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FEDERAL REGISTER

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Washington, Tuesday, June 4, 1957

TITLE 3—THE PRESIDENT

PROCLAMATION 3186

FLAG DAY, 1957

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS June 14, 1957, marks the one hundred and eightieth anniversary of the adoption by the Continental Congress of the flag of the United States of America; and

WHEREAS this banner has become the symbol of our freedom and unity as a Nation, our way of life as a people, and the principles which have guided us throughout our history; and

WHEREAS we have adopted the custom of observing June 14 each year with ceremonies designed to commemorate the birth of our flag and to demonstrate our gratitude for the blessings we enjoy as American citizens; and

WHEREAS the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), has designated June 14 of each year as Flag Day and has requested the President to issue annually a proclamation calling for its observance:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the appropriate officials of the Federal Government, and State and local officials, to arrange for the display of the flag or our Republic on all public buildings on Flag Day, June 14, 1957; and I urge the people to display our colors at their homes or other suitable places on that day, and to recall whenever they see the flag the privileges and responsibilities of citizenship symbolized by the Stars and Stripes.

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

DONE at the City of Washington this 31st day of May in the year of our Lord nineteen hundred and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Acting Secretary of State.

[F. R. Doc. 57-4579; Filed June 3, 1957; 11:47 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter B—Federal Farm Loan System

PART 10—FEDERAL LAND BANKS GENERALLY

INTEREST RATES ON LOANS MADE THROUGH ASSOCIATIONS

Approval has been given to increased interest rates on loans made through national farm loan associations by certain Federal land banks, as follows: Federal Land Bank of Columbia, 5½ percent per annum, to apply to loans on applications received or reinstated by associations on and after June 1, 1957, and to any loans applied for prior to June 1, 1957, which may not be closed prior to September 1, 1957, because of delays for which the associations or the bank are not responsible; Federal Land Bank of Omaha, 5 percent per annum, to apply to loans on applications assigned to appraisers on or after May 23, 1957, although loans on applications received and assigned to appraisers between December 1, 1956, and May 23, 1957, shall bear interest at the rate of 4½ percent per annum provided the major portion of the proceeds are disbursed within a reasonable period as determined by the executive committee of the bank; Federal Land Bank of Spokane, 5½ percent per annum, to apply to all loans on applications filed with associations on and after June 1, 1957. In order to reflect such approval, § 10.41 of Title 6

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FEDERAL REGISTER

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of the Code of Federal Regulations, as amended (21 F. R. 10167; 22 F. R. 133, 653, 1318, 1586, 2095), is hereby further amended: by substituting "5½" for "5" in the line with "Columbia" therein; by substituting "5" for "4½" in the line with "Omaha" therein; and by substituting "5½" for "5" in the line with "Spokane" therein.

(Sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665. Interprets or applies secs. 12 "Second", 17, 39 Stat. 370, 375, as amended; 12 U. S. C. 771 "Second", 831)

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

[F. R. Doc. 57-4492; Filed, June 3, 1957; 8:51 a. m.]

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

Subchapter B—Loans, Purchases, and Other Operations

[1957 C. C. C. Grain Price Support Bulletin 1, Supp. 2, Rye]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1957-CROP RYE LOAN AND PURCHASE AGREEMENT PROGRAM

SUPPORT RATES

The 1957 C. C. C. Grain Price Support Bulletin 1, (22 F. R. 2321), issued by Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1957 was supplemented by 1957 C. C. C. Grain Price Support Bulletin 1, Supplement 1, Rye, (22 F. R. 3035), containing specific requirements applicable to price support operations on the 1957 rye crop. These regulations are further supplemented by the addition of paragraph (d) to § 421.2583 *Determination of support rates*, as follows:

(d) *Support rates.* Basic support rates for rye placed under loan or delivered under purchase agreements will be as set forth in this paragraph.

(1) *Basic support rates at designated terminal markets.* Basic support rates per bushel for rye grading No. 2 or better, or grading No. 3 on the basis of test weight only, but otherwise grading No. 2 or better, stored in approved warehouses at the terminal markets listed below are as follows:

Terminal market:	Rate per bushel
Omaha, Nebr	$1.37
Sioux City, Iowa	1.37
Duluth, Minn	1.37
Minneapolis, Minn	1.37
Saint Paul, Minn	1.37
Superior, Wis	1.37
Atchison, Kans	1.40
Kansas City, Mo	1.40
St. Joseph, Mo	1.40
Chicago, Ill	1.44
Milwaukee, Wis	1.44
Memphis, Tenn	1.45
St. Louis, Mo	1.45
Galveston, Tex	1.47
Houston, Tex	1.47
Astoria, Oreg	1.50
Longview, Wash	1.50
Los Angeles, Calif	1.50
Portland, Oreg	1.50
San Francisco, Calif	1.50
Seattle, Wash	1.50
Tacoma, Wash	1.50
Vancouver, Wash	1.50
Albany, N. Y	1.59
Baltimore, Md	1.59
New York, N. Y	1.59
Norfolk, Va	1.59
Philadelphia, Pa	1.59

(2) *Basic county support rates.* (i) The following basic county support rates per bushel are established for rye grading No. 2 or better, or rye grading No. 3 on the factor of test weight only, but otherwise grading No. 2 or better. Both farm-storage and country warehouse-storage loans, except as otherwise provided in paragraph (b) of this section will be made at the support rate established for the county in which the rye is stored.

(ii) If two or more approved warehouses are located at the same or adjoining towns, villages, or cities having the same domestic interstate freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point, and the same support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

ALABAMA

County	Rate per bushel
All counties	$1.29

ARIZONA

All counties	$1.19

ARKANSAS

All counties	$1.17

CALIFORNIA

County	Rate per bushel	County	Rate per bushel
Colusa	$1.30	Plumas	$1.17
Contra Costa	1.37	Riverside	1.32
Glenn	1.29	San Joaquin	1.35
Kern	1.30	Shasta	1.24
Lassen	1.17	Sierra	1.17
Marin	1.37	Siskiyou	1.15
Merced	1.33	Sonoma	1.36
Modoc	1.11	Stanislaus	1.34
Mono	1.10	Yuba	1.32

COLORADO

Baca	$1.05	Phillips	$1.07
Bent	1.05	Prowers	1.06
Cheyenne	1.06	Yuma	1.06
Kiowa	1.06	All other counties	1.04
Kit Carson	1.06		

CONNECTICUT

All counties	$1.28

DELAWARE

All counties	$1.28

FLORIDA

All counties	$1.34

GEORGIA

All counties	$1.34

IDAHO

County	Rate per bushel	County	Rate per bushel
Ada	$1.07	Gem	$1.08
Adams	1.05	Gooding	1.02
Bannock	.96	Idaho	1.14
Bear Lake	.98	Jefferson	.95
Benewah	1.17	Jerome	1.01
Bingham	.95	Kootenai	1.16
Blaine	.93	Latah	1.17
Boise	1.07	Lemhi	.94
Bonner	1.14	Lewis	1.14
Bonneville	.95	Lincoln	1.00
Boundary	1.12	Madison	.95
Butte	.95	Minidoka	1.00
Camas	.99	Nez Perce	1.17
Canyon	1.08	Oneida	.95
Caribou	.98	Owyhee	1.07
Cassia	.99	Payette	1.09
Clark	.93	Power	.88
Clearwater	1.16	Shoshone	1.13
Custer	.95	Teton	.95
Elmore	1.05	Twin Falls	.98
Franklin	.95	Valley	1.05
Fremont	.95	Washington	1.09

ILLINOIS

Adams	$1.21	Grundy	$1.25
Alexander	1.24	Hamilton	1.23
Bond	1.26	Hancock	1.21
Boone	1.25	Hardin	1.16
Brown	1.22	Henderson	1.21
Bureau	1.23	Henry	1.22
Calhoun	1.25	Iroquois	1.23
Carroll	1.22	Jackson	1.24
Cass	1.24	Jasper	1.23
Champaign	1.24	Jefferson	1.24
Christian	1.24	Jersey	1.26
Clark	1.23	Jo Daviess	1.22
Clay	1.24	Johnson	1.18
Clinton	1.26	Kane	1.26
Coles	1.24	Kankakee	1.26
Cook	1.29	Kendall	1.26
Crawford	1.21	Knox	1.22
Cumberland	1.24	Lake	1.29
De Kalb	1.26	La Salle	1.25
De Witt	1.24	Lawrence	1.23
Douglas	1.24	Lee	1.24
Du Page	1.28	Livingston	1.24
Edgar	1.24	Logan	1.24
Edwards	1.23	McDonough	1.21
Effingham	1.24	McHenry	1.26
Fayette	1.24	McLean	1.24
Ford	1.24	Macon	1.24
Franklin	1.24	Macoupin	1.26
Fulton	1.24	Madison	1.27
Gallatin	1.20	Marion	1.24
Greene	1.26	Marshall	1.23

ILLINOIS—Continued

County	Rate per bushel	County	Rate per bushel
Mason	$1.24	Saline	$1.20
Massac	1.23	Sangamon	1.24
Menard	1.24	Schuyler	1.23
Mercer	1.21	Scott	1.24
Monroe	1.26	Shelby	1.24
Montgomery	1.25	Stark	1.23
Morgan	1.24	Stephenson	1.22
Moultrie	1.24	Tazewell	1.24
Ogle	1.24	Union	1.24
Peoria	1.23	Vermilion	1.23
Perry	1.24	Wabash	1.21
Piatt	1.24	Warren	1.22
Pike	1.23	Washington	1.24
Pope	1.20	Wayne	1.23
Pulaski	1.24	White	1.20
Putnam	1.23	Whiteside	1.22
Randolph	1.24	Will	1.27
Richland	1.23	Williamson	1.24
Rock Island	1.22	Winnebago	1.23
St. Clair	1.26	Woodford	1.23

INDIANA

Adams	$1.19	Lawrence	$1.16
Allen	1.19	Madison	1.19
Bartholomew	1.15	Marion	1.17
Benton	1.21	Marshall	1.21
Blackford	1.20	Martin	1.14
Boone	1.18	Miami	1.21
Brown	1.14	Monroe	1.16
Carroll	1.21	Montgomery	1.20
Cass	1.21	Morgan	1.16
Clark	1.13	Newton	1.23
Clay	1.17	Noble	1.19
Clinton	1.20	Ohio	1.13
Crawford	1.13	Orange	1.13
Daviess	1.16	Owen	1.16
Dearborn	1.18	Parke	1.19
Decatur	1.17	Perry	1.09
De Kalb	1.19	Pike	1.14
Delaware	1.19	Porter	1.24
Dubois	1.13	Posey	1.16
Elkhart	1.21	Pulaski	1.23
Fayette	1.19	Putnam	1.18
Floyd	1.13	Randolph	1.19
Fountain	1.19	Ripley	1.17
Franklin	1.20	Rush	1.19
Fulton	1.21	St. Joseph	1.21
Gibson	1.16	Scott	1.13
Grant	1.19	Shelby	1.16
Greene	1.16	Spencer	1.12
Hamilton	1.18	Starke	1.22
Hancock	1.19	Steuben	1.19
Harrison	1.13	Sullivan	1.16
Hendricks	1.18	Switzerland	1.09
Henry	1.19	Tippecanoe	1.20
Howard	1.21	Tipton	1.19
Huntington	1.18	Union	1.19
Jackson	1.15	Vanderburgh	1.15
Jasper	1.24	Vermillion	1.19
Jay	1.19	Vigo	1.19
Jefferson	1.13	Wabash	1.21
Jennings	1.15	Warren	1.20
Johnson	1.16	Warrick	1.12
Knox	1.16	Washington	1.13
Kosclusko	1.20	Wayne	1.19
Lagrange	1.19	Wells	1.19
Lake	1.26	White	1.23
La Porte	1.22	Whitley	1.20

