company"; "system group"; "nonexempt property"; and "stock or securities". Any other term used in this section and §§ 1.1081-2 to 1.1083-1, inclusive, which is defined in the Internal Revenue Code of 1954, shall be given the respective definition contained in such Code.

§ 1.1081-2 *Purpose and scope of exception.* (a) The general rule is that the entire amount of gain or loss from the sale or exchange of property is to be recognized (see section 1002) and that the entire amount received as a dividend is to be included in gross income. (See sections 61 and 301.) Exceptions to the general rule are provided elsewhere in subchapters C and O of chapter 1, one of which is that made by section 1081 with respect to exchanges, sales, and distributions specifically described in section 1081. Section 1081 provides the extent to which gain or loss is not to be recognized on (1) the receipt of a distribution described in section 1081 (c) (2), or (2) an exchange or sale, or the receipt of a distribution, made in obedience to an order of the Securities and

Exchange Commission, which is issued to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79k (b)). Section 331 provides that a distribution in liquidation of a corporation shall be treated as an exchange. Such distribution is to be treated as an exchange under the provisions of sections 1081 to 1083, inclusive. The order of the Securities and Exchange Commission must be one requiring or approving action which the Commission finds to be necessary or appropriate to effect a simplification or geographical integration of a particular public utility holding company system. For specific requirements with respect to an order of the Securities and Exchange Commission, see section 1081 (f).

(b) The requirements for nonrecognition of gain or loss as provided in section 1081 are precisely stated with respect to the following general types of transactions:

(1) The exchange that is provided for in section 1081 (a) in which stock or securities in a registered holding company or a majority-owned subsidiary company are exchanged for stock or securities.

(2) The exchange that is provided for in section 1081 (b) in which a registered holding company or an associate company of a registered holding company exchanges property for property.

(3) The distribution that is provided for in section 1081 (c) (1) in which stock or securities are distributed to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, or the distribution that is provided for in section 1081 (c) (2), in which a corporation distributes to a shareholder, rights to acquire common stock in a second corporation.

(4) The transfer that is provided for in section 1081 (d) in which a corporation which is a member of a system group transfers property to another member of the same system group.

Certain rules with respect to the receipt of nonexempt property on an exchange described in section 1081 (a) are prescribed in section 1081 (e).

(c) These exceptions to the general rule are to be strictly construed. Unless both the purpose and the specific requirements of sections 1081 to 1083, inclusive, are clearly met, the recognition of gain or loss upon the exchange, sale, or distribution will not be postponed under those sections. Moreover, even though a taxable transaction occurs in connection or simultaneously with a realization of gain or loss to which nonrecognition is accorded, nevertheless, nonrecognition will not be accorded to such taxable transaction. In other words, the provisions of section 1081 do not extend in any case to gain or loss other than that realized from and directly attributable to a disposition of property as such, or the receipt of a corporate distribution as such, in an exchange, sale, or distribution specifically described in section 1081.

(d) The application of the provisions of sections 1081 to 1083, inclusive, is intended to result only in postponing the

recognition of gain or loss until a disposition of property is made which is not covered by such provisions, and, in the case of an exchange or sale subject to the provisions of section 1081 (b), in the reduction of basis of certain property. The provisions of section 1082 with respect to the continuation of basis and the reduction in basis are designed to effect these results. Although the time of recognition may be shifted, there must be a true reflection of income in all cases, and it is intended that the provisions of sections 1081 to 1083, inclusive, shall not be construed or applied in such a way as to defeat this purpose.

§ 1.1081-3 *Exchanges of stock or securities solely for stock or securities.* The exchange, without the recognition of gain or loss, that is provided for in section 1081 (a) must be one in which stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are exchanged solely for stock or securities other than stock or securities which constitute nonexempt property. An exchange is not within the provisions of section 1081 (a) unless the stock or securities transferred and those received are stock or securities as defined by section 1083 (f). The stock or securities which may be received without the recognition of gain or loss are not limited to stock or securities in the corporation from which they are received. An exchange within the provisions of section 1081 (a) may be a transaction between the holder of stock or securities and the corporation which issued the stock or securities. Also the exchange may be made by a holder of stock or securities with an associate company (i. e., a corporation in the same holding company system with the issuing corporation) which is a registered holding company or a majority-owned subsidiary company. In either case, the nonrecognition provisions of section 1081 (a) apply only to the holder of the stock or securities. However, the transferee corporation must be acting in obedience to an order of the Securities and Exchange Commission directed to such corporation, if no gain or loss is to be recognized to the holder of the stock or securities who makes the exchange with such corporation. See also section 1081 (b) in case the holder of the stock or securities is a registered holding company or an associate company of a registered holding company. An exchange is not within the provisions of section 1081 (a) if it is within the provisions of section 1081 (d) relating to transfers within a system group. For treatment when nonexempt property is received, see section 1081 (e), for further limitations, see section 1081 (f).

§ 1.1081-4 *Exchanges of property for property by corporations—(a) Application of section 1081 (b)* Section 1081 (b) applies only to the transfers specified therein with respect to which section 1081 (d) is inapplicable, and deals only with such transfers if gain is realized upon the sale or other disposition effected by such transfers. If loss is realized section 1081 (b) is inapplicable and the

application of other provisions of subtitle A must be determined. See section 1081 (g). If section 1081 (b) is applicable, the other provisions of subchapters C and O relating to the nonrecognition of gain are inapplicable, and the conditions under which, and the extent to which, the realized gain is not recognized are set forth in paragraphs (b) (c), (d), (e), and (f) of this section.

(b) *Nonrecognition of gain, no non-exempt proceeds.* No gain is recognized to a transferor corporation upon the sale or other disposition of property transferred by such transferor corporation in exchange solely for property other than nonexempt property as defined in section 1083 (e) but only if all of the following requirements are satisfied:

(1) The transferor corporation is, under the definition in section 1083 (b) a registered holding company or an associate company of a registered holding company.

(2) Such transfer is in obedience to an order of the Securities and Exchange Commission (as defined in section 1083 (a)) and such order satisfies the requirements of section 1081 (f).

(3) The transferor corporation has filed the required consent to the regulations under section 1082 (a) (2) (see paragraph (g) of this section) and

(4) The entire amount of the gain, as determined under section 1001, can be applied in reduction of basis under section 1082 (a) (2).

(c) *Nonrecognition of gain, nonexempt proceeds.* If the transaction would be within the provisions of paragraph (b) of this section if it were not for the fact that the property received in exchange consists in whole or in part of nonexempt property (as defined in section 1083 (e)) then no gain is recognized if such nonexempt property, or an amount equal to the fair market value of such nonexempt property at the time of the transfer,

(1) Is expended within the required 24-month period for property other than nonexempt property; or

(2) Is invested within the required 24-month period as a contribution to the capital, or as paid-in surplus, of another corporation;

but only if the expenditure or investment is made

(3) In accordance with an order of the Securities and Exchange Commission (as defined in section 1083 (a)) which satisfies the requirements of section 1081 (f) and which recites that such expenditure or investment by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member; and

(4) The required consent, waiver, and bond have been executed and filed. See paragraphs (g) and (h) of this section.

(d) *Recognition of gain in part; insufficient expenditure or investment in case of nonexempt proceeds.* If the transaction would be within the provisions of paragraph (c) of this section if it were not for the fact that the amount expended or invested is less than the fair market value of the nonexempt

property received in exchange, then the gain, if any, is recognized, but in an amount not in excess of the amount by which the fair market value of such nonexempt property at the time of the transfer exceeds the amount so expended and invested.

(e) *Items treated as expenditures for the purpose of paragraphs (c) and (d) of this section.* For the purposes of paragraphs (c) and (d) of this section, the following are treated as expenditures for property other than nonexempt property:

(1) A distribution in cancellation or redemption (except a distribution having the effect of a dividend) of the whole or a part of the transferor's own stock (not acquired on the transfer),

(2) A payment in complete or partial retirement or cancellation of securities representing indebtedness of the transferor or a complete or partial retirement or cancellation of such securities which is a part of the consideration for the transfer; and

(3) If, on the transfer, a liability of the transferor is assumed, or property of the transferor is transferred subject to a liability, the amount of such liability.

(f) *Recognition of gain in part; inability to reduce basis.* If the transaction would be within the provisions of paragraph (b) or (c) of this section, if it were not for the fact that an amount of gain cannot be applied in reduction of basis under section 1082 (a) (2), then the gain, if any, is recognized, but in an amount not in excess of the amount which cannot be so applied in reduction of basis. If the transaction would be within the provisions of paragraph (d) of this section, if it were not for the fact that an amount of gain cannot be applied in reduction of basis under section 1082 (a) (2) then the gain, if any, is recognized, but in an amount not in excess of the aggregate of—

(1) The amount of gain which would be recognized under paragraph (d) of this section if there were no inability to reduce basis under section 1082 (a) (2), and

(2) The amount of gain which cannot be applied in reduction of basis under section 1082 (a) (2).

(g) *Consent to regulations under section 1082 (a) (2)* To be entitled to the benefits of the provisions of section 1081 (b) a corporation must file with its return for the taxable year in which the transfer occurs a consent to have the basis of its property adjusted under section 1082 (a) (2) (see § 1.1082-3), in accordance with the provisions of the regulations in effect at the time of filing of the return for the taxable year in which the transfer occurs. Such consent shall be made in duplicate on Form 982A in accordance with these regulations and instructions on the form or issued therewith.

(h) *Requirements with respect to expenditure or investment.* If the full amount of the expenditure or investment required for the application of paragraph (c) of this section has not been made by the close of the taxable year in which such transfer occurred, the taxpayer shall file with the return for such year

an application for the benefit of the 24-month period for expenditure and investment, reciting the nature and time of the proposed expenditure or investment. When requested by the district director of internal revenue, the taxpayer shall execute and file (at such time and in such form) such waiver of the statute of limitations with respect to the assessment of deficiencies (for the taxable year of the transfer and for all succeeding taxable years in any of which falls any part of the period beginning with the date of the transfer and ending 24 months thereafter) as the district director may specify, and such bond with such surety as the district director may require, in an amount not in excess of double the estimated maximum income tax which would be payable if the corporation does not make the required expenditure or investment within the required 24-month period.

§ 1.1081-5 *Distribution solely of stock or securities—(a) In general.* If, without any surrender of his stock or securities as defined in section 1083 (f) a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company receives stock or securities in such corporation or owned by such corporation, no gain to the shareholder will be recognized with respect to the stock or securities received by such shareholder which do not constitute nonexempt property, if the distribution to such shareholder is made by the distributing corporation in obedience to an order of the Securities and Exchange Commission directed to such corporation. A distribution is not within the provisions of section 1081 (c) (1) if it is within the provisions of section 1081 (d), relating to transfers within a system group. A distribution is also not within the provisions of section 1081 (c) (1) if it involves a surrender by the shareholder of stock or securities or a transfer by the shareholder of property in exchange for the stock or securities received by the shareholder. For further limitations, see section 1081 (f)

(b) *Special rule.* (1) If there is distributed to a shareholder in a corporation rights to acquire common stock in a second corporation, no gain to the shareholder from the receipt of the rights shall be recognized, but only if all the following requirements are met:

(i) The rights are received by the shareholder without the surrender by the shareholder of any stock in the distributing corporation,

(ii) Such distribution is in accordance with an arrangement forming a ground for an order of the Securities and Exchange Commission issued pursuant to section 3 of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79c) that the distributing corporation is exempt from any provision or provisions of such Act, and

(iii) Before January 1, 1958, the distributing corporation disposes of all the common stock in the second corporation which it owns.

(2) The distributing corporation shall, as soon as practicable, notify the district director of internal revenue in whose district the corporation's income

tax return and supporting data was filed (see § 1.1081-11 (g)), as to whether or not requirement (iii) of paragraph (b) (1) above has been met. If such requirement has not been met, the periods of limitation (sections 6501 and 6502) with respect to any deficiency, including interest and additions to the tax, resulting solely from the receipt of such rights to acquire stock, shall include one year immediately following the date of such notification; and assessment and collection shall be made notwithstanding any provisions of law or rule of law which would otherwise prevent such assessment and collection.

§ 1.1081-6 *Transfers within system group.* (a) The nonrecognition of gain or loss provided for in section 1081 (d) (1) is applicable to an exchange of property for other property (including money and other nonexempt property) between corporations which are all members of the same system group. The term "system group" is defined in section 1083 (d)

(b) Section 1081 (d) (1) also provides for nonrecognition of gain to a corporation which is a member of a system group if property (including money or other nonexempt property) is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, without the surrender by such shareholder of stock or securities in the distributing corporation.

(c) As stated in § 1.1081-2, nonrecognition of gain or loss will not be accorded to a transaction not clearly provided for in sections 1081 to 1083, inclusive, even though such transaction occurs simultaneously or in connection with an exchange, sale, or distribution to which nonrecognition is specifically accorded. Therefore, nonrecognition will not be accorded to any gain or loss realized from the discharge, or the removal of the burden, of the pecuniary obligations of a member of a system group, even though such obligations are acquired upon a transfer or distribution specifically described in section 1081 (d) (1), but the fact that the acquisition of such obligations was upon a transfer or distribution specifically described in section 1081 (d) (1) will, because of the basis provisions of section 1082 (d) affect the cost to the member of such discharge or its equivalent. Thus, section 1081 (d) (1) does not provide for the nonrecognition of any gain or loss realized from the discharge of the indebtedness of a member of a system group as the result of the acquisition in exchange, sale, or distribution of its own bonds, notes, or other evidences of indebtedness which were acquired by another member of the same system group for a consideration less or more than the issuing price thereof (with proper adjustments for amortization of premiums or discounts)

(d) The provisions of paragraph (c) of this section may be illustrated by the following example:

Example. Suppose that the A Corporation and the B Corporation are both members of the same system group; that the A Corporation holds at a cost of \$900 a bond issued by the B Corporation at par, \$1,000; and that

the A Corporation and the B Corporation enter into an exchange subject to the provisions of section 1081 (d) (1) in which the \$1,000 bond of the B Corporation is transferred from the A Corporation to the B Corporation. The \$900 basis reflecting the cost to the A Corporation which would have been the basis available to the B Corporation if the property transferred to it had been something other than its own securities (see § 1.1082-6) will, in this type of transaction, reflect the cost to the B Corporation of effecting a retirement of its own \$1,000 bond. The \$100 gain of the B Corporation reflected in the retirement will therefore be recognized.