IOWA

Adair	$1.16	Cherokee	$1.15
Adams	1.17	Chickasaw	1.15
Allamakee	1.16	Clarke	1.15
Appanoose	1.19	Clay	1.14
Audubon	1.18	Clayton	1.17
Benton	1.18	Clinton	1.21
Black Hawk	1.16	Crawford	1.18
Boone	1.15	Dallas	1.15
Bremer	1.15	Davis	1.19
Buchanan	1.17	Decatur	1.15
Buena Vista	1.14	Delaware	1.18
Butler	1.14	Des Moines	1.20
Calhoun	1.15	Dickinson	1.13
Carroll	1.18	Dubuque	1.19
Cass	1.17	Emmet	1.14
Cedar	1.19	Fayette	1.17
Cerro Gordo	1.14	Floyd	1.14

IOWA—Continued

County	Rate per bushel	County	Rate per bushel
Franklin	$1.14	Monroe	$1.18
Fremont	1.20	Montgomery	1.19
Greene	1.16	Muscatine	1.19
Grundy	1.15	O'Brien	1.15
Guthrie	1.16	Osceola	1.14
Hamilton	1.14	Page	1.19
Hancock	1.13	Palo Alto	1.13
Hardin	1.14	Plymouth	1.16
Harrison	1.20	Pocahontas	1.14
Henry	1.19	Polk	1.15
Howard	1.15	Pottawattamie	1.21
Humbolt	1.13	Poweshiek	1.16
Ida	1.16	Ringgold	1.14
Iowa	1.17	Sac	1.16
Jackson	1.20	Scott	1.21
Jasper	1.15	Shelby	1.19
Jefferson	1.18	Sioux	1.16
Johnson	1.19	Story	1.14
Jones	1.19	Tama	1.16
Keokuk	1.17	Taylor	1.16
Kossuth	1.13	Union	1.16
Lee	1.21	Van Buren	1.19
Linn	1.18	Wapello	1.18
Louisa	1.19	Warren	1.15
Lucas	1.16	Washington	1.18
Lyon	1.14	Wayne	1.17
Madison	1.15	Webster	1.15
Mahaska	1.16	Winnebago	1.15
Marion	1.16	Winneshiek	1.16
Marshall	1.15	Woodbury	1.17
Mills	1.21	Worth	1.15
Mitchell	1.15	Wright	1.13
Monona	1.18		

KANSAS

Allen	$1.19	Linn	$1.20
Anderson	1.20	Logan	1.09
Atchison	1.22	Lyon	1.18
Barber	1.13	McPherson	1.14
Barton	1.13	Marion	1.15
Bourbon	1.20	Marshall	1.18
Brown	1.20	Meade	1.09
Butler	1.15	Miami	1.22
Chase	1.17	Mitchell	1.15
Chautauqua	1.17	Montgomery	1.18
Cherokee	1.18	Morris	1.17
Cheyenne	1.08	Morton	1.06
Clark	1.10	Nemaha	1.19
Clay	1.16	Neosho	1.19
Cloud	1.15	Ness	1.12
Coffey	1.19	Norton	1.13
Comanche	1.11	Osage	1.20
Cowley	1.15	Osborne	1.14
Crawford	1.19	Ottawa	1.15
Decatur	1.11	Pawnee	1.13
Dickinson	1.15	Phillips	1.13
Doniphan	1.20	Pottawatomie	1.19
Douglas	1.22	Pratt	1.13
Edwards	1.13	Rawlins	1.09
Elk	1.17	Reno	1.14
Ellis	1.13	Republic	1.15
Ellsworth	1.14	Rice	1.14
Finney	1.09	Riley	1.18
Ford	1.11	Rooks	1.13
Franklin	1.22	Rush	1.13
Geary	1.17	Russell	1.13
Gove	1.10	Saline	1.15
Graham	1.12	Scott	1.09
Grant	1.08	Sedgwick	1.15
Gray	1.10	Seward	1.08
Greeley	1.08	Shawnee	1.20
Greenwood	1.17	Sheridan	1.10
Hamilton	1.08	Sherman	1.08
Harper	1.14	Smith	1.14
Harvey	1.15	Stafford	1.13
Haskell	1.09	Stanton	1.07
Hodgeman	1.12	Stevens	1.08
Jackson	1.20	Sumner	1.15
Jefferson	1.22	Thomas	1.09
Jewell	1.15	Trego	1.12
Johnson	1.23	Wabaunsee	1.19
Kearney	1.08	Wallace	1.08
Kingman	1.14	Washington	1.16
Kiowa	1.13	Wichita	1.08
Labette	1.18	Wilson	1.18
Lane	1.10	Woodson	1.19
Leavenworth	1.24	Wyandotte	1.24
Lincoln	1.14		

KENTUCKY

County	Rate per bushel
All counties	$1.28

LOUISIANA

All counties	$1.19

MARYLAND

All counties	$1.28

MAINE

All counties	$1.28

MASSACHUSETTS

All counties	$1.28

MICHIGAN

County	Rate per bushel	County	Rate per bushel
Alcona	$1.10	Keweenaw	$1.07
Alger	1.10	Lake	1.14
Allegan	1.17	Lapeer	1.19
Alpena	1.10	Leelanau	1.09
Antrim	1.08	Lenawee	1.21
Arenac	1.11	Livingston	1.19
Baraga	1.09	Luce	1.06
Barry	1.17	Mackinac	1.06
Bay	1.15	Macomb	1.22
Benzie	1.14	Manistee	1.11
Berrien	1.20	Marquette	1.10
Branch	1.18	Mason	1.14
Calhoun	1.18	Mecosta	1.14
Cass	1.21	Menominee	1.13
Charlevoix	1.08	Midland	1.14
Cheboygan	1.09	Missaukee	1.11
Chippewa	1.06	Monroe	1.23
Clare	1.14	Montcalm	1.14
Clinton	1.16	Montmorency	1.09
Crawford	1.11	Muskegon	1.14
Delta	1.11	Newaygo	1.13
Dickinson	1.12	Oakland	1.21
Eaton	1.17	Oceana	1.14
Emmet	1.08	Ogemaw	1.12
Genesee	1.19	Ontonagon	1.09
Gladwin	1.12	Osceola	1.12
Gogebic	1.11	Oscoda	1.12
Grand Traverse	1.10	Otsego	1.09
Gratiot	1.16	Ottawa	1.17
Hillsdale	1.19	Presque Isle	1.09
Houghton	1.07	Roscommon	1.11
Huron	1.16	Saginaw	1.17
Ingham	1.17	St. Clair	1.21
Ionia	1.16	St. Joseph	1.20
Iosco	1.11	Sanilac	1.19
Iron	1.10	Schoolcraft	1.06
Isabella	1.14	Shiawassee	1.17
Jackson	1.17	Tuscola	1.18
Kalamazoo	1.20	Van Buren	1.19
Kalkaska	1.10	Washtenaw	1.21
Kent	1.16	Wayne	1.21
		Wexford	1.12

MINNESOTA

Aitkin	$1.19	Jackson	$1.14
Anoka	1.21	Kanabec	1.18
Becker	1.13	Kandiyohi	1.18
Beltrami	1.13	Kittson	1.08
Benton	1.18	Koochiching	1.09
Big Stone	1.13	Lac Qui Parle	1.14
Blue Earth	1.17	Lake of the Woods	1.10
Brown	1.17	Le Sueur	1.19
Carlton	1.20	Lincoln	1.14
Carver	1.21	Lyon	1.15
Cass	1.16	McLeod	1.19
Chippewa	1.16	Mahnomen	1.11
Chisago	1.20	Marshall	1.10
Clay	1.12	Martin	1.15
Clearwater	1.13	Meeker	1.19
Cottonwood	1.15	Mille Lacs	1.19
Crow Wing	1.17	Morrison	1.17
Dakota	1.21	Mower	1.16
Dodge	1.17	Murray	1.14
Douglas	1.16	Nicollet	1.19
Faribault	1.15	Nobles	1.13
Fillmore	1.14	Norman	1.11
Freeborn	1.17	Olmsted	1.17
Goodhue	1.18	Otter Tail	1.15
Grant	1.14	Pennington	1.10
Hennepin	1.22	Pine	1.18
Houston	1.14	Pipestone	1.13
Hubbard	1.14	Polk	1.11
Isanti	1.19	Pope	1.16
Itasca	1.17		

MINNESOTA—Continued

County	Rate per bushel	County	Rate per bushel
Ramsey	$1.22	Swift	$1.16
Red Lake	1.11	Todd	1.16
Redwood	1.16	Traverse	1.13
Renville	1.17	Wabasha	1.18
Rice	1.19	Wadena	1.16
Rock	1.12	Waseca	1.17
Roseau	1.09	Washington	1.21
St. Louis	1.17	Watonwan	1.16
Scott	1.21	Wilkin	1.13
Sherburne	1.20	Winona	1.17
Sibley	1.19	Wright	1.20
Stearns	1.18	Yellow Medicine	1.15
Steele	1.17		
Stevens	1.15		

MISSISSIPPI

All counties	$1.28

MISSOURI

County	Rate per bushel	County	Rate per bushel
Adair	$1.20	Linn	$1.20
Andrew	1.21	Livingston	1.20
Atchison	1.18	McDonald	1.17
Audrain	1.23	Macon	1.20
Barry	1.17	Madison	1.23
Barton	1.19	Maries	1.23
Bates	1.21	Marion	1.23
Benton	1.19	Mercer	1.18
Bollinger	1.23	Miller	1.20
Boone	1.23	Mississippi	1.19
Buchanan	1.21	Moniteau	1.20
Butler	1.20	Monroe	1.22
Caldwell	1.21	Montgomery	1.25
Callaway	1.23	Morgan	1.20
Camden	1.20	New Madrid	1.20
Cape Girardeau	1.22	Newton	1.17
Carroll	1.21	Nodaway	1.19
Carter	1.13	Oregon	1.13
Cass	1.22	Osage	1.23
Cedar	1.20	Ozark	1.13
Chariton	1.20	Pemiscot	1.19
Christian	1.17	Perry	1.24
Clark	1.22	Pettis	1.19
Clay	1.23	Phelps	1.23
Clinton	1.21	Pike	1.23
Cole	1.21	Platte	1.24
Cooper	1.20	Polk	1.18
Crawford	1.24	Pulaski	1.21
Dade	1.18	Putnam	1.18
Dallas	1.17	Ralls	1.23
Daviess	1.21	Randolph	1.22
De Kalb	1.21	Ray	1.21
Dent	1.22	Reynolds	1.20
Douglas	1.14	Ripley	1.20
Dunklin	1.19	St. Charles	1.30
Franklin	1.27	St. Clair	1.20
Gasconade	1.24	St. Francois	1.25
Gentry	1.19	St. Genevieve	1.25
Greene	1.17	St. Louis	1.30
Grundy	1.19	Saline	1.20
Harrison	1.19	Schuyler	1.19
Henry	1.21	Scotland	1.20
Hickory	1.19	Scott	1.21
Holt	1.19	Shannon	1.13
Howard	1.22	Shelby	1.22
Howell	1.13	Stoddard	1.21
Iron	1.24	Stone	1.16
Jackson	1.24	Sullivan	1.18
Jasper	1.18	Taney	1.15
Jefferson	1.28	Texas	1.14
Johnson	1.21	Vernon	1.20
Knox	1.21	Warren	1.27
Laclede	1.20	Washington	1.25
Lafayette	1.21	Wayne	1.21
Lawrence	1.17	Webster	1.17
Lewis	1.22	Worth	1.18
Lincoln	1.27	Wright	1.14