(e) No exchange or distribution may be made without the recognition of gain or loss as provided for in section 1081 (d) (1) unless all the corporations which are parties to such exchange or distribution are acting in obedience to an order of the Securities and Exchange Commission. If an exchange or distribution is within the provisions of section 1081 (b) (1) and also may be considered to be within some other provisions of section 1081, it shall be considered that only the provisions of section 1081 (d) (1) apply and that the nonrecognition of gain or loss upon such exchange or distribution is by virtue of that section.

§ 1.1081-7 *Sale of stock or securities received upon exchange by members of system group.* (a) Section 1081 (d) (2) provides that to the extent that property received upon an exchange by corporations which are members of the same system group consists of stock or securities issued by the corporation from which such property was received, such stock or securities may, under certain specifically described circumstances, be sold to a party not a member of the system group, without the recognition of gain or loss to the selling corporation. The nonrecognition of gain or loss is limited, in the case of stock, to a sale of stock which is preferred as to both dividends and assets. The stock or securities must have been received upon an exchange with respect to which section 1081 (d) (1) operated to prevent recognition of gain or loss to any party to the exchange. Nonrecognition of gain or loss upon the sale of such stock or securities is permitted only if the proceeds derived from the sale are applied in retirement or cancellation of stock or securities of the selling corporation which were outstanding at the time the exchange was made. It is also essential to nonrecognition of gain or loss upon the sale that both the sale of the stock or securities and the application of the proceeds derived therefrom be made in obedience to an order of the Securities and Exchange Commission. If any part of the proceeds derived from the sale is not applied in making the required retirement or cancellation of stock or securities and if the sale is otherwise within the provisions of section 1081 (d) (2) the gain resulting from the sale shall be recognized, but in an amount not in excess of the proceeds which are not so applied. In any event, if the proceeds derived from the sale of the stock or securities exceed the fair market value of such stock or securities at the time of the exchange through which they were ac-

quired by the selling corporation, the gain resulting from the sale is to be recognized to the extent of such excess. Section 1081 (d) (2) does not provide for the nonrecognition of any gain resulting from the retirement of bonds, notes, or other evidences of indebtedness for a consideration less than the issuing price thereof. Also, that section does not provide for the nonrecognition of gain or loss upon the sale of any stock or securities received upon a distribution or otherwise than upon an exchange.

(b) The application of paragraph (a) of this section may be illustrated by the following example:

Example. The X Corporation and the Y Corporation, both of which make their income tax returns on a calendar year basis, are members of the same system group. As part of an exchange to which section 1081 (d) (1) is applicable the Y Corporation on June 1, 1954, issued to the X Corporation 1,000 shares of class A stock, preferred as to both dividends and assets. The fair market value of such stock at the time of issuance was \$90,000 and its basis to the X Corporation was \$75,000. On December 1, 1954, in obedience to an appropriate order of the Securities and Exchange Commission, the X Corporation sells all of such stock to the public for \$100,000 and applies \$95,000 of this amount to the retirement of its own bonds, which are outstanding on June 1, 1954. The remaining \$5,000 is not used to retire any of the X Corporation's stock or securities. Of the total gain of \$25,000 realized on the disposition of the Y Corporation stock, only \$10,000 is recognized (the difference between the fair market value of the stock when acquired and the amount for which it was sold), since such amount is greater than the portion (\$5,000) of the proceeds not applied to the retirement of the X Corporation's stock or securities. If in this example the stock acquired by the X Corporation had not been stock of the Y Corporation issued to the X Corporation or if it had been stock not preferred as to both dividends and assets, the full amount of the gain (\$25,000) realized upon its disposition would have been recognized, regardless of what was done with the proceeds.

§ 1.1081-8 *Exchanges in which money or other nonexempt property is received.*

(a) Under section 1081 (e) (1) if in any exchange (not within any of the provisions of section 1081 (d) in which stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary are exchanged for stock or securities as provided for in section 1081 (a)) there is received by the taxpayer money or other nonexempt property (in addition to property permitted to be received without recognition of gain) then—

(1) The gain, if any, to the taxpayer is to be recognized in an amount not in excess of the sum of the money and the fair market value of the other nonexempt property, but

(2) The loss, if any, to the taxpayer from such an exchange is not to be recognized to any extent.

(b) If money or other nonexempt property is received from a corporation in an exchange described in paragraph (a) of this section and if the distribution of such money or other nonexempt property by or on behalf of such corporation has the effect of the distribution of a taxable dividend, then, as provided in section 1081 (e) (2), there shall be taxed

to each distributee (1) as a dividend, such an amount of the gain recognized on the exchange as is not in excess of the distributee's ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, and (2) the remainder of the gain so recognized shall be taxed as a gain from the exchange of property.

§ 1.1081-9 *Requirements with respect to order of Securities and Exchange Commission.* The term "order of the Securities and Exchange Commission" is defined in section 1083 (a). In addition to the requirements specified in that definition, section 1081 (f) provides that, except in the case of a distribution described in section 1081 (c) (2) the provisions of section 1081 shall not apply to an exchange, expenditure, investment, distribution, or sale unless each of the following requirements is met:

(a) The order of the Securities and Exchange Commission must recite that the exchange, expenditure, investment, distribution, or sale is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79k (b))

(b) The order shall specify and itemize the stocks and securities and other property (including money) which are ordered to be acquired, transferred, received, or sold upon such exchange, acquisition, expenditure, distribution, or sale and, in the case of an investment, the investment to be made, so as clearly to identify such property.

(c) The exchange, acquisition, expenditure, investment, distribution, or sale shall be made in obedience to such order and shall be completed within the time prescribed in such order.

These requirements were not designed merely to simplify the administration of the provisions of section 1081, and they are not to be considered as pertaining only to administrative matters. Each one of the three requirements is essential and must be met if gain or loss is not to be recognized from the transaction.

§ 1.1081-10 *Nonapplication of other provisions of the Internal Revenue Code of 1954.* The effect of section 1081 (g) is that an exchange, sale, or distribution which is within section 1081 shall, with respect to the nonrecognition of gain or loss and the determination of basis, be governed only by sections 1081 to 1083, inclusive, the purpose being to prevent overlapping of the provisions of such sections and other provisions of subtitle A. In other words, if by virtue of section 1081 any portion of a person's gain or loss on any particular exchange, sale, or distribution is not to be recognized, then the gain or loss of such person shall be non-recognized only to the extent provided in section 1081, regardless of what the result might have been if sections 1081 to 1083, inclusive, had not been enacted; and similarly the basis in the hands of such person of the property received by him in such transaction shall be the basis provided by section 1082, regardless of what the basis of such property might have been under section 1011 if sections

1081 to 1083, inclusive, had not been enacted. On the other hand, if section 1081 does not provide for the nonrecognition of any portion of a person's gain or loss (whether or not such person is another party to the same transaction referred to above) then the gain or loss of such person shall be recognized or nonrecognized to the extent provided for by other provisions of subtitle A as if sections 1081 to 1083, inclusive, had not been enacted; and similarly, the basis in his hands of the property received by him in such transaction shall be the basis provided by other provisions of subtitle A as if sections 1081 to 1083, inclusive, had not been enacted.

§ 1.1081-11 *Records to be kept and information to be filed with returns—(a) Exchanges; holders of stock or securities.* Every holder of stock or securities who receives stock or securities and other property (including money) upon an exchange shall, if the exchange is made with a corporation acting in obedience to an order of the Securities and Exchange Commission, file as a part of his income tax return for the taxable year in which the exchange takes place a complete statement of all facts pertinent to the nonrecognition of gain or loss upon such exchange, including—

(1) A clear description of the stock or securities transferred in the exchange, together with a statement of the cost or other basis of such stock or securities.

(2) The name and address of the corporation from which the stock or securities were received in the exchange.

(3) A statement of the amount of stock or securities and other property (including money) received from the exchange. The amount of each kind of stock or securities and other property received shall be set forth upon the basis of the fair market value thereof at the date of the exchange.

(b) *Exchanges; corporations subject to S. E. C. orders.* Each corporation which is a party to an exchange made in obedience to an order of the Securities and Exchange Commission directed to such corporation shall file as a part of its income tax return for its taxable year in which the exchange takes place a complete statement of all facts pertinent to the nonrecognition of gain or loss upon such exchange, including—

(1) A copy of the order of the Securities and Exchange Commission directed to such corporation, in obedience to which the exchange was made.

(2) A certified copy of the corporate resolution authorizing the exchange.

(3) A clear description of all property, including all stock or securities, transferred in the exchange, together with a complete statement of the cost or other basis of each class of property.

(4) The date of acquisition of any stock or securities transferred in the exchange, and, if any of such stock or securities were acquired by the corporation in obedience to an order of the Securities and Exchange Commission, a copy of such order.

(5) The name and address of all persons to whom any property was transferred in the exchange.

(6) If any property transferred in the exchange was transferred to another corporation, a copy of any order of the Securities and Exchange Commission directed to the other corporation, in obedience to which the exchange was made by such other corporation.

(7) If the corporation transfers any nonexempt property, the amount of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, to the time of the exchange.

(8) A statement of the amount of stock or securities and other property (including money) received upon the exchange, including a statement of all distributions or other dispositions made thereof. The amount of each kind of stock or securities and other property received shall be stated on the basis of the fair market value thereof at the date of the exchange.

(9) A statement showing as to each class of its stock the number of shares and percentage owned by any other corporation, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(10) The term "exchange" shall, wherever occurring in this paragraph, be read as "exchange, expenditure, or investment"

(c) *Distributions; shareholders.* Each shareholder who receives stock or securities or other property (including money) upon a distribution made by a corporation in obedience to an order of the Securities and Exchange Commission shall file as a part of his income tax return for the taxable year in which such distribution is received a complete statement of all facts pertinent to the nonrecognition of gain upon such distribution, including—

(1) The name and address of the corporation from which the distribution is received.

(2) A statement of the amount of stock or securities or other property received upon the distribution, including (in case the shareholder is a corporation) a statement of all distributions or other disposition made of such stock or securities or other property by the shareholder. The amount of each class of stock or securities and each kind of property shall be stated on the basis of the fair market value thereof at the date of the distribution.

(3) If the shareholder is a corporation, a statement showing as to each class of its stock the number of shares and percentage owned by a registered holding company or a majority-owned subsidiary company of a registered holding company, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(d) *Distributions; distributing corporations subject to S. E. C. orders.* Every corporation making a distribution in obedience to an order of the Securities and Exchange Commission shall file as a part of its income tax return for its taxable year in which the distribution is made a complete statement of all facts pertinent to the nonrecognition of gain to the distributee upon such distribution including—

(1) A copy of the order of the Securities and Exchange Commission, in obedience to which the distribution was made.

(2) A certified copy of the corporate resolution authorizing the distribution.

(3) A statement of the amount of stock or securities or other property (including money) distributed to each shareholder. The amount of each kind of stock or securities or other property shall be stated on the basis of the fair market value thereof at the date of the distribution.

(4) The date of acquisition of the stock or securities distributed, and, if any of such stock or securities were acquired by the distributing corporation in obedience to an order of the Securities and Exchange Commission, a copy of such order.

(5) The amount of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, to the time of the distribution.

(6) A statement showing as to each class of its stock the number of shares and percentage owned by any other corporation, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(e) *Sales by members of system groups.* Each corporation which is a member of a system group and which in obedience to an order of the Securities and Exchange Commission sells stock or securities received upon an exchange (made in obedience to an order of the Securities and Exchange Commission) and applies the proceeds derived therefrom in retirement or cancellation of its own stock or securities shall file as a part of its income tax return for the taxable year in which the sale is made a complete statement of all facts pertaining to the nonrecognition of gain or loss upon such sale, including—

(1) A copy of the order of the Securities and Exchange Commission in obedience to which the sale was made.

(2) A copy of the order of the Securities and Exchange Commission in obedience to which the proceeds derived from the sale were applied in whole or in part in the retirement or cancellation of its stock or securities.

(3) A certified copy of the corporate resolutions authorizing the sale of the stock or securities and the application of the proceeds derived therefrom.

(4) A clear description of the stock or securities sold, including the name and address of the corporation by which they were issued.

(5) The date of acquisition of the stock or securities sold, together with a statement of the fair market value of such stock or securities at the date of acquisition, and a copy of all orders of the Securities and Exchange Commission in obedience to which such stock or securities were acquired.

(6) The amount of the proceeds derived from such sale.

(7) The portion of the proceeds of such sale which was applied in retirement or cancellation of its stock or securities, together with a statement showing how long such stock or securities were outstanding prior to retirement or cancellation.

(8) The issuing price of its stock or securities which were retired or canceled.