MONTANA

County	Rate per bushel	County	Rate per bushel
Beaverhead	$0.91	Chouteau	$1.00
Big Horn	.87	Custer	.94
Blaine	.95	Daniels	.91
Broadwater	1.00	Dawson	.95
Carbon	.97	Deer Lodge	1.00
Carter	.95	Fallon	.95
Cascade	1.00	Fergus	1.00

MONTANA—Continued

County	Rate per bushel	County	Rate per bushel
Flathead	$1.04	Phillips	$0.94
Gallatin	1.00	Pondera	1.00
Garfield	.92	Powder River	.92
Glacier	1.01	Powell	1.00
Golden Valley	.99	Prairie	.94
Granite	1.01	Ravalli	1.01
Hill	1.00	Richland	.95
Jefferson	1.00	Roosevelt	.95
Judith Basin	1.00	Rosebud	.92
Lake	1.04	Sanders	1.05
Lewis and Clark	1.00	Sheridan	.94
Liberty	1.00	Silver Bow	1.00
Lincoln	1.07	Stillwater	.99
McCone	.93	Sweet Grass	1.00
Madison	1.00	Teton	1.00
Meagher	1.00	Toole	1.00
Mineral	1.05	Treasure	.94
Missoula	1.05	Valley	.91
Musselshell	.99	Wheatland	1.00
Park	1.00	Wibaux	.96
Petroleum	1.00	Yellowstone	.99

NEBRASKA

Adams	$1.14	Jefferson	$1.17
Antelope	1.14	Johnson	1.18
Arthur	1.06	Kearney	1.13
Banner	1.02	Keith	1.06
Blaine	1.10	Keya Paha	1.10
Boone	1.16	Kimball	1.04
Box Butte	1.05	Knox	1.13
Boyd	1.12	Lancaster	1.20
Brown	1.09	Lincoln	1.09
Buffalo	1.14	Logan	1.10
Burt	1.19	Loup	1.12
Butler	1.19	McPherson	1.09
Cass	1.20	Madison	1.16
Cedar	1.14	Merrick	1.16
Chase	1.07	Morrill	1.04
Cherry	1.07	Nance	1.16
Cheyenne	1.04	Nemaha	1.18
Clay	1.15	Nuckolls	1.15
Colfax	1.19	Otoe	1.19
Cuming	1.19	Pawnee	1.18
Custer	1.12	Perkins	1.07
Dakota	1.17	Phelps	1.13
Dawes	1.03	Pierce	1.16
Dawson	1.12	Platte	1.17
Deuel	1.04	Polk	1.17
Dixon	1.16	Red Willow	1.10
Dodge	1.20	Richardson	1.19
Douglas	1.21	Rock	1.10
Dundy	1.07	Saline	1.18
Fillmore	1.16	Sarpy	1.21
Franklin	1.13	Saunders	1.20
Frontier	1.10	Scotts Bluff	1.02
Furnas	1.12	Seward	1.19
Gage	1.18	Sheridan	1.04
Garden	1.05	Sherman	1.13
Garfield	1.13	Sioux	1.01
Gosper	1.12	Stanton	1.17
Grant	1.06	Thayer	1.16
Greeley	1.15	Thomas	1.09
Hall	1.15	Thurston	1.18
Hamilton	1.16	Valley	1.13
Harlan	1.13	Washington	1.20
Hayes	1.07	Wayne	1.15
Hitchcock	1.08	Webster	1.14
Holt	1.13	Wheeler	1.16
Hooker	1.07	York	1.17
Howard	1.15		

NEVADA

All counties	$1.09

NEW HAMPSHIRE

All counties	$1.28

NEW JERSEY

All counties	$1.28

NEW MEXICO

All counties	$1.04

NEW YORK

All counties	$1.29

NORTH CAROLINA

All counties	$1.32

NORTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Adams	$1.00	McLean	$1.03
Barnes	1.10	Mercer	1.01
Benson	1.06	Morton	1.03
Billings	1.00	Mountrail	1.01
Bottineau	1.02	Nelson	1.07
Bowman	1.00	Oliver	1.03
Burke	1.01	Pembina	1.07
Burleigh	1.05	Pierce	1.05
Cass	1.11	Ramsey	1.07
Cavalier	1.06	Ransom	1.10
Dickey	1.09	Renville	1.01
Divide	.99	Richland	1.12
Dunn	1.00	Rolette	1.04
Eddy	1.07	Sargent	1.11
Emmons	1.04	Sheridan	1.05
Foster	1.08	Sioux	1.02
Golden Valley	.97	Slope	.97
Grand Forks	1.09	Stark	1.01
Grant	1.01	Steele	1.10
Griggs	1.09	Stutsman	1.08
Hettinger	1.01	Towner	1.05
Kidder	1.06	Traill	1.10
La Moure	1.08	Walsh	1.07
Logan	1.06	Ward	1.02
McHenry	1.04	Wells	1.06
McIntosh	1.06	Williams	1.00
McKenzie	.97		

OHIO

Adams	$1.21	Licking	$1.24
Allen	1.22	Logan	1.22
Ashland	1.24	Lorain	1.24
Ashtabula	1.27	Lucas	1.23
Athens	1.23	Madison	1.22
Auglaize	1.21	Mahoning	1.26
Belmont	1.24	Marion	1.23
Brown	1.21	Medina	1.24
Butler	1.21	Meigs	1.21
Carroll	1.24	Mercer	1.21
Champaign	1.21	Miami	1.21
Clark	1.21	Monroe	1.24
Clermont	1.21	Montgomery	1.21
Clinton	1.21	Morgan	1.24
Columbiana	1.25	Morrow	1.23
Coshocton	1.24	Muskingum	1.24
Crawford	1.23	Noble	1.24
Cuyahoga	1.24	Ottawa	1.23
Darke	1.21	Paulding	1.21
Defiance	1.21	Perry	1.23
Delaware	1.23	Pickaway	1.22
Erie	1.23	Pike	1.21
Fairfield	1.23	Portage	1.24
Fayette	1.21	Preble	1.21
Franklin	1.23	Putnam	1.22
Fulton	1.21	Richland	1.24
Gallia	1.21	Ross	1.22
Geauga	1.27	Sandusky	1.23
Greene	1.21	Scioto	1.21
Guernsey	1.24	Seneca	1.23
Hamilton	1.21	Shelby	1.21
Hancock	1.23	Stark	1.24
Hardin	1.23	Summit	1.24
Harrison	1.24	Trumbull	1.27
Henry	1.21	Tuscarawas	1.24
Highland	1.21	Union	1.23
Hocking	1.23	Van Wert	1.21
Holmes	1.24	Vinton	1.23
Huron	1.23	Warren	1.21
Jackson	1.21	Washington	1.24
Jefferson	1.26	Wayne	1.24
Knox	1.23	Williams	1.21
Lake	1.26	Wood	1.23
Lawrence	1.21	Wyandot	1.23

OKLAHOMA

Adair	$1.12	Cimarron	$1.03
Alfalfa	1.11	Cleveland	1.04
Atoka	1.04	Coal	1.04
Beaver	1.05	Comanche	1.02
Beckham	1.02	Cotton	1.01
Blaine	1.05	Craig	1.17
Bryan	1.01	Creek	1.11
Caddo	1.04	Custer	1.03
Canadian	1.05	Delaware	1.16
Carter	1.02	Dewey	1.04
Cherokee	1.13	Ellis	1.04
Choctaw	1.01	Garfield	1.10

OKLAHOMA—Continued

County	Rate per bushel	County	Rate per bushel
Garvin	$1.03	Noble	$1.11
Grady	1.04	Nowata	1.17
Grant	1.11	Okfuskee	1.08
Greer	1.01	Oklahoma	1.05
Harmon	1.01	Okmulgee	1.12
Harper	1.07	Osage	1.13
Haskell	1.09	Ottawa	1.16
Hughes	1.08	Pawnee	1.12
Jackson	1.01	Payne	1.08
Jefferson	1.01	Pittsburg	1.07
Johnston	1.03	Pontotoc	1.05
Kay	1.12	Pottawatomie	1.05
Kingfisher	1.07	Pushmataha	1.04
Kiowa	1.02	Roger Mills	1.02
Latimer	1.07	Rogers	1.15
Le Flore	1.07	Seminole	1.07
Lincoln	1.07	Sequoyah	1.11
Logan	1.08	Stephens	1.02
Love	1.01	Texas	1.05
McClain	1.03	Tillman	1.01
McCurtain	1.01	Tulsa	1.14
McIntosh	1.11	Wagoner	1.14
Major	1.07	Washington	1.16
Marshall	1.02	Washita	1.03
Mayes	1.15	Woods	1.10
Murray	1.02	Woodward	1.06
Muskogee	1.12		

OREGON

Baker	$1.14	Lake	$1.07
Benton	1.31	Lane	1.28
Clackamas	1.34	Lincoln	1.25
Clatsop	1.30	Linn	1.31
Columbia	1.33	Malheur	1.08
Coos	1.22	Marion	1.34
Crook	1.30	Morrow	1.30
Curry	1.20	Multnomah	1.36
Deschutes	1.30	Polk	1.33
Douglas	1.24	Sherman	1.32
Gilliam	1.31	Tillamook	1.36
Grant	1.30	Umatilla	1.24
Harney	1.03	Union	1.15
Hood River	1.36	Wallowa	1.14
Jackson	1.18	Wasco	1.36
Jefferson	1.31	Washington	1.36
Josephine	1.18	Wheeler	1.30
Klamath	1.17	Yamhill	1.35

PENNSYLVANIA

All counties $1.28

RHODE ISLAND

All counties $1.28

SOUTH CAROLINA

All counties $1.34

SOUTH DAKOTA

County	Rate per bushel	County	Rate per bushel
Aurora	$1.11	Hanson	$1.12
Beadle	1.10	Harding	1.00
Bennett	1.06	Hughes	1.06
Bon Homme	1.13	Hutchinson	1.13
Brookings	1.12	Hyde	1.07
Brown	1.10	Jackson	1.02
Brule	1.10	Jerauld	1.10
Buffalo	1.10	Jones	1.04
Butte	.98	Kingsbury	1.12
Campbell	1.05	Lake	1.12
Charles Mix	1.11	Lawrence	.99
Clark	1.12	Lincoln	1.15
Clay	1.16	Lyman	1.07
Codington	1.12	McCook	1.13
Corson	1.03	McPherson	1.08
Custer	1.01	Marshall	1.10
Davison	1.12	Meade	.98
Day	1.11	Mellette	1.08
Deuel	1.13	Miner	1.12
Dewey	1.02	Minnehaha	1.13
Douglas	1.12	Moody	1.12
Edmunds	1.08	Pennington	.99
Fall River	1.01	Perkins	1.01
Faulk	1.08	Potter	1.06
Grant	1.13	Roberts	1.12
Gregory	1.12	Sanborn	1.11
Haakon	1.01	Shannon	1.05
Hamlin	1.12	Spink	1.10
Hand	1.09	Stanley	1.05

SOUTH DAKOTA—Continued

County	Rate per bushel	County	Rate per bushel
Sully	$1.05	Walworth	$1.06
Todd	1.08	Washabaugh	1.02
Tripp	1.10	Yankton	1.15
Turner	1.14	Ziebach	1.00
Union	1.16		

TENNESSEE

All counties $1.29

TEXAS

County	Rate per bushel	County	Rate per bushel
Archer	$1.12	Hood	$1.20
Armstrong	1.12	Hunt	1.21
Bailey	1.12	Jack	1.17
Baylor	1.12	Johnson	1.24
Bosque	1.23	Jones	1.13
Bowie	1.17	Karnes	1.26
Briscoe	1.12	Knox	1.12
Brown	1.19	Lamb	1.12
Callahan	1.15	Lampasas	1.24
Carson	1.12	Limestone	1.27
Cass	1.19	Lipscomb	1.08
Castro	1.12	Lubbock	1.12
Childress	1.12	Lynn	1.12
Clay	1.15	McCulloch	1.18
Cochran	1.12	McLennan	1.26
Collin	1.21	Mason	1.19
Collingsworth	1.12	Montague	1.15
Comanche	1.19	Moore	1.10
Concho	1.17	Motley	1.12
Coryell	1.24	Nolan	1.12
Cottle	1.12	Ochiltree	1.08
Dallam	1.08	Oldham	1.12
Dawson	1.12	Palo Pinto	1.17
Deaf Smith	1.12	Parker	1.20
Denton	1.21	Parmer	1.12
Dickens	1.12	Potter	1.12
Donely	1.12	Randall	1.12
Eastland	1.17	Reeves	1.02
Fannin	1.18	Roberts	1.11
Floyd	1.12	Runnels	1.15
Foard	1.12	San Saba	1.19
Gaines	1.12	Sherman	1.09
Gillespie	1.20	Smith	1.23
Gray	1.12	Stonewall	1.12
Grayson	1.18	Swisher	1.12
Hale	1.12	Tarrant	1.22
Hall	1.12	Taylor	1.14
Hamilton	1.20	Terry	1.12
Hansford	1.09	Wheeler	1.12
Hardeman	1.12	Wichita	1.14
Hartley	1.09	Wilbarger	1.12
Haskell	1.12	Wise	1.18
Hemphill	1.10	Yoakum	1.12
Hockley	1.12	Young	1.17

UTAH

All counties $1.04

VERMONT

All counties $1.28

VIRGINIA

All counties $1.28

WASHINGTON

County	Rate per bushel	County	Rate per bushel
Adams	$1.19	Klickitat	$1.32
Asotin	1.17	Lewis	1.30
Benton	1.24	Lincoln	1.18
Chelan	1.23	Mason	1.25
Clallam	1.14	Okanogan	1.17
Clark	1.36	Pacific	1.25
Columbia	1.23	Pend Oreille	1.14
Cowlitz	1.34	Pierce	1.36
Douglas	1.17	San Juan	1.32
Ferry	1.09	Skagit	1.32
Franklin	1.21	Skamania	1.36
Garfield	1.23	Snohomish	1.33
Grant	1.19	Spokane	1.18
Grays Harbor	1.27	Stevens	1.13
Island	1.33	Thurston	1.31
Jefferson	1.25	Walla Walla	1.23
King	1.36	Whatcom	1.30
Kitsap	1.36	Whitman	1.18
Kittitas	1.25	Yakima	1.25

WEST VIRGINIA

County	Rate per bushel
All counties	$1.28

WISCONSIN

County	Rate per bushel	County	Rate per bushel
Adams	$1.19	Marathon	$1.16
Ashland	1.15	Marinette	1.16
Barron	1.16	Marquette	1.19
Bayfield	1.16	Milwaukee	1.27
Brown	1.19	Monroe	1.18
Buffalo	1.16	Oconto	1.18
Burnett	1.19	Oenida	1.15
Calumet	1.20	Outagamie	1.19
Chippewa	1.15	Ozaukee	1.22
Clark	1.15	Pepin	1.18
Columbia	1.20	Pierce	1.19
Crawford	1.18	Polk	1.19
Dane	1.22	Portage	1.18
Dodge	1.22	Price	1.13
Door	1.16	Racine	1.28
Douglas	1.20	Richland	1.19
Dunn	1.17	Rock	1.23
Eau Claire	1.16	Rusk	1.15
Florence	1.14	St. Croix	1.19
Fond Du Lac	1.21	Sauk	1.20
Forest	1.15	Sawyer	1.16
Grant	1.18	Shawano	1.18
Green	1.22	Sheboygan	1.22
Green Lake	1.20	Taylor	1.13
Iowa	1.19	Trempealeau	1.15
Iron	1.13	Vernon	1.18
Jackson	1.17	Vilas	1.12
Jefferson	1.23	Walworth	1.24
Juneau	1.19	Washburn	1.17
Kenosha	1.28	Washington	1.22
Kewaunee	1.17	Waukesha	1.23
La Crosse	1.17	Waupaca	1.19
Lafayette	1.19	Waushara	1.19
Langlade	1.16	Winnebago	1.20
Lincoln	1.15	Wood	1.18
Manitowoc	1.20		

WYOMING

All counties $1.04

(iii) Where the State Committee determines that State or district weed control laws affect the rye crop, the support rate will be 10 cents below the applicable county support rate set forth in the schedule in this subparagraph. If, upon delivery of the rye to CCC the producer supplies a certificate indicating that the rye complies with the weed control laws, the producer will be credited with the amount of the differential in determining the settlement value.

(3) *Discount for ergot.* Rye containing more than 3/10 of 1 percent, but not more than 1 percent ergot, shall be discounted 1 cent per bushel for each 1/10 of 1 percent in excess of 3/10 of 1 percent ergot.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054, 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 27th day of May 1957.

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

[F. R. Doc. 57-4446; Filed, June 3, 1957; 8:45 a. m.]

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 3, Corn]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP CORN RESEAL LOAN PROGRAM

A reseal loan program has been announced for 1956-crop corn. The 1956

C. C. C. Grain Price Support Bulletin 1, (21 F. R. 3997) issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1956 supplemented by supplements 1 and 2, Corn (21 F. R. 7175 and 8233) containing the specific requirements for the 1956-crop corn price support program, is hereby further supplemented as follows:

Sec.
421.1748 Applicable sections of 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Corn.
421.1749 Availability.
421.1750 Eligible producer.
421.1751 Eligible corn.
421.1752 Approved storage.
421.1753 Approved forms.
421.1754 Quantity eligible for resealing.
421.1755 Additional service charges.
421.1756 Transfer of producer's equity.
421.1757 Storage and track-loading payments.
421.1758 Maturity and satisfaction.
421.1759 Support rates.

AUTHORITY: §§ 421.1748 to 421.1759 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072 secs. 101, 401, 63 Stat. 1051, 1054; sec. 308, 70 Stat. 206; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421.

§ 421.1748 *Applicable sections of 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Corn.* The following sections of the 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Corn, published in 21 F. R. 3997, 7175, and 8233, shall be applicable to the 1956 Corn Reseal Loan Program: § 421.1601 *Administration;* § 421.1608 *Liens;* § 421.1610 *Setoffs;* § 421.1611 *Interest rate;* § 421.1613 *Safeguarding the commodity;* § 421.1614 *Insurance on farm-storage loans;* § 421.1615 *Loss or damage to the commodity;* § 421.1616 *Personal liability of the producer;* § 421.1617 *Release of the commodity under loan;* § 421.1620 *Foreclosure;* § 421.1740 *Determination of quantity.* Other sections of the 1956 C. C. C. Grain Price Support Bulletin 1, and Supplements 1 and 2, Corn, shall be applicable to the extent indicated in this subpart.

§ 421.1749 *Availability*—(a) *Area and scope.* The reseal program will be available wherever corn is grown in the continental United States except in angoumois moth areas designated by the ASC State Committee: *Provided, however,* That such program will be available only where the ASC State committee determines that there may be a shortage of storage space and that corn can be safely stored on the farm for the period of the reseal loan. This program provides, under certain circumstances, for the extension of 1956-crop farm-storage loans and the making of farm-storage loans on 1956-crop corn covered by purchase agreements. Neither warehouse-storage loans nor purchase agreements will be available to producers under this program.

(b) *Time.* (1) The producer who desires to participate in the reseal loan program must file an application for a farm-storage reseal loan at the office of the ASC county committee.

(2) In the case of a farm-storage loan, the producer will be required to apply for extension of his loan before the final date for delivery specified in the delivery instructions issued to him by the office of the ASC county committee.

(3) The producer who signed a purchase agreement on farm-stored corn is required, under the 1956 Corn Price Support Program, to notify the office of the ASC county committee not later than July 31, 1957, if he intends to sell the corn to CCC. If the producer has notified the office of the ASC county committee, on or before July 31, 1957, of his intention to sell the corn to CCC, or to participate in this program, he may obtain a farm-storage loan on the corn. The loan documents must be executed by the producer on or before the final date for delivery specified in the delivery instructions, or on or before November 30, 1957, if the producer has not requested or received delivery instructions. Disbursement of loan proceeds will be made to producers by ASC county offices by means of sight drafts drawn on CCC. The drawing of a draft shall constitute disbursement. The producer shall not execute the loan documents unless the corn is in existence and in good condition. If the corn was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be promptly refunded by the producer. In the event the amount disbursed exceeds the amount authorized under this subpart, the producer shall be personally liable for repayment of the amount of such excess.

(c) *Source.* A producer desiring to participate in the reseal loan program should make application to the office of the ASC county committee which approved his loan or purchase agreement. Any farm-stored loans to be resealed which are held by approved lending agencies shall be purchased and transferred to county office custody on or before July 31, 1957.

§ 421.1750 *Eligible producer.* An eligible producer shall be any individual, partnership, association, corporation, or other legal entity, a State, political subdivision of a State or any agency thereof, who produced the corn in 1956 as landowner, landlord, tenant, or sharecropper and who either has received a farm-storage loan or signed a purchase agreement on farm-storage corn of the 1956 crop.

§ 421.1751 *Eligible corn*—(a) *Requirements of eligibility.* The corn (1) must meet the requirements set forth in § 421.1738 (a), (b), (c), and (d) (3) of 1956 C. C. C. Grain Price Support Bulletin 1, Supplement 1, Corn; (2) must grade No. 3 or better, or No. 4 on the factor of test weight only, but otherwise No. 3 or better, and must contain not in excess of 15.5 percent moisture in the case of ear corn nor in excess of 13.5 percent moisture in the case of shelled corn; and (3) must be under price support loan or purchase agreement.

(b) *Inspection*—(1) *Extended farm-storage loans.* If a producer makes application to extend his farm-storage loan, the commodity loan inspector shall, with the producer, reinspect the corn and structure in which the corn is stored. If recommended by either the commodity loan inspector or the producer, a sample of the corn shall be taken and submitted for grade analysis.

(2) *Corn covered by purchase agreement.* If a producer makes application for a farm-storage loan on corn covered by a purchase agreement, the commodity loan inspector shall inspect the corn and storage structure, obtain a sample if the corn and structure appear eligible, and proceed in the regular manner for the inspection of a commodity to be placed under loan.

(c) *Determination of quality.* Quality determinations shall be made as set forth in § 421.1741 except that the corn must not contain mercurial compounds or other substances poisonous to man or animals.

§ 421.1752 *Approved storage.* Corn covered by any loans extended and any new loans completed must be stored in structures which meet the requirements for farm-storage loans as provided in § 421.1606 (a). Consent for storage for any loans extended or new loans completed must be obtained by the producer for the period ending September 30, 1958, if the structure is owned or controlled by someone other than the producer, or if the lease expires prior to September 30, 1958.

§ 421.1753 *Approved forms.* (a) The approved forms, which together with the provisions of this subpart govern the rights and responsibilities of the producer, shall consist of Producer's Note and Supplemental Loan Agreement, secured by a Commodity Chattel Mortgage and such other forms and documents as may be prescribed by CCC. Notes and chattel mortgages must have State and documentary revenue stamps affixed thereto where required by law. Loan documents executed by an administrator, executor or trustee will be acceptable only where legally valid.