(f) *Section 1081 (c) (2) distributions; shareholders.* Each shareholder who receives a distribution described in section 1081 (c) (2) (concerning rights to acquire common stock) shall file as a part of his income tax return for the taxable year in which such distribution is received a complete statement of all the facts pertinent to the nonrecognition of gain upon such distribution, including—

(1) The name and address of the corporation from which the distribution is received.

(2) A statement of the amount of the rights received upon the distribution, stated on the basis of their fair market value at the date of the distribution.

(g) *Section 1081 (c) (2) distributions; distributing corporations.* Every corporation making a distribution described in section 1081 (c) (2) (concerning rights to acquire common stock) shall file as a part of its income tax return for its taxable year in which the distribution is made a complete statement of all facts pertinent to the nonrecognition of gain to the distributees upon such distribution including—

(1) A copy of the arrangement forming the basis for the issuance of the order by the Securities and Exchange Commission.

(2) A copy of the order issued by the Securities and Exchange Commission pursuant to section 3 of the Public Utility Holding Company Act of 1935.

(3) A certified copy of the corporate resolution authorizing the arrangement and the distribution.

(4) A statement of the amount of the rights distributed to each shareholder, stated on the basis of their fair market value at the date of the distribution.

(5) The date of acquisition of the stock with respect to which such rights are distributed, and, if any were acquired by the distributing corporation in obedience to an order of the Securities and Exchange Commission, a copy of such order.

(6) The amount of the undistributed earnings and profits of the distributing corporation accumulated after February 28, 1913, to the time of the distribution.

(h) *General requirements.* Permanent records in substantial form shall be kept by every taxpayer who participates in an exchange or distribution to which sections 1081 to 1033, inclusive, are applicable, showing the cost or other basis of the property transferred and the amount of stock or securities and other property (including money) received, in order to facilitate the determination of gain or loss from a subsequent disposition of such stock or securities and other property received on the exchange or distribution.

§ 1.1032 *Statutory provisions; basis of property acquired in exchanges and distributions made in obedience to orders of the Securities and Exchange Commission.*

Sec. 1032. *Basis for determining gain or loss—(a) Exchanges generally—(1) Exchanges subject to the provisions of section*

1081 (a) or (e). If the property was acquired on an exchange subject to the provisions of section 1081 (a) or (e), or the corresponding provisions of prior internal revenue laws, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer, and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized on such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 1081 (a) to be received without the recognition of gain or loss, and in part of nonexempt property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange. This subsection shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(2) *Exchanges subject to the provisions of section 1081 (b).* The gain not recognized on a transfer by reason of section 1081 (b) or the corresponding provisions of prior internal revenue laws shall be applied to reduce the basis for determining gain or loss on sale or exchange of the following categories of property in the hands of the transferor immediately after the transfer, and property acquired within 24 months after such transfer by an expenditure or investment to which section 1081 (b) relates on account of the acquisition of which gain is not recognized under such subsection, in the following order:

(A) Property of a character subject to the allowance for depreciation under section 167;

(B) Property (not described in subparagraph (A)) with respect to which a deduction for amortization is allowable under section 168 or 169;

(C) Property with respect to which a deduction for depletion is allowable under section 611 but not allowable under section 613;

(D) Stock and securities of corporations not members of the system group of which the transferor is a member (other than stock or securities of a corporation of which the transferor is a subsidiary);

(E) Securities (other than stock) of corporations which are members of the system group of which the transferor is a member (other than securities of the transferor or of a corporation of which the transferor is a subsidiary);

(F) Stock of corporations which are members of the system group of which the transferor is a member (other than stock of the transferor or of a corporation of which the transferor is a subsidiary);

(G) All other remaining property of the transferor (other than stock or securities of the transferor or of a corporation of which the transferor is a subsidiary).

The manner and amount of the reduction to be applied to particular property within any of the categories described in subparagraphs (A) to (G), inclusive, shall be determined under regulations prescribed by the Secretary or his delegate.

(3) *Basis in case of pre-1942 acquisition.* Notwithstanding the provisions of paragraph (1) or (2), if the property was acquired in a taxable year beginning before January 1, 1942, in any manner described in section 372 of the Internal Revenue Code of 1939 before its amendment by the Revenue Act of 1942, the basis shall be that prescribed in such section (before its amendment by such Act) with respect to such property.

(b) *Transfers to corporations.* If, in connection with a transfer subject to the provisions of section 1081 (a), (b), or (e) or the corresponding provisions of prior internal revenue laws, the property was acquired by a corporation, either as paid-in surplus or as a contribution to capital, or in consideration for stock or securities issued by the corporation receiving the property (including cases where part of the consideration for the transfer of such property to the corporation consisted of property or money in addition to such stock or securities), then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor on such transfer under the law applicable to the year in which the transfer was made.

(c) *Distributions of stock or securities.* If the stock or securities were received in a distribution subject to the provisions of section 1081 (c) or the corresponding provisions of prior internal revenue laws, then the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under regulations prescribed by the Secretary or his delegate, between such stock and the stock or securities distributed.

(d) *Transfers within system group.* If the property was acquired by a corporation which is a member of a system group on a transfer or distribution described in section 1081 (d) (1), then the basis shall be the same as it would be in the hands of the transferor; except that if such property is stock or securities issued by the corporation from which such stock or securities were received and they were issued—

(1) As the sole consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either—

(A) The same as in the case of the property transferred therefor, or

(B) The fair market value of such stock or securities at the time of their receipt, whichever is the lower; or

(2) As part consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either—

(A) An amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities at the time of their receipt bears to the total fair market value of the entire consideration received, or

(B) The fair market value of such stock or securities at the time of their receipt, whichever is the lower.

§ 1.1082-1 *Basis for determining gain or loss.* (a) For determining the basis of property acquired in a taxable year beginning before January 1, 1942, in any manner described in section 372 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942, see such section (before its amendment by such Act)

(b) If the property was acquired in a taxable year beginning after December 31, 1941, in any manner described in section 1082 (other than subsection (a) (2)) or section 372 (other than subsection (a) (2)) of the Internal Revenue Code of 1939 after its amendments, the basis shall be that prescribed in section 1082 with respect to such property. However, in the case of property acquired in a transaction described in section 1081 (c) (2) this paragraph is applicable only if the property was acquired in a distribution made in a taxable year subject to the Internal Revenue Code of 1954.

(c) Section 1082 makes provisions with respect to the basis of property ac-

quired in a transfer in connection with which the recognition of gain or loss is prohibited by the provisions of section 1081 with respect to the whole or any part of the property received. In general, and except as provided in § 1.1082-3, it is intended that the basis for determining gain or loss pertaining to the property prior to its transfer, as well as the basis for determining the amount of depreciation or depletion deductible and the amount of earnings or profits available for distribution, shall continue notwithstanding the nontaxable conversion of the asset in form or its change in ownership. The continuance of the basis may be reflected in a shift thereof from one asset to another in the hands of the same owner, or in its transfer with the property from one owner into the hands of another. See also § 1.1081-2.

§ 1.1082-2 *Basis of property acquired upon exchanges under section 1081 (a) or (e)* (a) In the case of an exchange of stock or securities for stock or securities as described in section 1081 (a), if no part of the gain or loss upon such exchange was recognized under section 1081, the basis of the property acquired is the same as the basis of the property transferred by the taxpayer with proper adjustments to the date of the exchange.

(b) If, in an exchange of stock or securities as described in section 1081 (a), gain to the taxpayer was recognized under section 1081 (e) on account of the receipt of money, the basis of the property acquired is the basis of the property transferred (adjusted to the date of the exchange) decreased by the amount of money received and increased by the amount of gain recognized upon the exchange. If, upon such exchange, there were received by the taxpayer money and other nonexempt property (not permitted to be received without the recognition of gain) and gain from the transaction was recognized under section 1081 (e) the basis (adjusted to the date of the exchange) of the property transferred by the taxpayer, decreased by the amount of money received and increased by the amount of gain recognized, must be apportioned to and is the basis of the properties (other than money) received on the exchange. For the purpose of the allocation of such basis to the properties received, there must be assigned to the nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange.

(c) Section 1081 (e) provides that no loss may be recognized on an exchange of stock or securities for stock or securities as described in section 1081 (a) although the taxpayer receives money or other nonexempt property from the transaction. However, the basis of the property (other than money) received by the taxpayer is the basis (adjusted to the date of the exchange) of the property transferred, decreased by the amount of money received. This basis must be apportioned to the properties received, and for this purpose there must be allocated to the nonexempt property (other than money) an amount of such basis equivalent to the fair market value

of such nonexempt property at the date of the exchange.

(d) Section 1082 (a) does not apply in ascertaining the basis of property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it. For the rule in such cases, see section 1082 (b).

(e) For purposes of this section, any reference to section 1081 shall be deemed to include a reference to corresponding provisions of prior internal revenue laws.

§ 1.1082-3 *Reduction of basis of property by reason of gain not recognized under section 1081 (b)*—(a) *Introduction.* In addition to the adjustments provided in section 1016 and other applicable provisions of chapter 1, and the regulations relating thereto, which are required to be made with respect to the cost or other basis of property, section 1082 (a) (2) provides that a further adjustment shall be made in any case in which there shall have been a non-recognition of gain under section 1081 (b). Such further adjustment shall be made with respect to the basis of the property in the hands of the transferor immediately after the transfer and of the property acquired within 24 months after such transfer by an expenditure or investment to which section 1081 (b) relates, and on account of which expenditure or investment gain is not recognized. If the property is in the hands of the transferor immediately after the transfer, the time of reduction is the day of the transfer; in all other cases the time of reduction is the date of acquisition. The effect of applying an amount in reduction of basis of property under section 1081 (b) is to reduce by such amount the basis for determining gain upon sale or other disposition, the basis for determining loss upon sale or other disposition, the basis for depreciation and for depletion, and any other amount which the Internal Revenue Code of 1954 prescribes shall be the same as any of such bases. For the purposes of the application of an amount in reduction of basis under section 1081 (b) property is not considered as having a basis capable of reduction if—

(1) It is money, or

(2) If its adjusted basis for determining gain at the time the reduction is to be made is zero, or becomes zero at any time in the application of section 1081 (b).

(b) *General rule.* (1) Section 1082 (a) (2) sets forth seven categories of property, the basis of which for determining gain or loss shall be reduced in the order stated.

(2) If any of the property in the first category has a basis capable of reduction, the reduction must first be made before applying an amount in reduction of the basis of any property in the second or in a succeeding category, to each of which in turn a similar rule is applied.

(3) In the application of the rule to each category, the amount of the gain not recognized shall be applied to reduce the cost or other basis of all the property in the category as follows: The cost of other basis (at the time immediately after the transfer or, if the property is

not then held but is thereafter acquired, at the time of such acquisition) of each unit of property in the first category shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis at such time for determining gain, determined without regard to this section) in an amount equal to such proportion of the unrecognition gain as the adjusted basis (for determining gain, determined without regard to this section) at such time of each unit of property of the taxpayer in that category bears to the aggregate of the adjusted basis (for determining gain, computed without regard to this section) at such time of all the property of the taxpayer in that category. When such adjusted basis of the property in the first category has been thus reduced to zero, a similar rule shall be applied, with respect to the portion of such gain which is unabsorbed in such reduction of the basis of the property in such category, in reducing the basis of the property in the second category. A similar rule with respect to the remaining unabsorbed gain shall be applied in reducing the basis of the property in the next succeeding category.

(c) *Special cases.* (1) With the consent of the Commissioner, the taxpayer may, however, have the basis of the various units of property within a particular category specified in section 1082 (a) (2) adjusted in a manner different from the general rule set forth in paragraph (b) of this section. Variations from such general rule may, for example, involve adjusting the basis of only certain units of the taxpayer's property within a given category. A request for variations from the general rule should be filed by the taxpayer with its income tax return for the taxable year in which the transfer of property has occurred.

(2) Agreement between the taxpayer and the Commissioner as to any variations from such general rule shall be effective only if incorporated in a closing agreement entered into under the provisions of section 7121. If no such agreement is entered into by the taxpayer and the Commissioner, then the consent filed on Form 982A shall (except as otherwise provided in this subparagraph) be deemed to be a consent to the application of such general rule, and such general rule shall apply in the determination of the basis of the taxpayer's property. If, however, the taxpayer specifically states on such form that it does not consent to the application of the general rule, then, in the absence of a closing agreement, the document filed shall not be deemed a consent within the meaning of section 1081 (b) (4).

§ 1.1082-4 *Basis of property acquired by corporation under section 1081 (a), 1081 (b) or 1081 (e) as contribution of capital or surplus, or in consideration for its own stock or securities.* If, in connection with an exchange of stock or securities for stock or securities as described in section 1081 (a) or an exchange of property for property as described in section 1081 (b), or an exchange as described in section 1081 (e), property is acquired by a corporation by the issuance of its stock or securities, the basis of such

property shall be determined under section 1082 (b). If the corporation issued its stock or securities as part or sole consideration for the property acquired, the basis of the property in the hands of the acquiring corporation is the basis (adjusted to the date of the exchange) which the property would have had in hands of the transferor if the transfer had not been made, increased in the amount of gain or decreased in the amount of loss recognized under section 1081 to the transferor upon the transfer. If any property is acquired by a corporation from a shareholder as paid-in surplus, or from any person as a contribution to capital, the basis of the property to the corporation is the basis (adjusted to the date of acquisition) of the property in the hands of the transferor.

§ 1.1082-5 *Basis of property acquired by shareholder upon tax-free distribution under section 1081 (c) (1) or (2)*—(a) *Stock or securities.* If there was distributed to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), and if by virtue of section 1081 (c) (1) no gain was recognized to the shareholder upon such distribution, then the basis of the stock in respect of which the distribution was made must be apportioned between such stock and the stock or securities so distributed to the shareholder. The basis of the old shares and the stock or securities received upon the distribution shall be determined in accordance with the following rules:

(1) If the stock or securities received upon the distribution consist solely of stock in the distributing corporation and the stock received is all of substantially the same character and preference as the stock in respect of which the distribution is made, the basis of each share will be the quotient of the cost or other basis of the old shares of stock divided by the total number of the old and the new shares.

(2) If the stock or securities received upon the distribution are in whole or in part stock in a corporation other than the distributing corporation, or are in whole or in part stock of a character or preference materially different from the stock in respect of which the distribution is made, or if the distribution consists in whole or in part of securities other than stock, the cost or other basis of the stock in respect of which the distribution is made shall be apportioned between such stock and the stock or securities distributed in proportion, as nearly as may be, to the respective values of each class of stock or security, old and new, at the time of such distribution, and the basis of each share of stock or unit of security will be the quotient of the cost or other basis of the class of stock or security to which such share or unit belongs, divided by the number of shares or units in the class. Within the meaning of this subparagraph, stocks or securities in one corporation are different in class from stocks or securities in another corporation, and, in general, any material difference in character or preference or

terms sufficient to distinguish one stock or security from another stock or security, so that different values may properly be assigned thereto, will constitute a difference in class.

(b) *Stock rights.* If there was distributed to a shareholder in a corporation rights to acquire common stock in a second corporation, and if by virtue of section 1081 (c) (2) no gain was recognized to the shareholder upon such distribution, then the basis of the stock in respect of which the distribution was made must be apportioned between such stock and the stock rights so distributed to the shareholder. The basis of such stock and the stock rights received upon the distribution shall be determined in accordance with the following:

(1) The cost or other basis of the stock in respect of which the distribution is made shall be apportioned between such stock and the stock rights distributed, in proportion to the respective values thereof at the time the rights are issued.

(2) The basis for determining gain or loss from the sale of a right, or from the sale of a share of stock in respect of which the distribution is made, will be the quotient of the cost or other basis, properly adjusted, assigned to the rights or the stock, divided, as the case may be, by the number of rights acquired or by the number of shares of such stock held.

(c) *Cross reference.* As to the basis of stock or securities distributed by one member of a system group to another member of the same system group, see § 1.1082-6 below.

§ 1.1082-6 *Basis of property acquired under section 1082 (d) in transactions between corporations of the same system group.* (a) If property was acquired by a corporation which is a member of a system group, from a corporation which is a member of the same system group, upon a transfer or distribution described in section 1081 (d) (1) then as a general rule the basis of such property in the hands of the acquiring corporation is the basis which such property would have had in the hands of the transferor if the transfer or distribution had not been made. Except as otherwise indicated in this section, this rule will apply equally to cases in which the consideration for the property acquired consists of stock or securities, money, and other property, or any of them, but it is contemplated that an ultimate true reflection of income will be obtained in all cases, notwithstanding any peculiarities in form which the various transactions may assume. See the example in § 1.1081-6.

(b) An exception to the general rule is provided for in case the property acquired consists of stock or securities issued by the corporation from which such stock or securities were received. If such stock or securities were the sole consideration for the property transferred to the corporation issuing such stock or securities, then the basis of the stock or securities shall be (1) the same as the basis (adjusted to the time of the transfer) of the property transferred for such stock or securities, or (2) the fair

market value of such stock or securities at the time of their receipt, whichever is the lower. If such stock or securities constituted only part consideration for the property transferred to the corporation issuing such stock or securities, then the basis shall be an amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities on their receipt bears to the total fair market value of the entire consideration received, except that the fair market value of such stock or securities at the time of their receipt shall be the basis therefor, if such value is lower than such amount.

(c) The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Suppose the A Corporation has property with an adjusted basis of \$600,000 and, in an exchange in which section 1081 (d) (1) is applicable, transfers such property to the B Corporation in exchange for a total consideration of \$1,000,000, consisting of (1) cash in the amount of \$100,000, (2) tangible property having a fair market value of \$400,000 and an adjusted basis in the hands of the B Corporation of \$300,000, and (3) stock or securities issued by the B Corporation with a par value and a fair market value as of the date of their receipt in the amount of \$500,000. The basis to the B Corporation of the property received by it is \$600,000, which is the adjusted basis of such property in the hands of the A Corporation. The basis to the A Corporation of the assets (other than cash) received by it is as follows: Tangible property, \$300,000, the adjusted basis of such property to the B Corporation, the former owner; stock or securities issued by the B Corporation, \$300,000, an amount equal to 500,000/1,000,000ths of \$600,000.

Example (2). Suppose that in example (1) the property of the A Corporation transferred to the B Corporation had an adjusted basis of \$1,100,000 instead of \$600,000, and that all other factors in the example remain the same. In such case the basis to the A Corporation of the stock or securities in the B Corporation is \$500,000, which was the fair market value of such stock or securities at the time of their receipt by the A Corporation, because this amount is less than the amount established as 500,000/1,000,000ths of \$1,100,000 or \$550,000.

§ 1.1083 *Statutory provisions; exchanges and distributions in obedience to orders of the Securities and Exchange Commission, definitions.*

SEC. 1083. *Definitions*—(a) *Order of Securities and Exchange Commission.* For purposes of this part, the term "order of the Securities and Exchange Commission" means an order issued after May 28, 1938, by the Securities and Exchange Commission which requires, authorizes, permits, or approves transactions described in such order to effectuate section 11 (b) of the Public Utility Holding Company Act of 1935 (49 Stat. 820; 15 U. S. C. 79k (b)), which has become or becomes final in accordance with law.

(b) *Registered holding company; holding company system; associate company.* For purposes of this part, the terms "registered holding company" "holding company system" and "associate company" shall have the meanings assigned to them by section 2 of the Public Utility Holding Company Act of 1935 (49 Stat. 804; 15 U. S. C. 79b (a)).

(c) *Majority-owned subsidiary company.* For purposes of this part, the term "majority-owned subsidiary company" of a registered holding company means a corporation, stock of which, representing in the aggregate more than 50 percent of the total combined voting

power of all classes of stock of such corporation entitled to vote (not including stock which is entitled to vote only on default or nonpayment of dividends or other special circumstances) is owned wholly by such registered holding company, or partly by such registered holding company and partly by one or more majority-owned subsidiary companies thereof, or by one or more majority-owned subsidiary companies of such registered holding company.

(d) *System group.* For purposes of this part, the term "system group" means one or more chains of corporations connected through stock ownership, with a common parent corporation if—

(1) At least 90 percent of each class of the stock (other than (A) stock which is preferred as to both dividends and assets, and (B) stock which is limited and preferred as to dividends but which is not preferred as to assets but only if the total value of such stock is less than 1 percent of the aggregate value of all classes of stock which are not preferred as to both dividends and assets) of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and—

(2) The common parent corporation owns directly at least 90 percent of each class of the stock (other than stock, which is preferred as to both dividends and assets) of at least one of the other corporations; and

(3) Each of the corporations is either a registered holding company or a majority-owned subsidiary company.

(e) *Nonexempt property.* For purposes of this part, the term "nonexempt property" means—

(1) Any consideration in the form of evidences of indebtedness owed by the transferor or a cancellation or assumption of debts or other liabilities of the transferor (including a continuance of encumbrances subject to which the property was transferred);

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace;

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof);

(4) Stock or securities which were acquired from a registered holding company or an associate company of a registered holding company which acquired such stock or securities after February 28, 1938, unless such stock or securities (other than obligations described as nonexempt property in paragraph (1), (2), or (3)) were acquired in obedience to an order of the Securities and Exchange Commission or were acquired with the authorization or approval of the Securities and Exchange Commission under any section of the Public Utility Holding Company Act of 1935 (49 Stat. 820; 15 U. S. C. 79k (b));

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in paragraph (2) or (3).

(f) *Stock or securities.* For purposes of this part, the term "stock or securities" means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness (including any evidence of an interest in or right to subscribe to or purchase any of the foregoing).

§ 1.1083-1 *Definitions*—(a) *Order of the Securities and Exchange Commission.* (1) An order of the Securities and Exchange Commission as defined in section 1083 (a) must be issued after May 28, 1938 (the date of the enactment of

the Revenue Act of 1938) and must be issued under the authority of section 11 (b) or 11 (e) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79k (b) (e)) to effectuate the provisions of section 11 (b) of such Act. In all cases the order must become or have become final in accordance with law. I. e., it must be valid, outstanding, and not subject to further appeal. See further sections 1083 (a) and 1081 (f)

(2) Section 11 (b) of the Public Utility Holding Company Act of 1935 provides:

(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation. The Commission may permit as reasonably incidental, or economically necessary or appropriate to the operations of one or more integrated public-utility systems the retention of an interest, in any business (other than the business of a public-utility company as such) which the Commission shall find necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system or systems.

(2) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in the holding-company system does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders, of such holding-company system. In carrying out the provisions of this paragraph the Commission shall require each registered holding company (and any company in the same holding-company system with such holding company) to take such action as the Commission shall find necessary in order that such holding company shall cease to be a holding company with respect to each of its subsidiary companies which itself has a subsidiary company which is a holding company. Except for the purpose of fairly and equitably distributing voting power among the security holders of such company, nothing in this paragraph shall authorize the Commission to require any change in the corporate structure or exist-

ence of any company which is not a holding company, or of any company whose principal business is that of a public-utility company. The Commission may by order revoke or modify any order previously made under this subsection, if, after notice and opportunity for hearing, it finds that the conditions upon which the order was predicated do not exist. Any order made under this subsection shall be subject to judicial review as provided in section 24.

(3) Section 11 (e) of the Public Utility Holding Company Act of 1935 provides:

(e) In accordance with such rules and regulations or order as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers, any registered holding company or any subsidiary company of a registered holding company may, at any time after January 1, 1938, submit a plan to the Commission for the divestment of control, securities, or other assets, or for other action by such company or any subsidiary company thereof for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of subsection (b). If, after notice and opportunity for hearing, the Commission shall find such plan, as submitted or as modified, necessary to effectuate the provisions of subsection (b) and fair and equitable to the persons affected by such plan, the Commission shall make an order approving such plan; and the Commission, at the request of the company, may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce and carry out the terms and provisions of such plan. If, upon any such application, the court, after notice and opportunity for hearing, shall approve such plan as fair and equitable and as appropriate to effectuate the provisions of section 11, the court as a court of equity may, to such extent as it deems necessary for the purpose of carrying out the terms and provisions of such plan, take exclusive jurisdiction and possession of the company or companies and the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to hold or administer, under the direction of the court and in accordance with the plan therefore approved by the court and the Commission, the assets so possessed.

(b) *Registered holding company, holding-company system, and associate company.* (1) Under section 5 of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79e), any holding company may register by filing with the Securities and Exchange Commission a notification of registration, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. A holding company shall be deemed to be registered upon receipt by the Securities and Exchange Commission of such notification of registration. As used in this part, the term "registered holding company" means a holding company whose notification of registration has been so received and whose registration is still in effect under section 5 of the Public Utility Holding Company Act of 1935. Under section 2 (a) (7) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79b (a) (7)), a corporation is a holding company (unless it is declared not to be such by the Securities and Exchange Commission), if such corporation directly or indirectly

owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a public-utility company (I. e., an electric utility company or a gas utility company as defined by such act) or of any other holding company. A corporation is also a holding company if the Securities and Exchange Commission determines, after notice and opportunity for hearing, that such corporation directly or indirectly exercises (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility company (I. e., an electric utility company or a gas utility company as defined by such act) or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such corporation be subject to the obligations, duties, and liabilities imposed upon holding companies by the Public Utility Holding Company Act of 1935 (15 U. S. C. 2 C). An electric utility company is defined by section 2 (a) (3) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79b (a) (3)) to mean a company which owns or operates facilities used for the generation, transmission, or distribution of electrical energy for sale, other than sale to tenants or employees of the company operating such facilities for their own use and not for resale; and a gas utility company is defined by section 2 (a) (4) of such act (15 U. S. C. 79b (a) (4)), to mean a company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers, or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. However, under certain conditions the Securities and Exchange Commission may declare a company not to be an electric utility company or a gas utility company, as the case may be, in which event the company shall not be considered an electric utility company or a gas utility company.

(2) The term "holding company system" has the meaning assigned to it by section 2 (a) (9) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79b (a) (9)), and hence means any holding company, together with all its subsidiary companies (I. e., subsidiary companies within the meaning of section 2 (a) (8) of such act (15 U. S. C. 79b (a) (8))) which in general include all companies 10 percent of whose outstanding voting securities is owned directly or indirectly by such holding company and all mutual service companies of which such holding company or any subsidiary company thereof is a member company. The term "mutual service company" means a company approved as a mutual service company under section 13 of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79m). The term "member company" is defined by section 2 (a) (14) of such act (15 U. S. C. 79b (a) (14)), to mean a company which is a member of an association or group of companies mutually served by a mutual service company.

(3) The term "associate company" has the meaning assigned to it by section 2 (a) (10) of the Public Utility Holding Company Act of 1935 (15 U. S. C. 79b (a) (10)), and hence an associate company of a company is any company in the same holding-company system with such company.