(b) Where required by State law, a new producer's note and chattel mortgage shall be completed when a farm-storage loan is extended.

§ 421.1754 *Quantity eligible for resealing.* (a) The quantity of corn eligible for reseal on an extended farm-storage loan, shall be in store and shall be the quantity shown on the original note and chattel mortgage, less any quantity delivered or redeemed.

(b) A producer may obtain a loan on the quantity in store which is not in excess of the quantity of corn specified in the purchase agreement, minus any quantity of the corn under such purchase agreement (1) which has been previously placed under loan or (2) on which he exercises his option to sell to CCC.

§ 421.1755 *Additional service charges.* (a) When a farm-storage loan is extended, the producer will not be required to pay an additional service charge.

(b) At the time a farm-storage loan is made to the producer on corn covered by a purchase agreement, the producer shall pay an additional service charge of ½ cent per bushel on the number of bushels placed under loan, or $1.50

whichever is greater. No refund of service charges will be made, except if the amount collected is in excess of the correct amount.

§ 421.1756 *Transfer of producer's equity.* The producer shall not transfer either his remaining interest in or his right to redeem the corn mortgaged as security for a loan under this program. A producer who wishes to liquidate all or part of his loan by contracting for the sale of the corn must obtain written prior approval of the county office on Commodity Loan Form 12 to remove the corn from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the office of the ASC county committee. Partial redemption of loans will not be approved by the county committee in the event the State Committee has determined on a State-wide basis that partial redemption of loans will not be permitted except that full or partial redemption of loans by the use of soil bank certificates will be acceptable.

§ 421.1757 *Storage and track-loading payments*—(a) *Storage payment.* A reseal storage payment will be made as follows:

(1) Storage payment for full reseal period: A storage payment computed at the rate of 16 cents per bushel will be made to the producer on the quantity involved if he (i) redeems corn from the loan on or after July 31, 1958, (ii) delivers corn to CCC on or after July 31, 1958, or (iii) delivers corn to CCC prior to July 31, 1958, pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC if the corn was not damaged or otherwise impaired due to negligence on the part of the producer.

(2) Prorated storage payment: A prorated storage payment computed at the rate of $0.00053 per bushel a day, but not to exceed 16 cents per bushel, according to the length of time the quantity of corn involved was in store after September 30, 1957, will be made to the producer (i) in the case of loss assumed by CCC under the provisions of the loan program, (ii) in the case of corn redeemed from the loan prior to July 31, 1958, and (iii) in the case of corn delivered to CCC prior to July 31, 1958, pursuant to CCC's demand and not solely for the convenience of CCC, or upon request of the producer and with the approval of CCC: *Provided, however,* That no storage payment will be made with respect to corn so delivered to CCC which is damaged or otherwise impaired due to negligence on the part of the producer. In the case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss; and in the case of redemption, on the date of repayment.

(3) In no case will any storage payment be made where the producer has made any false representation in the loan documents or in obtaining the loan, or where the corn has been abandoned, or where there has been conversion on the part of the producer.

(b) *Track-loading payment.* A track-loading payment of 3 cents per bushel will be made to the producer on corn delivered to CCC in accordance with instructions of the county office, on track at a country point.

§ 421.1758 *Maturity and satisfaction.* (a) Loans will mature on demand but not later than July 31, 1958. The producer must pay off his loan, plus interest, on or before maturity or deliver the mortgaged corn in accordance with the instructions of the county office. If the producer desires to deliver the corn he should, prior to maturity, give the county office notice in writing of his intention to do so. The producer may, however, pay off his loan and redeem his corn at any time prior to the delivery of the corn to CCC or removal of the corn by CCC. Credit will be given at the applicable settlement value according to grade and quality for the total quantity eligible for delivery. Delivery of corn will be accepted only from bin(s) in which the corn under reseal loan is stored. The provisions of § 421.1618 (a), (c), (e), and (f), and of § 421.1746 (a), (1), and (e) shall be applicable thereto.

§ 421.1759 *Support rates.* (a) The support rate for an extended farm-storage loan shall remain the same as for the original loan and the support rate for corn covered by a purchase agreement placed under a farm-storage loan shall be the same as the support rate established for the corn in § 421.1747 (a), (1), (2) and (3).

(b) Any discounts or premiums established for variation in classification and quality as shown in § 421.1747 (b) shall be applicable in determining the settlement value.

Issued this 29th day of May 1957.

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

[F. R. Doc. 57-4503; Filed, June 3, 1957; 8:52 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54366]

PART 77—IMPORTATION OF ARTICLES IN CONNECTION WITH THE CHICAGOLAND COMMERCE AND INDUSTRY EXPOSITION AT CHICAGO, ILLINOIS, UNDER PUBLIC LAW NO. 85-29, 85TH CONGRESS [1]

The following regulations under Public Law No. 85-29, 85th Congress, approved May 14, 1957, relate to the entry of articles in connection with the Chicagoland Commerce and Industry Exposition to be held at Chicago, Illinois, June 28 to July 14, 1957, inclusive.

Sec.
77.1 Invoices; marking; bond.
77.2 Entry; appraisement; procedure.
77.3 Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug, and Cosmetic Act.
77.4 Detail of customs officers to protect revenue; expenses.

[1] "* * * That any article which is imported from a foreign country for the purpose of exhibition at the Chicagoland Commerce and Industry Exposition (hereinafter in this Act referred to as the 'exposition') to be held at Navy Pier, Chicago, Illinois, from June 28, 1957, to July 14, 1957, inclusive, by the Chicagoland Commerce and Industry Exposition, Incorporated, a corporation, or for the use in constructing, installing, or maintaining foreign exhibits at the exposition, upon which article there is a tariff or customs duty, shall be admitted without payment of such tariff or customs duty or any fees or charges under such regulations as the Secretary of the Treasury shall prescribe.

SEC. 2. It shall be lawful at any time during or within three months after the close of the exposition to sell within the area of the exposition any articles provided for in this Act, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe. All such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles which shall have suffered diminuation or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry under this Act for consumption or entry under the general tariff law.

SEC. 3. Imported articles provided for in this Act shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States.

SEC. 4. At any time during or within three months after the close of the exposition, any article entered under this Act may be abandoned to the United States or destroyed under customs supervision, whereupon any duties on such articles shall be remitted.

SEC. 5. Articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the exposition, under such regulations as the Secretary of the Treasury shall prescribe.

SEC. 6. The Chicagoland Commerce and Industry Exposition, Incorporated, shall be deemed, for customs purposes only, to be the sole consignee of all merchandise imported under this Act. The actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for articles imported under this Act, shall be reimbursed by the Chicagoland Commerce and Industry Exposition, Incorporated, to the United States under regulations to be prescribed by the Secretary of the Treasury. Receipts from such reimbursement shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524 of the Tariff Act of 1930, as amended (19 U. S. C. sec. 1524)." (P. L. No. 85-29)

Sec.
77.5 Withdrawal of articles from exhibition for exportation, abandonment, destruction, or for consumption or entry under the general tariff law; involuntary abandonment.

AUTHORITY: §§ 77.1 to 77.5 issued under sec. 6, Pub. Law 85–29, 85th Cong.

§ 77.1 *Invoices; marking; bond.* (a) Articles intended for exhibition under the provisions of Public Law No. 85–29, 85th Congress, and valued at over $500, are subject to the usual special customs invoice requirements if of a class for which such invoices are required under the Tariff Act of 1930, as amended, and the regulations issued thereunder. The invoices shall be on foreign service Form 138 (Invoice of Merchandise) and shall contain the information prescribed under section 481 of the Tariff Act of 1930. (19 U. S. C. 1481).

(b) The marking requirements of the Tariff Act of 1930, as amended, and the regulations promulgated thereunder will not apply to articles imported under the regulations in this part except when such articles are withdrawn for consumption or use in the United States, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act, as amended, and the regulations promulgated thereunder.

(c) Chicagoland Commerce and Industry Exposition, Incorporated, shall give to the collector of customs at Chicago, Illinois, a bond in an amount to be determined by the collector and containing such conditions for compliance with Public Law No. 85–29, 85th Congress, and the regulations in this part, as shall be aproved by the Bureau of Customs.

§ 77.2 *Entry; appraisement; procedure.* (a) All entries under the regulations in this part shall be made at the port of Chicago, Illinois, in the name of the Chicagoland Commerce and Industry Exposition, Incorporated, which shall be deemed for customs purposes the sole consignee of the merchandise entered under the act and which shall be held responsible to the Government for all duties and charges due the United States on account of such entries; but, in the case of merchandise withdrawn from entry under the regulations in this part, an entry under the general tariff law in the name of any person duly authorized in writing by the Chicagoland Commerce and Industry Exposition, Incorporated, to make such entry may be accepted by the collector.

(b) Articles to be entered under the regulations in this part which arrive at ports other than Chicago shall be entered for immediate transportation without appraisement to the latter port in the manner prescribed by the general customs regulations.

(c) Upon the arrival at the port of Chicago of articles to be entered under the regulations in this part, they shall be entered on a special form of entry to read substantially as follows:

ENTRY FOR EXHIBITION

Entry No. ----

Entry at the port of Chicago of articles consigned or transferred to the Chicagoland Commerce and Industry Exposition, Incorporated, under ---------- ----------
I. T. No. ex S. S.
from---------- on the ---------- day of 19----, for exhibition purposes under Public Law No. 85–29 of the 85th Congress, approved May 14, 1957.

Mark	No.	Package and contents	Quantity	Invoice value

Chicagoland Commerce and Industry Exposition, Incorporated.

By ----------

(d) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. The articles shall be tentatively appraised prior to their exhibition or use. All imported exhibits entered under the regulations in this part shall be kept segregated from domestic articles and imported duty-paid articles and shall not be removed from the exhibition building except in accordance with § 77.5 (a).

(e) If for any reason articles imported for entry under the regulations in this part are not upon their arrival to be delivered immediately at an exhibition building, the importer should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse under a "general order permit" at the importer's risk and expense, and such articles may be entered at any time within one year from the date of importation for exhibition, as herein provided for, or under the general tariff law, or for exportation. If not so entered within such period, they will be regarded as abandoned to the Government.

(f) Articles which have been admitted without payment of duty for exhibition under any customs law and which have remained in continuous customs custody or under a customs exhibition bond may be transferred to entry for exhibition at the exposition in the manner prescribed in § 10.49 (c) of this chapter, except that in each case an entry under paragraph (c) of this section shall be filed, which shall supersede any previous entry, and no new bond other than that specified in § 77.1 (c) shall be required. Imported articles in bonded warehouses under the general tariff law may be transferred to entry for exhibition at the exposition in the manner prescribed in § 8.33 of this chapter.

§ 77.3 *Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug, and Cosmetic Act.* The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (7 U. S. C. 151–164a, 167), shall not be permitted except under permits issued therefor by the Plant Quarantine Branch of the Agricultural Research Service, Department of Agriculture, and in accordance with the plant quarantine regulations. The entry of food products shall conform to the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C. 301 et seq.), and regulations issued thereunder.

§ 77.4 *Detail of customs officers to protect revenue; expenses.* (a) The collector of customs at Chicago, Illinois, shall detail an officer to act as his representative at the exposition and shall station inside the exhibition buildings as many additional customs officers and employees as may be necessary to properly protect the revenue.