(c) *Majority-owned subsidiary company.* The term "majority-owned subsidiary company" is defined in section 1083 (c) Direct ownership by a registered holding company of more than 50 percent of the specified stock of another corporation is not necessary to constitute such corporation a majority-owned subsidiary company. To illustrate, if the H Corporation, a registered holding company, owns 51 percent of the common stock of the A Corporation and 31 percent of the common stock of the B Corporation, and the A Corporation owns 20 percent of the common stock of the B Corporation (the common stock in each case being the only stock entitled to vote) both the A Corporation and the B Corporation are majority-owned subsidiary companies.

(d) *System group.* The term "system group" is defined in section 1083 (d) to mean one or more chains of corporations connected through stock ownership with a common parent corporation, if at least 90 percent of each class of stock (other than (1) stock which is preferred as to both dividends and assets, and (2) stock which is limited and preferred as to dividends but which is not preferred as to assets but only if the total value of such stock is less than 1 percent of the aggregate value of all classes of stock which are not preferred as to both dividends and assets) of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations, and if the common parent corporation owns directly at least 90 percent of each class of stock (other than stock preferred as to both dividends and assets) of at least one of the other corporations; but no corporation is a member of a system group unless it is either a registered holding company or a majority-owned subsidiary company. While the type of stock which must, for the purpose of this definition, be at least 90 percent owned may be different from the voting stock which must be more than 50 percent owned for the purpose of the definition of a majority-owned subsidiary company under section 1083 (c) as a general rule both types of ownership tests must be met under section 1083 (d) since a corporation, in order to be a member of a system group, must also be a registered holding company or a majority-owned subsidiary company.

(e) *Nonexempt property.* The term "nonexempt property" is defined by section 1083 (e) to include—

(1) The amount of any consideration in the form of a cancellation or assumption of debts or other liabilities of the transferor (including a continuance of encumbrances subject to which the property was transferred). To illustrate, if in obedience to an order of the Securities and Exchange Commission the X Corporation, a registered holding com-

pany, transfers property to the Y Corporation in exchange for property (not nonexempt property) with a fair market value of \$500,000, the X Corporation receives \$100,000 of nonexempt property, if for example—

(i) The Y Corporation cancels \$100,000 of indebtedness owed to it by the X Corporation;

(ii) The Y Corporation assumes an indebtedness of \$100,000 owed by the X Corporation to another company, the A Corporation; or

(iii) The Y Corporation takes over the property conveyed to it by the X Corporation subject to a mortgage of \$100,000.

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace.

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof)

(4) Stock or securities which were acquired from a registered holding company which acquired such stock or securities after February 28, 1938, or an associate company of a registered holding company which acquired such stock or securities after February 28, 1938, unless such stock or securities were acquired in obedience to an order of the Securities and Exchange Commission (as defined in section 1083 (a)) or were acquired with the authorization or approval of the Securities and Exchange Commission under any section of the Public Utility Holding Company Act of 1935, and are not nonexempt property within the meaning of section 1083 (e) (1) (2) or (3)

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in section 1083 (e) (2) or (3) The term "the right to receive money" includes, among other items, accounts receivable, claims for damages, and rights to refunds of taxes.

(f) *Stock or securities.* The term "stock or securities" is defined in section 1083 (f) for the purposes of sections 1081 to 1083, inclusive. As therein defined, the term includes voting trust certificates and stock rights or warrants.

WASH SALES OF STOCKS OR SECURITIES

§ 1.1091 *Statutory provisions; losses from wash sales of stocks or securities; basis.*

SEC. 1091. *Loss from wash sales of stock or securities—(a) Disallowance of loss deduction.* In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 165 (c) (2); nor shall such deduction be allowed a corporation under section 165 (a) unless it is a dealer in stocks or securities, and the loss is

sustained in a transaction made in the ordinary course of its business.

(b) *Stock acquired less than stock sold.* If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under regulations prescribed by the Secretary or his delegate.

(c) *Stock acquired not less than stock sold.* If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under regulations prescribed by the Secretary or his delegate.

(d) *Unadjusted basis in case of wash sale of stock.* If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under this section or corresponding provisions of prior internal revenue laws) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

§ 1.1091-1 *Losses from wash sales of stock or securities.* (a) A taxpayer cannot deduct any loss claimed to have been sustained from the sale or other disposition of stock or securities if, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date (referred to in this section as the 61-day period), he has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities. However, this prohibition does not apply (1) in the case of a taxpayer, not a corporation, if the sale or other disposition of stock or securities is made in connection with the taxpayer's trade or business, or (2) in the case of a corporation, a dealer in stock or securities, if the sale or other disposition of stock or securities is made in the ordinary course of its business as such dealer.

(b) Where more than one loss is claimed to have been sustained within the taxable year from the sale or other disposition of stock or securities, the provisions of this section shall be applied to the losses in the order in which the stock or securities the disposition of which resulted in the respective losses were disposed of (beginning with the earliest disposition) If the order of disposition of stock or securities disposed of at a loss on the same day cannot be determined, the stock or securities will be considered to have been disposed of in the order in which they were originally acquired (beginning with the earliest acquisition)

(c) Where the amount of stock or securities acquired within the 61-day period is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock

or securities: the loss from the sale or other disposition of which is not deductible shall be those with which the stock or securities acquired are matched in accordance with the following rule: The stock or securities acquired will be matched in accordance with the order of their acquisition (beginning with the earliest acquisition) with an equal number of the shares of stock or securities sold or otherwise disposed of.

(d) Where the amount of stock or securities acquired within the 61-day period is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which resulted in the nondeductibility of the loss shall be those with which the stock or securities disposed of are matched in accordance with the following rule: The stock or securities sold or otherwise disposed of will be matched with an equal number of the shares of stock or securities acquired in accordance with the order of acquisition (beginning with the earliest acquisition) of the stock or securities acquired.

(e) The acquisition of any share of stock or any security which results in the nondeductibility of a loss under the provisions of this section shall be disregarded in determining the deductibility of any other loss.

(f) The word "acquired" as used in this section means acquired by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law, and comprehends cases where the taxpayer has entered into a contract or option within the 61-day period to acquire by purchase or by such an exchange.

(g) The following examples illustrate the application of this section:

Example (1). A, whose taxable year is the calendar year, on December 1, 1954, purchased 100 shares of common stock in the M Company for \$10,000 and on December 15, 1954, purchased 100 additional shares for \$9,000. On January 3, 1955, he sold the 100 shares purchased on December 1, 1954, for \$9,000. Because of the provisions of section 1091, no loss from the sale is allowable as a deduction.

Example (2). A, whose taxable year is the calendar year, on September 21, 1954, purchased 100 shares of the common stock of the M Company for \$5,000. On December 21, 1954, he purchased 50 shares of substantially identical stock for \$2,750, and on December 27, 1954, he purchased 25 additional shares of such stock for \$1,125. On January 3, 1955, he sold for \$4,000 the 100 shares purchased on September 21, 1954. There is an indicated loss of \$1,000 on the sale of the 100 shares. Since, within the 61-day period, A purchased 75 shares of substantially identical stock, the loss on the sale of 75 of the shares (\$3,750—\$3,000, or \$750) is not allowable as a deduction because of the provisions of section 1091. The loss on the sale of the remaining 25 shares (\$1,250—\$1,000, or \$250) is deductible subject to the limitations provided in sections 267 and 1211. The basis of the 50 shares purchased December 21, 1954, the acquisition of which resulted in the nondeductibility of the loss (\$500) sustained on 50 of the 100 shares sold on January 3, 1955, is \$2,500 (the cost of 50 of the shares sold on January 3, 1955) + \$750 (the difference between the purchase price \$2,750) of the 50 shares acquired on December 21, 1954, and the selling price (\$2,000) of 50 of the shares sold on January 3, 1955, or \$3,250. Similarly,

the basis of the 25 shares purchased on December 27, 1954, the acquisition of which resulted in the nondeductibility of the loss (\$250) sustained on 25 of the shares sold on January 3, 1955, is \$1,250 + \$125, or \$1,375. See § 1.1091-2.

Example (3). A, whose taxable year is the calendar year, on September 15, 1954, purchased 100 shares of the stock of the M Company for \$5,000. He sold these shares on February 1, 1956, for \$4,000. On each of the four days from February 15, 1956, to February 18, 1956, inclusive, he purchased 50 shares of substantially identical stock for \$2,000. There is an indicated loss of \$1,000 from the sale of the 100 shares on February 1, 1956, but, since within the 61-day period A purchased not less than 100 shares of substantially identical stock, the loss is not deductible. The particular shares of stock the purchase of which resulted in the nondeductibility of the loss are the first 100 shares purchased within such period, that is, the 50 shares purchased on February 15, 1956, and the 50 shares purchased on February 16, 1956. In determining the period for which the 50 shares purchased on February 15, 1956, and the 50 shares purchased on February 16, 1956, were held, there is to be included the period for which the 100 shares purchased on September 15, 1954, and sold on February 1, 1956, were held.

§ 1.1091-2 *Basis of stocks or securities acquired in "wash sales"* The application of section 1091 (d) may be illustrated by the following examples:

Example (1). A purchased a share of common stock of the X Corporation for \$100 in 1935, which he sold January 15, 1955, for \$80. On February 1, 1955, he purchased a share of common stock of the same corporation for \$90. No loss from the sale is recognized under section 1091. The basis of the new share is \$110; that is, the basis of the old share (\$100) increased by \$10, the excess of the price at which the new share was acquired (\$90) over the price at which the old share was sold (\$80).

Example (2). A purchased a share of common stock of the Y Corporation for \$100 in 1935, which he sold January 15, 1955, for \$80. On February 1, 1955, he purchased a share of common stock of the same corporation for \$70. No loss from the sale is recognized under section 1091. The basis of the new share is \$90; that is, the basis of the old share (\$100) decreased by \$10, the excess of the price at which the old share was sold (\$80) over the price at which the new share was acquired (\$70).

[F. R. Doc. 55-9631; Filed, Nov. 30, 1955; 8:50 a. m.]

Management, Washington 25, D. C., within 30 days from the date of publication of this notice.

Upon receiving the recommendation of the Director, Bureau of Land Management, together with all responses received pursuant to this notice, the Secretary of the Interior will determine whether the proposed regulations, 43 CFR 115.39 (f) and 115.45 (3), as proposed to be amended should be adopted. Should the Secretary of the Interior decide that the proposed regulations be adopted they will be duly published in the FEDERAL REGISTER.

DOUGLAS MCKAY,
Secretary of the Interior.

NOVEMBER 25, 1955.

A new paragraph (f) is added to § 115.39; and paragraph (b) (3) of § 115.45 is amended, to read as follows:

§ 115.39 *Sales and appraisals.* * * *

(f) When the Director determines that good forest management requires the rapid removal of windthrown, insect-damaged, or fire-killed timber or other salvage material, he may waive any or all marketing area restrictions as to sales of any timber which may be classified as salvage in nature by the authorized officer. Salvage sales may include such minimum amounts of intermingled or adjacent green timber as are necessary to insure economic operations.

§ 115.45 *Action on bids.* * * *

(b) * * *

(3) Timber which has been determined by the authorized officer to be salvage in nature, which has been advertised as such, which has not been affected by a marketing area waiver issued under § 115.39 (f) and which is sold under the terms of this section because no bids were received within the time specified in the notice of sale, may be manufactured in any O. & C. marketing area which has been established by the Secretary of the Interior, or the Director, Bureau of Land Management.

[F. R. Doc. 55-9611; Filed, Nov. 30, 1955; 8:47 a. m.]

Bureau of Mines

[30 CFR Part 11]

[Schedule 13C]

SELF-CONTAINED BREATHING APPARATUS

TESTS FOR PERMISSIBILITY; FEES

Notice is hereby given that the Secretary of the Interior proposes to amend the regulations in this part governing tests and investigations leading to approval of self-contained breathing apparatus as indicated below. Interested persons may submit, in triplicate, written data, views, or arguments concerning the proposed amendment of the regulations to the Director, Bureau of Mines, U. S. Department of the Interior, Washington 25, D. C. All relevant material received not later than 30 days after this notice is published in the FEDERAL REGISTER will be considered in formulating the amendment of these regulations.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 115]

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

SALES AND APPRAISALS; ACTION ON BIDS

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Act of August 28, 1937 (50 Stat. 874) it is proposed to amend the regulations governing the sale of timber on the O. & C. lands. A tentative draft of the proposed regulations, 43 CFR 115.39 (f) and 115.45 (3), is set forth below.

Interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments, to the Director, Bureau of Land

Part 11 would be amended as follows:
1. Section 11.2 (a) would be amended to read as follows:

§ 11.2 *Conditions under which self-contained breathing apparatus will be tested.* The conditions under which the Bureau of Mines will examine and test self-contained breathing apparatus to establish their permissibility follow:

(a) (1) Applications for inspection, examination, and testing shall be made in duplicate to the District Supervisor, Health and Safety District B, Bureau of Mines, 4800 Forbes Street, Pittsburgh 13, Pennsylvania, and shall be accompanied by (i) a check, bank draft, or money order (see § 11.13) payable to the order of the United States Bureau of Mines; (ii) a complete written description of the apparatus in duplicate; and (iii) a set of drawings in duplicate showing full details of construction of the apparatus. If an apparatus operates with a regenerator, the application shall be accompanied by a complete written description of the regenerator and a set of drawings showing full details of its construction, all in duplicate. The application shall state, among other things, whether the apparatus is ready to be marketed.

(2) Manufacturers or their representatives may visit or communicate with the Engineer in Charge of Breathing-Apparatus Testing, Bureau of Mines, 4800 Forbes Street, Pittsburgh 13, Pennsylvania to obtain criticism of proposed designs or to discuss the requirements covering the approval of self-contained breathing apparatus. No charge is made for such consultation.