(b) All actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of imported articles, together with the necessary charges for salaries of customs officers and employees in connection with the supervision and custody of, and accounting for, articles imported for exhibition at the exposition or transferred thereto for exhibition, shall be reimbursed by the Chicagoland Commerce and Industry Exposition, Incorporated, to the Government, payment to be made monthly to the collector of customs, Chicago, Illinois, for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the Revenue from Customs."

§ 77.5 *Withdrawal of articles from exhibition for exportation, abandonment, destruction, or for consumption or entry under the general tariff law; involuntary abandonment.* (a) Any article entered under the regulations of this part may be withdrawn for exportation, for abandonment to the Government, for destruction under customs supervision, or for consumption or entry under the general tariff law, but not otherwise, at any time prior to the opening of the exposition or at any time during or within three months after the close of the exposition. Upon the withdrawal of such articles for consumption or for entry under the general tariff law, or at the expiration of three months after the close of the exposition in the case of articles not previously so withdrawn, they shall be appraised with due allowance made for diminution or deterioration from incidental handling or exposure. Such appraisal shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930, as amended (19 U. S. C. 1501). In the case of such articles withdrawn for entry under the general tariff law under a warehouse bond or a bond conditioned upon exportation, the statutory period of the bond and any extension thereof shall be computed from the date of withdrawal from entry under the provisions of Public Law No. 85–29, 85th Congress.

(b) At any time prior to the opening of the exposition or at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, as provided in § 15.4 of this chapter.

(c) Any articles entered under the regulations in this part which have not been withdrawn for consumption, entry under the general tariff law, or exportation, or which have not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of the exposition, shall be regarded as abandoned to the Government.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: May 27, 1957.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 57-4490; Filed, June 3, 1957; 8:50 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6236]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

REGULATED INVESTMENT COMPANIES

On June 24, 1955, notice of proposed rule making regarding the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954 (except as otherwise provided therein), under subchapter M (regulated investment companies) of chapter 1 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (20 F. R. 4444). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations (which supersede paragraph 17 of Treasury Decision 6118 (19 F. R. 9896), approved December 30, 1954), are hereby adopted. The regulations hereby adopted do not give effect to the amendments made to section 852 (b) (3) of the Internal Revenue Code of 1954, by Public Law 700, 84th Congress, approved July 11, 1956 (effective with respect to taxable years of regulated investment companies beginning after December 31, 1956). Regulations under Public Law 700 will be published as a notice of proposed rule making at a subsequent date.

REGULATED INVESTMENT COMPANIES

Sec.

1.851 Statutory provisions; definition of regulated investment company.
1.851-1 Definition of regulated investment company.
1.851-2 Limitations.
1.851-3 Rules applicable to section 851 (b) (4).
1.851-4 Determination of status.
1.851-5 Examples.
1.851-6 Investment companies furnishing capital to development corporations.
1.852 Statutory provisions; taxation of regulated investment companies and their shareholders.
1.852-1 Taxation of regulated investment companies.
1.852-2 Method of taxation of regulated investment companies.
1.852-3 Investment company taxable income.
1.852-4 Method of taxation of shareholders of regulated investment companies.
1.852-5 Earnings and profits of a regulated investment company.
1.852-6 Records to be kept for purpose of determining whether a corporation claiming to be a regulated investment company is a personal holding company.
1.852-7 Additional information required in returns of shareholders.
1.852-8 Information returns.
1.853 Statutory provisions; foreign tax credit allowed to shareholders.
1.853-1 Foreign tax credit allowed to shareholders.
1.853-2 Effect of election.
1.853-3 Notice to shareholders.
1.853-4 Manner of making election.
1.854 Statutory provisions; limitations applicable to dividends received from regulated investment company.
1.854-1 Limitations applicable to dividends received from regulated investment company.
1.854-2 Notice to shareholders.
1.854-3 Definitions.
1.855 Statutory provisions; dividends paid by regulated investment company after close of taxable year.
1.855-1 Dividends paid by regulated investment company after close of taxable year.

AUTHORITY: §§ 1.851 to 1.855-1 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

REGULATED INVESTMENT COMPANIES

§ 1.851 *Statutory provisions; definition of regulated investment company.*

SEC. 851. *Definition of regulated investment company*—(a) *General rule.* For purposes of this subtitle, the term "regulated investment company" means any domestic corporation (other than a personal holding company as defined in section 542)—

(1) Which, at all times during the taxable year, is registered under the Investment Company Act of 1940, as amended (54 Stat. 789; 15 U. S. C. 80 a-1 to 80 b-2), either as a management company or as a unit investment trust, or

(2) Which is a common trust fund or similar fund excluded by section 3 (c) (3) of such Act (15 U. S. C. 80 a-3 (c)) from the definition of "investment company" and is not included in the definition of "common trust fund" by section 584 (a).

(b) *Limitations.* A corporation shall not be considered a regulated investment company for any taxable year unless—

(1) It files with its return for the taxable year an election to be a regulated investment company or has made such election for a previous taxable year which began after December 31, 1941;

(2) At least 90 percent of its gross income is derived from dividends, interest, and gains from the sale or other disposition of stock or securities;

(3) Less than 30 percent of its gross income is derived from the sale or other disposition of stock or securities held for less than 3 months; and

(4) At the close of each quarter of the taxable year—

(A) At least 50 percent of the value of its total assets is represented by—

(i) Cash and cash items (including receivables), Government securities and securities of other regulated investment companies, and

(ii) Other securities for purposes of this calculation limited, except and to the extent provided in subsection (e), in respect of any one issuer to an amount not greater in value than 5 percent of the value of the total assets of the taxpayer and to not more than 10 percent of the outstanding voting securities of such issuer, and

(B) Not more than 25 percent of the value of its total assets is invested in the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer, or of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary or his delegate, to be engaged in the same or similar trades or businesses or related trades or businesses.

(c) *Rules applicable to subsection* (b) (4). For purposes of subsection (b) (4) and this subsection—

(1) In ascertaining the value of the taxpayer's investment in the securities of an issuer, for the purposes of subparagraph (B), there shall be included its proper proportion of the investment of any other corporation, a member of a controlled group, in the securities of such issuer, as determined under regulations prescribed by the Secretary or his delegate.

(2) The term "controls" means the ownership in a corporation of 20 percent or more of the total combined voting power of all classes of stock entitled to vote.

(3) The term "controlled group" means one or more chains of corporations connected through stock ownership with the taxpayer if—

(A) 20 percent or more of the total combined voting power of all classes of stock entitled to vote of each of the corporations (except the taxpayer) is owned directly by one or more of the other corporations, and

(B) The taxpayer owns directly 20 percent or more of the total combined voting power of all classes of stock entitled to vote, of at least one of the other corporations.

(4) The term "value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of such securities; and with respect to other securities and assets, fair value as determined in good faith by the board of directors, except that in the case of securities of majority-owned subsidiaries which are investment companies such fair value shall not exceed market value or asset value, whichever is higher.

(5) All other terms shall have the same meaning as when used in the Investment Company Act of 1940, as amended.

(d) *Determination of status.* A corporation which meets the requirements of subsections (b) (4) and (c) at the close of any quarter shall not lose its status as a regulated investment company because of a discrepancy during a subsequent quarter between the value of its various investments and such requirements unless such discrepancy exists immediately after the acquisition of any security or other property and is wholly or partly the result of such acquisition. A corporation which does not meet such requirements at the close of any quarter by reason of a discrepancy existing immediately after the acquisition of any security or other property which is wholly or partly the result of such acquisition during such quarter shall not lose its status for such quarter as a regulated investment company if such discrepancy is eliminated within 30 days after the close of such quarter and in such cases it shall be considered to have met such requirements at the close of such quarter for purposes of applying the preceding sentence.

(e) *Investment companies furnishing capital to development corporations*—(1) *General rule.* If the Securities and Exchange Commission determines, in accordance with regulations issued by it, and certifies to the Secretary or his delegate not less than 60 days prior to the close of the taxable year of a registered management company, that such investment company is principally engaged in the furnishing of capital to other corporations which are principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available, such investment company may, in the computation of 50 percent of the value of its assets under subparagraph (A) of subsection (b) (4) for any quarter of such taxable year, include the value of any securities of an issuer, whether or not the investment company owns more than 10 percent of the outstanding voting securities of such issuer, the basis of which, when added to the basis of the investment company for securities of such issuer previously acquired, did not exceed 5 percent of the value of the total assets of the investment company at the time of the subsequent acquisition of securities. The preceding sentence shall not apply to the securities of an issuer if the investment company has continuously held any security of such issuer (or of any predecessor company of such issuer as determined under regulations prescribed by the Secretary or his delegate) for 10 or more years preceding such quarter of such taxable year.

(2) *Limitation.* The provisions of this subsection shall not apply at the close of any quarter of a taxable year to an investment company if at the close of such quarter more than 25 percent of the value of its total assets is represented by securities of issuers with respect to each of which the investment company holds more than 10 percent of the outstanding voting securities of such issues and in respect of each of which or any predecessor thereof the investment company has continuously held any security for 10 or more years preceding such quarter unless the value of its total assets so represented is reduced to 25 percent or less within 30 days after the close of such quarter.

(3) *Determination of status.* For purposes of this subsection, unless the Securities and Exchange Commission determines otherwise, a corporation shall be considered to be principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available, for at least 10 years after the date of the first acquisition of any security in such corporation or any predecessor thereof by such investment company if at the date of such acquisition the corporation or its predecessor was principally so engaged, and an investment company shall be considered at any date to be furnishing capital to any company whose securities it holds if within 10 years prior to such date it has acquired any of such securities, or any securities surrendered in exchange therefor, from such other company or predecessor thereof. For purposes of the certification under this subsection, the Securities and Exchange Commission shall have authority to issue such rules, regulations and orders, and to conduct such investigations and hearings, either public or private, as it may deem appropriate.

(4) *Definitions.* The terms used in this subsection shall have the same meaning as in subsections (b) (4) and (c) of this section.

§ 1.851–1 *Definition of regulated investment company*—(a) *In general.* The term "regulated investment company" is defined to mean any domestic corporation (other than a personal holding company as defined in section 542) which meets (1) the requirements of section 851 (a) and paragraph (b) of this section, and (2) the limitations of section 851 (b) and § 1.851–2. As to the definition of the term "corporation", see section 7701 (a) (3).

(b) *Requirement.* To qualify as a regulated investment company, a corporation must be:

(1) Registered at all times during the taxable year, under the Investment Company Act of 1940, as amended (54 Stat. 789; 15 U. S. C. 80 a–1 to 80 b–2), either as a management company or a unit investment trust, or

(2) A common trust fund or similar fund excluded by section 3 (c) (3) of the Investment Company Act of 1940 (15 U. S. C. 80 a–3 (c)) from the definition of "investment company" and not included in the definition of "common trust fund" by section 584 (a).

§ 1.851–2 *Limitations*—(a) *Election to be a regulated investment company.* Under the provisions of section 851 (b) (1), a corporation, even though it satisfies the other requirements of subchapter M of chapter 1 of the Internal Revenue Code of 1954 for the taxable year, will not be considered a regulated investment company for such year, within the meaning of subchapter M, unless it electes to be a regulated investment company for such taxable year, or has made such an election for a previous taxable year which began after December 31, 1941. The election shall be made by the taxpayer by computing income as a regulated investment company in its return for the first taxable year for which the election is applicable. No other method of making such election is permitted. An election once made is irrevocable for such taxable year and all succeeding taxable years.

(b) *Gross income requirement.* Section 851 (b) (2) and (3) provides that (1) at least 90 percent of the corporation's gross income for the taxable year must be derived from dividends, interest, and gains from the sale or other disposition of stocks or securities, and (2) less than 30 percent of its gross income must have been derived from the sale or other disposition of stock or securities held for less than three months. In determining the gross income requirements under section 851 (b) (2) and (3), a loss from the sale or other disposition of stock or securities does not enter into the computation. A determination of the period for which stock or securities have been held shall be governed by the provisions of section 1223 insofar as applicable.

(c) *Diversification of investments.* (1) Subparagraph (A) of section 851 (b) (4) requires that at the close of each quarter of the taxable year at least 50 percent of the value of the total assets of the taxpayer corporation be represented by one or more of the following:

(i) Cash and cash items, including receivables;

(ii) Government securities;

(iii) Securities of other regulated investment companies; or

(iv) Securities (other than those described in subdivisions (ii) and (iii) of this subparagraph) of any one or more issuers which meet the following limitations: (*a*) The entire amount of the securities of the issuer owned by the taxpayer corporation is not greater in value than 5 percent of the value of the total assets of the taxpayer corporation, and (*b*) the entire amount of the securities of such issuer owned by the taxpayer corporation does not represent more than 10 percent of the outstanding voting securities of such issuer. For the modification of the percentage limitations applicable in the case of certain venture capital investment companies, see section 851 (e) and § 1.851–6.

Assuming that at least 50 percent of the value of the total assets of the corporation satisfies the requirements specified in this subparagraph, and that the limiting provisions of subparagraph (B) of section 851 (b) (4) and subparagraph (2) of this paragraph are not violated, the corporation will satisfy the requirements of section 851 (b) (4), notwithstanding that the remaining assets do not satisfy the diversification requirements of subparagraph (A) of section 851 (b) (4). For example, a corporation may own all the stock of another corporation, provided it otherwise meets the requirements of subparagraphs (A) and (B) of section 851 (b) (4).

(2) Subparagraph (B) of section 851 (b) (4) prohibits the investment at the close of each quarter of the taxable year of more than 25 percent of the value of the total assets of the corporation (including the 50 percent or more mentioned in subparagraph (A) of section 851 (b) (4)) in the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer, or of two or more issuers which the taxpayer company controls and which are engaged in the same or similar trades or businesses or related trades or businesses, including such issuers as are merely a part of a unit contributing to the completion and sale of a product or the rendering of a particular service. Two or more issuers are not considered as being in the same or similar trades or businesses merely because they are engaged in the broad field of manufacturing or of any other general classification of industry, but issuers shall be construed to be engaged in the same or similar trades or businesses if they are engaged in a distinct branch of business, trade, or manufacture in which they render the same kind of service or produce or deal in the same kind of product, and such service or products fulfill the same economic need. If two or more issuers produce more than one product or render more than one type of service, then the chief product or service of each shall be the basis for determining whether they are in the same trade or business.

§ 1.851–3 *Rules applicable to section 851 (b) (4).* In determining the value of the taxpayer's investment in the securities of any one issuer, for the purposes of subparagraph (B) of section 851 (b) (4), there shall be included its proper proportion of the investment of any other corporation, a member of a controlled group, in the securities of such issuer. See example (4) in § 1.851–5. For purposes of §§ 1.851–2,

1.851–4, 1.851–5, and 1.851–6, the terms "controls", "controlled group", and "value" have the meaning assigned to them by section 851 (c). All other terms used in such sections have the same meaning as when used in the Investment Company Act of 1940 (15 U. S. C., c. 2D) or that act as amended.

§ 1.851–4 *Determination of status.* With respect to the effect which certain discrepancies between the value of its various investments and the requirements of section 851 (b) (4) and § 1.851–2 (c), or the effect that the elimination of such discrepancies, will have on the status of a company as a regulated investment company for the purposes of subchapter M of chapter 1 of the Internal Revenue Code of 1954, see section 851 (d). A company claiming to be a regulated investment company shall keep sufficient records as to investments so as to be able to show that it has complied with the provisions of section 851 during the taxable year. Such records shall be kept at all times available for inspection by any internal revenue officer or employee and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

§ 1.851–5 *Examples.* The provisions of section 851 may be illustrated by the following examples:

Example (1). Investment Company W at the close of its first quarter of the taxable year has its assets invested as follows:

	Percent
Cash	5
Government securities	10
Securities of regulated investment companies	20
Securities of Corporation A	10
Securities of Corporation B	15
Securities of Corporation C	20
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	20
Total	100

Investment Company W owns all of the voting stock of Corporations A and B, 15 percent of the voting stock of Corporation C, and less than 10 percent of the voting stock of the other corporations. None of the corporations is a member of a controlled group. Investment Company W meets the requirements under section 851 (b) (4) at the end of its first quarter. It complies with subparagraph (A) of section 851 (b) (4) since it has 55 percent of its assets invested as provided in such subparagraph. It complies with subparagraph (B) of section 851 (b) (4) since it does not have more than 25 percent of its assets invested in the securities of any one issuer, or of two or more issuers which it controls.

Example (2). Investment Company V at the close of a particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash	10
Government securities	35
Securities of Corporation A	7
Securities of Corporation B	12
Securities of Corporation C	15
Securities of Corporation D	21
Total	100

Investment Company V fails to meet the requirements of subparagraph (A) of section 851 (b) (4) since its assets invested in Corporations A, B, C, and D exceed in each case 5 percent of the value of the total assets of the company at the close of the particular quarter.

Example (3). Investment Company X at the close of the particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash and Government securities	20
Securities of Corporation A	5
Securities of Corporation B	10
Securities of Corporation C	25
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	40
Total	100

Investment Company X owns more than 20 percent of the voting power of Corporations B and C and less than 10 percent of the voting power of all of the other corporations. Corporation B manufactures radios and Corporation C acts as its distributor and also distributes radios for other companies. Investment Company X fails to meet the requirements of subparagraph (B) of section 851 (b) (4) since it has 35 percent of its assets invested in the securities of two issuers which it controls and which are engaged in related trades or businesses.

Example (4). Investment Company Y at the close of a particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash and Government securities	15
Securities of Corporation K (a regulated investment company)	30
Securities of Corporation A	10
Securities of Corporation B	20
Securities of various corporations (not exceeding 5 percent of its assets in any one company)	25
Total	100

Corporation K has 20 percent of its assets invested in Corporation L and Corporation L has 40 percent of its assets invested in Corporation B. Corporation A also has 30 percent of its assets invested in Corporation B, and owns more than 20 percent of the voting power in Corporation B. Investment Company Y owns more than 20 percent of the voting power of Corporations A and K. Corporation K owns more than 20 percent of the voting power of Corporation B, and Corporation L owns more than 20 percent of the voting power of Corporation B. Investment Company Y is disqualified under subparagraph (B) of section 851 (b) (4) since more than 25 percent of its assets are considered invested in Corporation B as shown by the following calculation:

Percentage of assets invested directly in Corporation B	20.0
Percentage invested through the controlled group, Y-K-L-B (40 percent of 20 percent of 30 percent)	2.4
Percentage invested in the controlled group, Y-A-B (30 percent of 10 percent)	3.0
Total percentage of assets of Investment Company Y invested in Corporation B	25.4

Example (5). Investment Company Z, which keeps its books and makes its returns on the basis of the calendar year, at the close of the first quarter of 1955 meets the requirements of section 851 (b) (4) and has 20 percent of its assets invested in Corporation A. Later during the taxable year it makes distributions to its shareholders and because of such distributions it finds at the close of the taxable year that it has more than 25 percent of its remaining assets invested in Corporation A. Investment Company Z does not lose its status as a regulated investment company for the taxable year 1955 because of such distributions, nor will it lose its status as a regulated investment company for 1956 or any subsequent year solely as a result of such distributions.

Example (6). Investment Company Q, which keeps its books and makes its returns on the basis of a calendar year, at the close of the first quarter of 1955, meets the requirements of section 851 (b) (4) and has 20 percent of its assets invested in Corporation P. At the close of the taxable year 1955 it finds that it has more than 25 percent of its assets invested in Corporation P. This situation results entirely from fluctuations in the market values of the securities in Investment Company Q's portfolio and is not due in whole or in part to the acquisition of any security or other property. Corporation Q does not lose its status as a regulated investment company for the taxable year 1955 because of such fluctuations in the market values of the securities in its portfolio, nor will it lose its status as a regulated investment company for 1956 or any subsequent year solely as a result of such market value fluctuations.

§ 1.851–6 *Investment companies furnishing capital to development corporations*—(a) *Qualifying requirements.* (1) In the case of a regulated investment company which furnishes capital to development corporations, section 851 (e) provides an exception to the rule relating to the diversification of investments, made applicable to regulated investment companies by section 851 (b) (4) (A). This exception (as provided in paragraph (b) of this section) is available only to registered management investment companies which the Securities and Exchange Commission determines, in accordance with regulations issued by it, and certifies to the Secretary or his delegate, not less than 60 days before the close of the taxable year of such investment company, to be principally engaged in the furnishing of capital to other corporations which are principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available.

(2) For the purpose of the aforementioned determination and certification, unless the Securities and Exchange Commission determines otherwise, a corporation shall be considered to be principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available, for at least 10 years after the date of the first acquisition of any security in such corporation or any predecessor thereof by such investment company if at the date of such acquisition the corporation or its predecessor was principally so engaged, and an investment company shall be considered at any date to be furnishing capital to any company whose securities it holds if within 10 years before such date it had acquired any of such securities, or any securities surrendered in exchange therefor, from such other company or its predecessor.

(b) *Exception to general rule.* (1) The registered management investment company, which for the taxable year meets the requirements of paragraph (a) of this section, may (subject to the limitations of section 851 (e) (2) and paragraph (c) of this section) in the computation of 50 percent of the value of

its assets under section 851 (b) (4) (A) and § 1.851–2 (c) (1) for any quarter of such taxable year, include the value of any securities of an issuer (whether or not the investment company owns more than 10 percent of the outstanding voting securities of such issuer) if at the time of the latest acquisition of any securities of such issuer the basis of all such securities in the hands of the investment company does not exceed 5 percent of the value of the total assets of the investment company at that time. The exception provided by section 851 (e) (1) and this subparagraph is not applicable to the securities of an issuer if the investment company has continuously held any security of such issuer or of any predecessor company (as defined in paragraph (d) of this section) for 10 or more years preceding such quarter of the taxable year. The rule of section 851 (e) (1) with respect to the relationship of the basis of the securities of an issuer to the value of the total assets of the investment company is, in substance, a qualification of the 5-percent limitation in section 851 (b) (4) (A) (ii) and § 1.851–2 (c) (1) (iv). All other provisions and requirements of section 851 and §§ 1.851–1 through 1.851–6 are applicable in determining whether such registered management investment company qualifies as a regulated investment company.

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

Example (1). (i) The XYZ Corporation, a regulated investment company, qualified under section 851 (e) as an investment company furnishing capital to development corporations. On June 30, 1954, the XYZ Corporation purchased 1,000 shares of the stock of the A Corporation at a cost of $30,000. On June 30, 1954, the value of the total assets of the XYZ Corporation was $1,000,000. Its investment in the stock of the A Corporation ($30,000) comprised 3 percent of the value of its total assets, and it therefore met the requirements prescribed by section 851 (b) (4) (A) (ii) as modified by section 851 (e) (1).