2. Paragraphs (h) and (i) of § 11.2 would be deleted.

3. Paragraphs (j) and (k) of § 11.2 would become new paragraphs (h) and (i), respectively.

4. A new paragraph (j) would be inserted in § 11.2 to read as follows:

(j) No one shall be present during any part of the formal investigation, conducted by the Bureau, that leads to approval except the necessary Government personnel, representatives of the applicant, and such other persons as may be mutually agreed upon by the applicant and the bureau. When a self-contained breathing apparatus is approved as permissible, the Bureau will announce that such approval has been granted and may thereafter conduct from time to time, in its discretion, public demonstrations of the tests on approved self-contained breathing apparatus. Those who attend any part of the investigation, or any public demonstration, shall be present solely as observers; the conduct of the investigation and of any public demonstration shall be controlled wholly by the Bureau's personnel. Results of chemical analyses and all information contained in the drawings, specifications, and instructions shall be deemed confidential, and the Bureau will appropriately safeguard them against disclosure.

5. A new paragraph (k) would be inserted in § 11.2 to read as follows:

(k) After the Bureau has considered the results of the investigation and suitable drawings and specifications have

been placed on file, the Bureau will supply the applicant with a formal written notification of approval or disapproval of the self-contained breathing apparatus. If the breathing apparatus meets all requirements of this part, the notification will not be accompanied by test data or detailed results of tests. If the apparatus fails to meet any requirements of this part, the notification will be accompanied by details of the failure, with a view to possible remedying of the defect or defects in self-contained breathing apparatus submitted for testing and approval in the future. Results of tests of self-contained breathing apparatus that fail to meet the requirements will not be made public by the Bureau.

6. Paragraphs (l) and (m) of § 11.2 would be deleted.

7. Paragraphs (n) and (o) of § 11.2 would become new paragraphs (l) and (m) respectively.

8. Subparagraph (1) of paragraph (e) of § 11.3 would be amended to read as follows:

(e) (1) For an apparatus in which the expired air is recirculated and in which a mouth-breathing device, a supply of compressed oxygen, and a separate regenerator are utilized, the regenerating material shall absorb carbon dioxide from the expired air to the extent that not more than 2½ percent of carbon dioxide is present in the inspired air at any time. The average carbon dioxide content shall not exceed 1 percent throughout the test, as determined by analyses of air samples obtained as close as practicable to the point of inspiration and at uniform time intervals.

9. A new paragraph (e) (2) would be inserted in § 11.3, as follows:

(2) For an apparatus in which expired air is recirculated and in which a facepiece, a supply of compressed oxygen, and a separate regenerator are utilized the regenerating material shall absorb carbon dioxide from the expired air to the extent that not more than 2½ percent of carbon dioxide is present in the inspired air at any time. The average carbon dioxide content shall not exceed 2 percent throughout the test, determined by analyses of air samples taken from within the facepiece as close as practicable to the nose and mouth of the wearer and at uniform time intervals. Air samples will be taken only when the wearer is inhaling.

10. Former paragraph (e) (2) of § 11.3 would become (e) (3) and would be amended to read as follows:

(3) For an oxygen-generating apparatus utilizing a mouth-breathing device in which the expired air is recirculated and wherein a chemical change is effected so that carbon dioxide is absorbed concurrently with generation of oxygen within the oxygen generator, the absorbent shall absorb carbon dioxide from the expired air to the extent that not more than 2½ percent of carbon dioxide is present in the inspired air at any time. The average carbon dioxide content shall not exceed 1 percent throughout the test, determined by analyses of air samples taken as close as practicable to the

point of inspiration and at uniform time intervals.

11. A new paragraph (e) (4) would be inserted in § 11.3, as follows:

(4) For an oxygen-generating apparatus utilizing a facepiece in which the expired air is recirculated and wherein a chemical change is effected so that carbon dioxide is absorbed concurrently with generation of oxygen within the oxygen generator, the absorbent shall absorb carbon dioxide from the expired air to the extent that not more than 2½ percent of carbon dioxide is present in the inspired air at any time. The average carbon-dioxide content shall not exceed 2 percent throughout the test, determined by analyses of air samples taken from within the facepiece as close as practicable to the nose and mouth of the wearer and at uniform time intervals. Air samples shall be taken only when the wearer is inhaling.

12. Paragraph (q) of § 11.4 would be amended to read as follows:

(q) Apparatus equipped with a mouth-breathing device or a facepiece shall be provided with an adequate saliva or moisture trap and release valve at the exhalation side of the inhalation and exhalation valve assembly and shall be so designed that while the saliva or moisture trap and release valve are functioning, no atmosphere external thereto can be drawn into the apparatus during inhalation.

13. Subparagraph (2) of paragraph (s) of § 11.4 would be amended to read as follows:

(2) The eyepieces shall be of non-shatter type and located to provide a satisfactory field of vision for persons of widely varying facial dimensions and contours. Air or oxygen shall enter the facepiece and be directed across the eyepieces to reduce precipitation or accumulation of moisture. The lenses shall be treated with an effective fog-preventing solution that is nonirritating, odorless, and nonflammable.

14. New subparagraphs (5) and (6) would be added to paragraph(s) of § 11.4, as follows:

(5) A facepiece, used as a supplemental attachment complete with inhalation- and exhalation-valve assembly and breathing tubes, shall not exceed a total weight of 3 pounds.

(6) The facepiece shall be distinctively and permanently marked to identify it as a supplemental part of a specific type of self-contained breathing apparatus.

15. The first sentence of the 4th paragraph of § 11.5 would be amended to read as follows: "Samples of air from an apparatus in which air is recirculated and which utilizes a mouth-breathing device shall be taken from the inhalation side of the circulatory system as close as possible to the mouthpiece or face attachment. Samples of air from a regenerating- or recirculating-type apparatus utilizing a facepiece shall be taken from the interior of the facepiece as close as possible to the nose and

mouth of the wearer and shall be taken only when the wearer is inhaling."

16. Section 11.13 would be amended to read as follows:

§ 11.13 Fees for testing self-contained breathing apparatus.

	Apparatus with separate regenerator	Oxygen-generating apparatus	Demand-type apparatus
Complete 2-hour self-contained breathing apparatus inspection and tests	\$1,500	\$1,500	\$1,500
Complete 1-hour self-contained breathing apparatus inspection and tests	1,390	1,390	1,390
Complete 3/4-hour self-contained breathing apparatus inspection and tests	1,390	1,390	1,390
Complete 1/2-hour self-contained breathing apparatus inspection and tests	1,390	1,390	1,390
Separate preliminary 2-hour apparatus inspection and tests	230	230	230
Separate preliminary 1-hour apparatus inspection and tests	230	230	230
Separate preliminary 3/4-hour apparatus inspection and tests	230	230	230
Separate preliminary 1/2-hour apparatus inspection and tests	230	230	230
Separate supplementary facepiece assembly	230	230	-----
Separate regenerator 2-hour apparatus inspection and tests	165	-----	-----
Separate regenerator 1-hour apparatus inspection and tests	165	-----	-----
Separate regenerator 3/4-hour apparatus inspection and tests	165	-----	-----
Separate regenerator 1/2-hour apparatus inspection and tests	165	-----	-----
Special reducing valve inspection and tests, all models	165	165	165
Separate auxiliary parts inspection and tests, each part	110	110	110

Fees for testing unusually complicated types of self-contained breathing apparatus and for extensions of approval will be based on the actual cost of testing, as determined by the Bureau of Mines in advance; the applicant will be notified and the fees paid before the tests are begun.

17. Section 11.14 would be deleted.

DOUGLAS MCKAY,
Secretary of the Interior

NOVEMBER 23, 1955.

[F. R. Doc. 55-9610; Filed, Nov. 30, 1955; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 903 I

[Docket No. AO-10-A19]

MILK IN ST. LOUIS, MO., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

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 prac-

tice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at St. Louis, Missouri, on October 25, 1955.

Upon the basis of the evidence introduced at the hearing and the record, thereof, the Deputy Administrator, Agricultural Marketing Service, on November 18, 1955, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision with respect to issues of this proceeding. The recommended decision including notice of an opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on November 19, 1955 (20 F. R. 8574)

The material issues, findings and conclusions, and general findings of the recommended decision (20 F. R. 8574, Doc. 55-9369) are hereby approved and adopted by this decision as is set forth in full herein.

Ruling on exceptions. Within the period reserved for exceptions, interested parties filed exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator. In arriving at the findings, conclusions and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and actions decided upon herein are at variance with the exceptions, such exceptions are overruled.

Determination of representative period. The month of October 1955, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order, as amended.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area," and "Order Amending the Order as Amended, Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area" which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision except the attached marketing agreement be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached Order which will be published with this decision.

This decision filed at Washington, D. C., this 25th day of November 1955.

[SEAL] EARL L. BUTZ,
Assistant Secretary of Agriculture.

Order¹ Amending the Order as Amended, Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area

§ 903.0 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 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 (hereinafter referred to as the "act") (7 U. S. C. 601 et seq.) and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, 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 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 hearings have been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the St. Louis, Missouri, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the

¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

[7 CFR Part 937]

[AO-264]

CELERY GROWN IN FLORIDA

DETERMINATIONS ON RESULTS OF REFERENDUM ON PROPOSED MARKETING ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 1047) and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 19 F. R. 57) a public hearing was held at Winter Haven, Florida, on March 28-31, 1955, pursuant to notice thereof which was published in the FEDERAL REGISTER (20 F. R. 1217) upon proposed Marketing Agreement No. 124 and proposed Marketing Order No. 37 (hereinafter referred to as the "order") regulating the handling of celery grown in Florida. The recommended decision (20 F. R. 6171) of the Deputy Administrator, Agricultural Marketing Service, and the decision (20 F. R. 7997) of the Assistant Secretary of Agriculture setting forth a proposed marketing agreement and order as the appropriate and detailed means for effectuating the declared policy of the Agricultural Mar-

keting Agreement Act of 1937, as amended, were published in the FEDERAL REGISTER on August 24, 1955, and October 25, 1955, respectively. The Assistant Secretary also issued an order (20 F. R. 8018) directing that a referendum be conducted among producers of celery grown in Florida to determine whether the requisite majority of such producers approve or favor the issuance of the proposed marketing order.

It is hereby determined, on the basis of the results of the referendum conducted pursuant to the aforesaid referendum order, that the issuance of the proposed marketing order regulating the handling of celery grown in Florida is approved or favored by only 47 percent of the producers who voted in the aforesaid referendum.

It is therefore determined that the proposed marketing order set forth in the Assistant Secretary's decision of October 20, 1955 (20 F. R. 8012), shall not be made effective.

Done at Washington, D. C., this 25th day of November 1955.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.[F. R. Doc. 55-9628; Filed, Nov. 30, 1955;
8:50 a. m.]

aforesaid order, as amended, is hereby further amended as follows:

1. Add to § 903.51 (a) (2) the following proviso: "Provided, That for the months of April 1956 through June 1956, such rates shall be 4 cents, and for all other months from the effective date hereof through August 1956 such rate shall be 5 cents."

2. Amend § 903.51 (a) (3) to read as follows:

(3) For each month calculate a utilization percentage by (i) dividing the net pounds of Class I milk disposed of from all pool plants (except non-Grade A milk disposed of outside the marketing area and allocated to other source milk) plus the Class I milk disposed of in the marketing area from nonpool plants, all for the 12-month period ending with the beginning of the preceding month, into the total pounds of producer milk during such 12-month period, (ii) multiplying by 100, (iii) adding or subtracting, respectively, any amount by which such result is greater or less than a comparable 12-month utilization percentage as computed for the third month preceding, and (iv) rounding the resultant figure to the nearest whole percent.

[F. R. Doc. 55-9629; Filed, Nov. 30, 1955;
8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

UTAH

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS; AMENDMENT

Notice of Proposed Withdrawal and Reservation of Lands dated September 19, 1955, identified as F. R. Doc. 55-7845, filed September 28, 1955, 8:46 a. m. and appearing in the FEDERAL REGISTER of September 29, 1955, page 7273, is amended to include:

SALT LAKE MERIDIAN

T. 4 N., R. 14½ W. All.

WM. N. ANDERSEN,
State Supervisor[F. R. Doc. 55-9608; Filed, Nov. 30, 1955;
8:47 a. m.]

UTAH

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS; CORRECTION

Notice of Proposed Withdrawal and Reservation of Lands, No. 15 (A-2) Utah, dated September 19, 1955, identified as F. R. Doc. 55-7844, filed September 28, 1955, 8:46 a. m. and appearing in the FEDERAL REGISTER of September 29, 1955, page 7273, is corrected as follows:

The first paragraph reading: "An application, serial number Utah 013925, for the withdrawal from prospecting, location, entry or purchase under the mining

laws of the lands described below was filed on November 24, 1954 by the Atomic Energy Commission. The purpose of the withdrawal: for use by the Atomic Energy Commission," is hereby corrected to read as follows: "An application, serial number Utah 013925, for the withdrawal from all forms of disposal under the public land laws, including the mining and mineral leasing laws, of the lands described below was filed on November 24, 1954 by the Atomic Energy Commission. The purpose of the withdrawal: for use by the Atomic Energy Commission."

WM. N. ANDERSEN,
State Supervisor.[F. R. Doc. 55-9609; Filed, Nov. 30, 1955;
8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NORTH CAROLINA

DISASTER ASSISTANCE; DELINEATION OF AREA AND DESIGNATION OF COUNTIES

Pursuant to Public Law 875, the President determined on August 13 and August 19, 1955, that major disasters occasioned by hurricanes existed in the State of North Carolina.

Pursuant to the authority delegated to me by the Administrator, Federal Civil Defense Administration (18 F. R. 4609; 19 F. R. 2148; 19 F. R. 5364; and 20 F. R. 4664) and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as

amended by Public Law 115, 83d Congress, and section 301 of Public Law 480, 83d Congress, the following named counties in the State of North Carolina were on November 23, 1955, determined to be the area affected by the major disasters of hurricanes for said purposes:

NORTH CAROLINA

Onslow and Pender.

Done at Washington, D. C., this 25th day of November 1955.

[SEAL]

TRUE D. MORSE,
Acting Secretary.[F. R. Doc. 55-9626; Filed, Nov. 30, 1955;
8:49 a. m.]

UTAH

DISASTER ASSISTANCE; DELINEATION AND CERTIFICATION OF ADDITIONAL COUNTIES CONTAINED IN DROUGHT AREAS

Pursuant to Public Law 875, 81st Congress (42 U. S. C. 1855 et seq.), the President determined on October 19, 1954, that a major disaster occasioned by drought existed in the State of Utah.

Pursuant to the authority delegated to me by the Administrator, Federal Civil Defense Administration (18 F. R. 4609; 19 F. R. 2148; 19 F. R. 5364, and 20 F. R. 4664), and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, and section 301 of Public Law 480, 83d Congress, the Counties of Daggett, Emery, and a portion of Box Elder

County, Utah, were on December 6, 1954, determined to be the area affected by the major disaster by drought. Pursuant to the aforesaid delegations, the delineation and certification of counties in the drought areas described above, is hereby amended by adding that part of Box Elder County north of the right-of-way of the Southern Pacific Railroad running through Lucin, Utah, and west of range 10.

Done at Washington, D. C., this 25th day of November 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

F. R. Doc. 55-9627; Filed, Nov. 30, 1955;
8:49 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[Delegation 8-1¹]

SURPLUS REAL PROPERTY AND RELATED PERSONAL PROPERTY

DELEGATION RELATING TO DISPOSAL AND UTILIZATION FOR HEALTH AND EDUCATIONAL PURPOSES

1. Each Regional Director, except the Regional Director in Region VIII, with respect to disposal and utilization for health and educational purposes of surplus real property and related personal property located within his jurisdiction, is authorized:

(a) To execute deeds, contracts of sale, and all instruments incident or corollary to the transfer of land and improvements thereon where the acquisition and improvement cost of the property was \$150,000 or less;

(b) To execute instruments in modification of previous transfers where the acquisition and improvement cost of the land and improvements thereon involved in the modification action was \$150,000 or less;

(c) To execute all instruments with respect to land and improvements thereon where the acquisition and improvement cost exceeded \$150,000, where the Division of Surplus Property Utilization specifically authorizes closing of the transaction by the Regional Office;

(d) To execute all instruments relating to the transfer of improvements for removal and use away from the site; and

(e) To execute all modifying or re-transfer instruments affecting improvements originally disposed of for removal and use away from the site.

2. The Regional Director of Region IX, with respect to property located within the states comprising Region VIII, shall exercise the authority as above-delegated.

Dated: November 25, 1955.

[SEAL] M. B. FOLSOM,
Secretary.

[F. R. Doc. 55-9604; Filed, Nov. 30, 1955;
8:45 a. m.]

¹Supersedes Delegation 8-1 dated February 8, 1951.

[Delegation 8-2¹]

SURPLUS REAL PROPERTY AND RELATED PERSONAL PROPERTY

DELEGATION RELATING TO DISPOSAL AND UTILIZATION FOR HEALTH AND EDUCATIONAL PURPOSES

1. The surplus property utilization program representative in each region, except for Region I and VIII, is the Regional Property Coordinator. The Regional Property Coordinators in Region II and Region IX shall serve as program representatives in Region I and Region VIII, respectively.

2. Each Regional Property Coordinator, with respect to the disposal for health and educational purposes of surplus real property and related personal property within his jurisdiction, is authorized:

(a) To request and accept assignments from Federal agencies of:

(1) Improvements for removal and use away from the site; and

(2) Land and improvements thereon where the acquisition and improvement cost of the property was \$150,000 or less;

(b) Consistent with the policies and procedures set forth in applicable regulations of the Department, to make determinations incident to the disposal of assigned property described in 2 (a) (1) and 2 (a) (2) above;

(c) To issue and execute licenses and interim permits affecting assigned property described in 2 (a) (1) and 2 (a) (2) above;

(d) To execute instruments of transfer relating to property described in 2 (a) (1) above;

(e) To execute instruments necessary to carry out actions incident or corollary to the health or educational transfer of property described in 2 (a) (2) above;

(f) Except for execution of instruments of conveyance to the health or educational transferee, to take all action with respect to land and improvements thereon where the acquisition and improvement cost exceeded \$150,000, where the Division of Surplus Property Utilization specifically authorizes closing of the transaction by the Regional Office;

(g) Incident to the exercise of the authority hereinbefore provided, to receive remittances and performance guarantee deposits and bonds, to request refunds or payments, and to request forfeiture or release of performance bonds.

3. From the foregoing delegation there is reserved to the Division of Surplus Property Utilization authority to request and accept assignments of property from Federal agencies whose disposal authority is exempted from the provisions of the Federal Property and Administrative Services Act of 1949, as amended, by section 602 (d) thereof.

4. Each Regional Property Coordinator, with respect to property within his jurisdiction previously disposed of for health and educational purposes, is authorized:

(a) Consistent with the policies and procedures set forth in applicable regulations of the Department, to make de-

¹Supersedes Delegation 8-2 dated February 8, 1951.

terminations concerning the utilization and the enforcement of compliance with the terms and conditions of disposal of:

(1) Improvements for removal and use away from the site; and

(2) Land and improvements thereon where the acquisition and improvement cost of the property involved in the current action was \$150,000 or less;

(b) To accept voluntary reconveyances and to effect reverter of title to land and improvements located thereon, without regard to acquisition cost;

(c) To report to General Services Administration vested properties excess to program requirements in accordance with applicable regulations;

(d) To take all action with respect to land and improvements thereon where the acquisition and improvement cost of the property involved in the current action exceeded \$150,000, where the Division of Surplus Property Utilization specifically authorizes closing of the transaction by the Regional Office;

(e) To execute instruments necessary to carry out or incident to the exercise of the authority delegated in this paragraph;

(f) Incident to the exercise of the authority delegated in this paragraph, to receive remittances and performance guarantee deposits and bonds, to request refunds or payments, and to request forfeiture or release of performance bonds.

Dated: November 25, 1955.

[SEAL] M. B. FOLSOM,
Secretary.

[F. R. Doc. 55-9605; Filed, Nov. 30, 1955;
8:46 a. m.]

[Delegation 8-3]

SURPLUS PERSONAL PROPERTY

DELEGATION RELATING TO ALLOCATION AND UTILIZATION FOR HEALTH AND EDUCATIONAL PURPOSES

1. The surplus property utilization program representative in each region, except for Regions I and VIII, is the Regional Property Coordinator. The Regional Property Coordinators in Region II and Region IX shall serve as program representatives in Region I and Region VIII, respectively.

2. Each Regional Property Coordinator, with respect to the allocation for donation for health and educational purposes of surplus personal property located within his jurisdiction, is authorized:

(a) To make determinations, consistent with the policies and procedures set forth in applicable regulations of the Department, concerning the usability of and need for surplus personal property by health or educational institutions;

(b) To allocate surplus personal property and to take all actions necessary to accomplish donation or transfer of property so allocated, consistent with the policies and procedures set forth in applicable regulations of the Department;

(c) To certify and assign individuals designated by State Agencies as State

representatives for the purpose of screening surplus personal property.

(d) To execute all instruments, documents and forms necessary to carry out or incident to exercise of any of the foregoing authority.

3. Each Regional Property Coordinator, with respect to personal property located within his jurisdiction previously donated for health and educational purposes, or transferred to State Agencies for subsequent donation for such purposes, is authorized:

(a) As limited by subparagraphs (b) and (c) hereof, to make defermentations and take actions appropriate thereto, consistent with the policies and procedures set forth in applicable regulations of the Department, concerning the utilization of such property, including retransfer and the enforcement of compliance with terms and conditions which may have been imposed on and which are currently applicable to such property.

(b) To approve sales by State Agencies (1) where the acquisition cost of the items listed for sale does not exceed \$25,000.00 and (2) as the Division of Surplus Property Utilization specifically directs;

(c) To approve destruction or abandonment of property in the custody of State Agencies after a determination in writing that the property has no commercial value or that the cost of care and handling would exceed the estimated proceeds from its sale, except that where the acquisition cost of the property was more than \$1,000 (estimated if not known) the determination must be approved by the Division of Surplus Property Utilization;

(d) To execute instruments necessary to carry out or incident to the exercise of the authority delegated in this paragraph;

(e) Incident to the exercise of the authority delegated in this paragraph, to receive remittance and to request refunds or payments.

4. The authority herein delegated, or any part thereof, may be redelegated in writing to Assistant Regional Property Coordinators, Compliance Assistants, or Administrative Assistants.

Dated: November 25, 1955.

[SEAL] M. B. FOLSOM,
Secretary.

[F. R. Doc. 55-9606; Filed, Nov. 30, 1955;
8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-8646]

R. T. BOTELER

NOTICE OF APPLICATION AND DATE OF
HEARING

NOVEMBER 25, 1955.

Take notice that R. T. Boteler (Applicant), an individual whose address is P. O. Box 1035, Jackson, Mississippi, filed as non-operator on March 21, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jur-

isdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from production of 1¼ acres in Morgan and Norton Creosote No. 2 Unit, Pistol Ridge Field, Forrest and Pearl River Counties, Mississippi, to United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Wednesday, January 4, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 14, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9614; Filed, Nov. 30, 1955;
8:48 a. m.]

[Docket No. G-8650]

EVON A. FORD

NOTICE OF APPLICATION AND DATE OF
HEARING

NOVEMBER 25, 1955.

Take notice that Evon A. Ford (Applicant) an individual whose address is P. O. Box 217, Taylorsville, Mississippi, filed as a non-operator on March 23, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from production of 40 acres of the 320-acre Morgan and Norton Entriken Gas Unit No. 1 and 80 acres of the 320-acre Sun Oil Company's

Federal Creosote Gas Unit No. 1, both in Forrest County, Pistol Ridge-Maxio Field, Mississippi, to United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Wednesday, January 4, 1956, at 9:40 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 14, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9615; Filed, Nov. 30, 1955;
8:48 a. m.]

[Docket No. G-8683]

SUN OIL CO.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 25, 1955.

Take notice that Sun Oil Company (Southwest Division), Applicant, a New Jersey corporation whose address is P. O. Box 2880, Dallas, Texas, filed on March 29, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from production of the 214 acre Robert F. Goehring et al. Lease, Cabeza Creek Field, Goliad County, Texas, to United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Wednesday, January 4, 1956, at 9:50 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 14, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9616; Filed, Nov. 30, 1955; 8:48 a. m.]

[Docket No. G-8740]

JAMES F. BORTHWICK, JR.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 25, 1955.

Take notice that James F. Borthwick, Jr. (Applicant) an individual whose address is 4566 Kings Highway, Jackson, Mississippi, filed as nonoperator on April 8, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from production of 5 acres of the 320 acre Morgan and Norton-Enriken Gas Unit No. 1 Pistol Ridge-Maxie Field, Forrest and Pearl River Counties, Mississippi, to United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure a hearing will be held on Thursday, January 5, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by

such application: *Provided, however*, that the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 15, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9617; Filed, Nov. 30, 1955; 8:48 a. m.]

[Docket No. G-8786]

JACK W. GRIGSBY

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 25, 1955.

Take notice that Jack W. Grigsby (Applicant), an individual whose address is 418 Market St., Suite 512, Shreveport, Louisiana, filed on April 25, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from production in Carthage Field, Panola County, Texas, to United Gas Pipe Line Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Thursday, January 5, 1956, at 9:40 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 15, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9618; Filed, Nov. 30, 1955; 8:48 a. m.]

[Docket No. G-9140]

PUBCO DEVELOPMENT, INC.

NOTICE OF APPLICATION AND DATE OF HEARING

NOVEMBER 25, 1955.

Take notice that Pubco Development, Inc. (N. S. L.) (Applicant) a New Mexico corporation whose address is 111 Fifth Street SW., Albuquerque, New Mexico, filed on July 15, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce from the State Gas Unit "J" No. 1 Well and the Hubbard No. 2 Well located on lands and leases in Blanco Field, San Juan County, New Mexico, to El Paso Natural Gas Company for resale.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Thursday, January 5, 1956, at 9:50 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 15, 1955. Failure of any party to appear at and participate in the hearing shall be construed as

waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-9619; Filed, Nov. 30, 1955;
8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 28, 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. 31360: *Substituted service, Pennsylvania Railroad Company.* Filed by Household Goods Carriers' Bureau, Agent, for and on behalf of Bekins Van Lines Co., and the Pennsylvania Railroad Company. Rates on household goods, in trailers on flat cars between Chicago, East St. Louis, Ill., and Pittsburgh, Pa., on the one hand, and Kearny, N. J., Philadelphia and Pittsburgh, Pa., on the other.

Grounds for relief: Competition with motor carriers.

Tariff: Supplement 8 to Household Goods Carriers' Bureau, Agent, tariff MF-I. C. C. No. 63.

FSA No. 31361. *Coal tar products from Birmingham, Ala., to Atlanta, Ga.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on toluene (toluol) and xylene (xylo) tank-car loads from Birmingham, Ala., and points grouped therewith to Atlanta, Ga.

Grounds for relief: Carrier competition and circuitry.

Tariff: Supplement 124 to Agent Spaninger's I. C. C. 1295.

FSA No. 31362: *Packing house products to Landover Md.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on packing house products and fresh meats, carloads from points in southern territory to Landover, Md.

Grounds for relief: Carrier competition, circuitry, and grouping.

Tariff: Supplement 54 to Agent Spaninger's I. C. C. 1102.

FSA No. 31363: *Potatoes from Minnesota and North Dakota.* Filed by W. J. Pruetter, Agent, for interested rail carriers. Rates on potatoes (other than sweet), carloads from points in Minnesota and North Dakota to points in Illinois, Iowa, Minnesota, Nebraska, South Dakota, and Wisconsin.

Grounds for relief: Competition with motor trucks and circuitry.

Tariff: Supplement 109 to Agent Pruetter's I. C. C. A-3511.

FSA No. 31364: *Petroleum coke from Illinois and Indiana to Emco, Ala.* Filed by R. G. Raasch, Agent, for interested rail carriers. Rates on petroleum coke, carloads from Chicago and Lockport,

Ill., and East Chicago, Ind., to Emco, Ala.

Grounds for relief: Circuitry.

Tariff: Supplement 53 to Agent Raasch's I. C. C. No. 784.

FSA No. 31365: *Various commodities from and to Southern Territory.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on various commodities, carloads from points in southern territory to points in southern and official territories.

Grounds for relief: Carrier competition and circuitry.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-9620; Filed, Nov. 30, 1955;
8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1850]

BELLOWS FALLS HYDRO-ELECTRIC CORP.
ET AL.

NOTICE OF FILING OF AMENDMENT NO. 7
REQUESTING RELEASE OF JURISDICTION
OVER CERTAIN ACCOUNTING MATTERS

NOVEMBER 25, 1955.

In the matter of Bellows Falls Hydro-Electric Corporation, Connecticut River Power Company, New England Power Company, New England Electric System.

Notice is hereby given that Amendment No. 7 to the joint application-declaration of the above-entitled companies has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by New England Electric System ("NEES") a registered holding company, and its subsidiary company, Bellows Falls Hydro-Electric Corporation ("Bellows"). By orders, dated July 13, 1948, and July 21, 1948, the Commission granted and permitted to become effective said application-declaration which related, among other things, to the sale by Bellows of its utility assets to New England Power Company, another subsidiary of NEES, all as more fully described in Holding Company Act Release No. 8348.

In said order of July 13, 1948, the Commission authorized NEES and Bellows to allocate consolidated Federal income taxes for the taxable year 1948, in the first instance, so that NEES would receive the full tax credit for the loss claimed to be sustained in connection with said sale and reserved jurisdiction with respect to "(a) the disposition of the proposed reserve account of NEES to be entitled 'Reserve Re Tax Allocation', (b) the disposition of the tax credit for the loss claimed to be sustained in connection with the sale by Bellows of its utility assets and to be included in the 1948 consolidated Federal income tax return of NEES and the participating companies, and (c) the disposition of the investment account of NEES in Bellows or any amount recorded therein."

Amendment No. 7 to said joint application-declaration states that final determination of the tax credit for the loss

sustained in connection with said sale by Bellows has now been agreed upon with the United States Internal Revenue Service. NEES requests that this Commission (a) release jurisdiction with respect to the above-mentioned matters, (b) grant authority to allocate consolidated Federal income taxes for the taxable year 1948 in a manner other than permitted by Rule U-45 (b) (6), and (c) approve the accounting entries with respect to the disposition of NEES' investment in Bellows as set forth in Amendment No. 7. Bellows proposes that when said accounting entries have been affected, it will take the necessary steps to effect its dissolution.

NEES and Bellows request that the order of this Commission become effective upon issuance.

Notice is further given that any interested person may, not later than December 7, 1955, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said Amendment No. 7 which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date said application-declaration as further amended by said Amendment No. 7 may be granted or permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-9621; Filed, Nov. 30, 1955;
8:49 a. m.]

[File Nos. 54-164 and 59-14]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM
ORDER FIXING MAXIMUM ALLOWANCES FOR
FEES AND EXPENSES TO CERTAIN REPRESENTATIVES OF PREFERRED AND CLASS A
STOCKHOLDERS AND TO CERTAIN OTHER
APPLICANTS

NOVEMBER 25, 1955.

The Commission by orders heretofore entered herein having approved Parts I, II, and III (as amended) of the Second Plan of Bartholomew A. Brickley, Trustee of International Hydro-Electric System ("IHES") a registered holding company, filed pursuant to section 11 (d) of the Public Utility Holding Company Act of 1935, relating, among other things, to the retirement of the debentures and preferred stock of IHES and the election by the Class A stockholders of an Interim Board of Directors to formulate a plan for the conversion of said holding company into an investment company; and

The Commission in its said orders having reserved jurisdiction over the fees and expenses in connection therewith,

for which provision was made in said plan; and

The Commission having, by order entered on January 11, 1955, approved the maximum amounts to be paid as fees and expenses to the representatives of the debenture holders; and

Applications for allowances of fees for services rendered to September 30, 1954, and reimbursement of expenses in said reorganization proceedings having been filed by representatives of the preferred and Class A stockholders and by various other applicants, and due notice and opportunity for hearing having been given with respect to certain of said applications which after negotiations with the applicants had been recommended by the Trustee for approval, and no request for hearing having been made and the Commission not having ordered a hearing with respect thereto; and

A hearing having been duly held on November 15, 1955, with respect to the remaining applications, following which two of such applications were amended pursuant to further negotiations between the applicants and the Trustee; and the Trustee having recommended that such amended applications be also approved; and

The Commission having considered the record and having this day issued its Memorandum Opinion with respect to the aforesaid applications as to which agreement has been reached with the Trustee; on the basis of said Memorandum Opinion and the applicable provisions of the Act and the Rules thereunder:

It is ordered, That the following fees and expenses be, and the same hereby are, approved as the maximum amounts that may be paid by the Trustee of International Hydro-Electric System for the services and expenses aforesaid:

Applicant and capacity	Fee	Expenses
S. Philip Cohen, counsel for certain Class A stockholders—Class A Stockholders Committee;	2,000.00	750.43
James A. Davis, John M. McGrath and Anthony Shimko, committeemen	10,000.00	-----
Harold Barnett, secretary	3,000.00	-----
Nemerov & Shapiro, counsel	*107,000.00	8,123.43
Theodore R. Mackoul, financial adviser	748,050.00	683.22
Total	849,050.00	115,533.09

¹\$500 advanced to Rels & Chandler was reimbursed by Equitable Holding Corporation, Estate of Frank Bailey, and William M. Greve, and the amount is included in their claims.

²In addition, Jackson received a fee of \$10,000 from Equitable Holding Corporation, Estate of Frank Bailey, and William M. Greve, and the amount is included in their claims.

³This amount includes \$44,866.67 advanced to counsel.

⁴This amount is exclusive of \$44,866.67 advanced by Todd.

⁵Expenses of \$15,397.77 were reimbursed by Todd and are included in his claim.

⁶Including \$7,500 to be paid by Nemerov & Shapiro to Leo B. Mittelman, associate counsel.

⁷This amount is exclusive of \$1,050 advanced by Nemerov & Shapiro and included in their claim for expenses.

It is further ordered, That, out of the aforesaid allowances to Nemerov & Shapiro, said firm shall pay to Leo B. Mittelman \$7,500 in full consideration for his services herein, and that said firm shall reimburse those several stockholders who have made advances to it in the aggregate amount of \$7,000.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 55-9622; Filed, Nov. 30, 1955; 8:49 a. m.]

[File No. 24SF-2090]

JET URANIUM CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION, STATEMENT OF REASONS THEREFOR, AND NOTICE OF OPPORTUNITY FOR HEARING

NOVEMBER 25, 1955.

I. Jet Uranium Corp., Room 4, Cornet Building, Las Vegas, Nevada, having filed with the Commission on June 2, 1955, a notification on Form 1-A and an offering circular, and an amendment thereto on June 9, 1955, relating to an offering of 300,000 shares of \$1 par value common stock at \$1 per share, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; and

II. The Commission having been advised that an order was entered on October 11, 1955, in the United States District Court for the District of Nevada, permanently enjoining H. O. Hart, an officer, director and promoter of the issuer from further violations of the registration re-

quirements of the Securities Act of 1933, as amended, in connection with the sale of securities of Tri-State Metals, Inc., and Great Western Metals Corporation; and

The Commission having reasonable cause to believe that the terms and conditions of Regulation A have not been complied with in that the issuer has been offering its securities in a jurisdiction not stated in the notification as a jurisdiction in which it is proposed to offer issuer's securities and the issuer failed to file, as required by Rule 221 of Regulation A, an advertisement relating to the offering which was published in behalf of the issuer on August 18, 1955, in the Santa Cruz Sentinel-News and which was not in conformance with Rule 220 of said Regulation.

III. It is ordered, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

It is further ordered, That this Order and Notice shall be served upon Jet Uranium Corp., Room 4, Cornet Building, Las Vegas, Nevada, personally or by registered mail or by confirmed telegraphic notice and shall be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 55-9623; Filed, Nov. 30, 1955; 8:49 a. m.]

[File No. 70-3422]

STANDARD POWER AND LIGHT CORP.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE REGARDING PROPOSED SALE OF COMMON STOCK OF PUBLIC-UTILITY SUBSIDIARY AND PROPOSED CASH DISTRIBUTION OUT OF CAPITAL SURPLUS

NOVEMBER 25, 1955.

Standard Power and Light Corporation ("Standard Power"), a registered holding company, having filed with this Commission a declaration pursuant to section 12 of the Public Utility Holding Company Act of 1935 ("act") and Rules U-44 and U-46 promulgated thereunder regarding a proposal by Standard Power (a) to sell not more than 10,000 shares of common stock of Duquesne Light Company, a public-utility subsidiary of

Applicant and capacity	Fee	Expenses
Erwin N. Griswold, tax consultant employed by Trustee.	\$75,000.00	-----
LeBoeuf, Lamb & Leiby, special counsel employed by Trustee for work before New York Public Service Commission	42,500.00	\$1,639.05
Hutchinson, Pierce, Atwood & Scribner, special counsel employed by Trustee, in connection with conveyance of ENYF properties	350.00	20.29
Ropes, Gray, Best, Coolidge & Rugg, special counsel to old Board of Directors	3,000.00	-----
Buchman & Buchman, counsel for preferred stockholders in Paper Company litigation	2,000.00	493.00
Preferred Stockholders Protective Committee:		
C. Shelby Carter and Ralph H. Haas, committeemen	7,000.00	1,318.94
Harold P. Seligson and Edmund Burke, Jr., counsel	180,000.00	8,566.02
J. Samuel Hart, engineering adviser	37,000.00	6,984.53
Preferred Stockholders Group; William Stuberfield and Joseph D. Allen, committeemen	2,750.00	(0)
Percival E. Jackson, counsel—Equity Holding Corp.	* 75,000.00	4,642.18
Estate of Frank Bailey	-----	3,926.69
William M. Greve	-----	3,926.69
Paul H. Todd, Class A stockholder	-----	*69,712.50
Root, Ballantine, Bushby & Palmer and Purcell & Nelson, counsel (net)	*180,133.33	-----
Drexel & Company, financial adviser	28,000.00	* 100.63
Sullivan and Sullivan, financial and engineering adviser	45,000.00	495.60

See footnotes at end of table.

NOTICES

Standard Power, either (i) on the New York Stock Exchange by means of ordinary brokers' transactions at prevailing market prices on the date or dates of sale or (ii) by negotiated sale, after inquiry among a limited number of prospective buyers, with a buyer or buyers who will agree to purchase for investment and not for resale to the public and at prevailing market prices on the New York Stock Exchange on the date or dates of sale, less a discount of not more than \$0.50 per share; and (b) to make a cash distribution of \$0.40 per share, in part out of earned surplus to the full extent thereof, which at September 30, 1955, amounted to \$311,715.43, and the balance out of capital surplus which as of the same date amounted to \$110,982,551.45, to each holder of record on December 5, 1955, of its outstanding 1,320,000 shares of common stock and 110,000 shares of common stock, Series B.

The declaration states that no State commission or Federal commission other

than this Commission, has jurisdiction over the proposed transactions. Standard Power requests that the Commission's order herein become effective upon issuance.

Notice of the filing of the declaration having been duly given in the manner prescribed by Rule U-23 and no hearing having been ordered by or requested of the Commission; and the Commission finding that the applicable provisions of the act and the rules thereunder are satisfied and that the declaration should be permitted to become effective forthwith:

It is ordered, Pursuant to the applicable provisions of the act and the rules and regulations thereunder, that said declaration be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed by Rule U-24, and subject to the following additional terms and conditions:

That Standard Power shall accompany the cash distribution checks with a statement to the effect:

(1) That Standard Power filed a declaration with the Commission pursuant to Section 12 of the act and the Commission permitted the declaration to become effective without determining whether and to what extent the payment is being made out of capital or unearned surplus; and

(2) That the Commission's action in permitting the declaration to become effective is not to be construed as a determination by the Commission that all or any portion of such payment is or is not taxable to the recipients pursuant to the provisions of the Internal Revenue Code.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 55-9624; Filed, Nov. 30, 1955; 8:49 a. m.]