(ii) On June 30, 1955, the value of the total assets of the XYZ Corporation was $1,500,000 and the 1,000 shares of stock of the A Corporation which the XYZ Corporation owned appreciated in value so that they were then worth $60,000. On that date, the XYZ Investment Company increased its investment in the stock of the A Corporation by the purchase of an additional 500 shares of that stock at a total cost of $30,000. The securities of the A Corporation owned by the XYZ Corporation had a value of $90,000 (6 percent of the value of the total assets of the XYZ Corporation) which exceeded the limit provided by section 851 (b) (4) (A) (ii). However, the investment of the XYZ Corporation in the A Corporation on June 30, 1955, qualified under section 851 (b) (4) (A) as modified by section 851 (e) (1), since the basis of those securities to the investment company did not exceed 5 percent of the value of its total assets as of June 30, 1955, illustrated as follows:

Basis to the XYZ Corporation of the A Corporation's stock acquired on June 30, 1954	$30,000
Basis of the 500 shares of the A Corporation's stock acquired by the XYZ Corporation on June 30, 1955	30,000
Basis of all stock of A Corporation	60,000

$$\frac{\text{Basis of stock of A Corporation}}{\text{Value of XYZ Corporation's total assets at June 30, 1955, time of the latest acquisition}} = \frac{\$60,000}{\$1,500,000} = 4 \text{ percent}$$

Example (2). The same facts existed as in example (1), except that on June 30, 1955, the XYZ Corporation increased its investment in the stock of the A Corporation by the purchase of an additional 1,000 shares of that stock (instead of 500 shares) at a total cost of $60,000. No part of the investment of the XYZ Corporation in the A Corporation qualified under the 5 percent limitation provided by section 851 (b) (4) (A) as modified by section 851 (e) (1), illustrated as follows:

Basis to the XYZ Corporation of the 1,000 shares of the A Corporation's stock acquired on June 30, 1954	$30,000
Basis of the 1,000 shares of the A Corporation's stock acquired on June 30, 1955	60,000
Total	90,000

$$\frac{\text{Basis of stock of A Corporation}}{\text{Value of XYZ Corporation's total assets at June 30, 1955, time of the latest acquisition}} = \frac{\$90,000}{\$1,500,000} = 6 \text{ percent}$$

Example (3). The same facts existed as in example (2) and on June 30, 1956, the XYZ Corporation increased its investment in the stock of the A Corporation by the purchase of an additional 100 shares of that stock at a total cost of $6,000. On June 30, 1956, the value of the total assets of the XYZ Corporation was $2,000,000 and on that date the investment in the A Corporation qualified under section 851 (b) (4) (A) as modified by section 851 (e) (1) illustrated as follows:

Basis to the XYZ Corporation of investments in the A Corporation's stock:	
1,000 shares acquired June 30, 1954	$30,000
1,000 shares acquired June 30, 1955	60,000
100 shares acquired June 30, 1956	6,000
Total	96,000

$$\frac{\text{Basis of stock of A Corporation}}{\text{Value of XYZ Corporation's total assets at June 30, 1956, time of the latest acquisition}} = \frac{\$96,000}{\$2,000,000} = 4.8 \text{ percent}$$

(c) *Limitation.* Section 851 (e) and this section do not apply in the quarterly computation of 50 percent of the value of the assets of an investment company under subparagraph (A) of section 851 (b) (4) and § 1.851–2 (c) (1) for any taxable year if at the close of any quarter of such taxable year more than 25 percent of the value of its total assets (including the 50 percent or more mentioned in such subparagraph (A)) is represented by securities (other than Government securities or the securities of other regulated investment companies) of issuers as to each of which such investment company (1) holds more than 10 percent of the outstanding voting securities of such issuer, and (2) has continuously held any security of such issuer (or any security of a predecessor of such issuer) for 10 or more years preceding such quarter, unless the value of its total assets so represented is reduced to 25 percent or less within 30 days after the close of such quarter.

(d) *Definition of predecessor company.* As used in section 851 (e) and this section, the term "predecessor company" means any corporation the basis of whose securities in the hands of the investment company was, under the provisions of section 358 or corresponding provisions of prior law, the same in whole or in part as the basis of any of the securities of the issuer and any corporation with respect to whose securities any of the securities of the issuer were received directly or indirectly by the investment company in a transaction or series of transactions involving nonrecognition of gain or loss in whole or in part. The other terms used in this section have the same meaning as when used in section 851 (b) (4). See §§ 1.851–2 (c) and 1.851–3.

§ 1.852 *Statutory provisions; taxation of regulated investment companies and their shareholders.*

SEC. 852. *Taxation of regulated investment companies and their shareholders*—(a) *Requirements applicable to regulated investment companies.* The provisions of this subchapter shall not be applicable to a regulated investment company for a taxable year unless—

(1) The deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gains dividends) equals or exceeds 90 percent of its investment company taxable income for the taxable year (determined without regard to subsection (b) (2) (D)), and

(2) The investment company complies for such year with regulations prescribed by the Secretary or his delegate for the purpose of ascertaining the actual ownership of its outstanding stock.

(b) *Method of taxation of companies and shareholders*—(1) *Imposition of normal tax and surtax on regulated investment companies.* There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a normal tax and surtax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11. For purposes of computing the normal tax under section 11, the taxable income and the dividends paid deduction of such investment company for the taxable year (computed without regard to capital gains dividends) shall be reduced by the

deduction provided by section 242 (relating to partially tax-exempt interest).

(2) *Investment company taxable income.* The investment company taxable income shall be the taxable income of the regulated investment company adjusted as follows:

(A) There shall be excluded the excess, if any, of the net long-term capital gain over the net short-term capital loss.

(B) The net operating loss deduction provided in section 172 shall not be allowed.

(C) The deductions for corporations provided in part VIII (except section 248) in subchapter B (section 241 and following, relating to the deduction for dividends received, etc.) shall not be allowed.

(D) The deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gains dividends.

(E) The taxable income shall be computed without regard to section 443 (b) (relating to computation of tax on change of annual accounting period).

(3) *Capital gains*—(A) *Imposition of tax.* There is hereby imposed for each taxable year in the case of every regulated investment company a tax of 25 percent of the excess, if any, of the net long-term capital gain over the sum of—

(i) The net short-term capital loss, and

(ii) The deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only.

(B) *Treatment of capital gain dividends by shareholders.* A capital gain dividend shall be treated by the shareholders as a gain from the sale or exchange of a capital asset held for more than 6 months.

(C) *Definition of capital gain dividend.* A capital gain dividend means any dividend, or part thereof, which is designated by the company as a capital gain dividend in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated.

(c) *Earnings and profits.* The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year.

§ 1.852–1 *Taxation of regulated investment companies*—(a) *Requirements applicable thereto.* Section 852 (a) denies the application of the provisions of subchapter M to a regulated investment company for a taxable year unless:

(1) The deduction for dividends paid for the taxable year as defined in section 561 (computed without regard to capital gains dividends) is equal to at least 90 percent of its investment company taxable income for such taxable year (determined without regard to the provisions of section 852 (b) (2) (D) and § 1.852–3 (d)); and

(2) The company complies for such taxable year with the provisions of § 1.852–6 (relating to records required to be maintained by a regulated investment company).

See section 853 (b) (1) (B) and § 1.853–2 (a) for amounts to be added to the dividend paid deduction, and section 855 and § 1.855–1, relating to dividends paid after the close of the taxable year.

(b) *Failure to qualify.* If a regulated investment company does not meet the requirements of section 852 (a) and paragraph (a) of this section for the taxable year, it will, even though it may otherwise be classified as a regulated investment company, be taxed in such year as an ordinary corporation and not as a regulated investment company. In such case, none of the provisions of subchapter M will be applicable to it.

§ 1.852–2 *Method of taxation of regulated investment companies*—(a) *Imposition of normal tax and surtax.* Section 852 (b) (1) imposes a normal tax and surtax, computed at the rates and in the manner prescribed in section 11, on the investment company taxable income, as defined in section 852 (b) (2) and § 1.852–3, for each taxable year of a regulated investment company. The tax is imposed as if the investment company taxable income were the taxable income referred to in section 11. In computing the normal tax under section 11, the regulated investment company's taxable income and the dividends paid deduction (computed without regard to the capital gains dividends) shall both be reduced by the deduction for partially tax-exempt interest provided by section 242.

(b) *Taxation of capital gains.* Section 852 (b) (3) imposes a tax of 25 percent for each taxable year on the excess, if any, of the net long-term capital gain of a regulated investment company over the sum of its net short-term capital loss and its deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only. For the definition of capital gains dividends paid by a regulated investment company, see section 852 (b) (3) (C) and § 1.852–4 (b). See section 855 and § 1.855–1 relating to dividends paid after the close of the taxable year.

§ 1.852–3 *Investment company taxable income.* Section 852 (b) (2) requires certain adjustments to be made to convert taxable income of the investment company to investment company taxable income, as follows:

(a) The excess, if any, of the net long-term capital gain over the net short-term capital loss shall be excluded;

(b) The net operating loss deduction provided in section 172 shall not be allowed;

(c) The special deductions provided in part VIII of subchapter B (except the deduction under section 248) shall not be allowed. Those not allowed are the deduction for partially tax-exempt interest provided by section 242, the deductions for dividends received provided by sections 243, 244, and 245, and the deduction for certain dividends paid provided by section 247. However, the deduction provided by section 248 (relating to organizational expenditures), otherwise allowable in computing taxable income, shall likewise be allowed in computing the investment company taxable income. See section 852 (b) (1) and § 1.852–2 (a) (1) for treatment of the deduction for partially tax-exempt interest (provided by section 242) for purposes of computing the normal tax under section 11;

(d) The deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gains dividends (as defined in section 852 (b) (3) (C) and § 1.852–4 (b)); and

(e) The taxable income shall be computed without regard to section 443 (b). Thus, the taxable income for a period of less than 12 months shall not be placed on an annual basis even though such short taxable year results from a change of accounting period.

§ 1.852–4 *Method of taxation of shareholders of regulated investment companies*—(a) *In general.* (1) A shareholder receiving dividends from a regulated investment company shall include such dividends in gross income for the taxable year in which they are received. Under section 852 (b) (3) (B), shareholders of a regulated investment company who receive capital gain dividends, in respect of the capital gains of an investment company for a taxable years for which it is taxable under subchapter M as a regulated investment company, shall treat such capital gain dividends as gains from the sale or exchange of capital assets held for more than six months.

(2) See section 853 (b) (2) and (c), and §§ 1.853–2 (b) and 1.853–3, for the treatment by shareholders of dividends received from the regulated investment company which has made an election under section 853 (a) with respect to the foreign tax credit. See section 854 and §§ 1.854–1 through 1.854–3 for limitations applicable to dividends received from regulated investment companies for the purpose of the credit under section 34, the exclusion from gross income under section 116, and the deduction under section 243. See section 855 (b) and (d), and § 1.855–1 (c) and (f), for treatment by shareholders of dividends paid by a regulated investment company after the close of the taxable year in the case of an election under section 855 (a).

(b) *Definition of capital gain dividend.* A capital gain dividend, as defined in section 852 (b) (3) (C), is any dividend or part thereof which is designated by a regulated investment company as a capital gain dividend in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. If the aggregate amount so designated with respect to the taxable year (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. For example, a regulated investment company making its return on the calendar year basis advised its shareholders by written notice mailed December 30,

1955, that of a distribution of $500,000 made December 15, 1955, $200,000 constituted a capital gain dividend, amounting to $2 per share. It was later discovered that an error had been made in determining the excess of the net long-term capital gain over the net short-term capital loss of the taxable year and that such excess was $100,000 instead of $200,000. In such case each shareholder would have received a capital gain dividend of $1 per share instead of $2 per share.

§ 1.852–5 *Earnings and profits of a regulated investment company.* In the determination of the earnings and profits of a regulated investment company, section 852 (c) provides that such earnings and profits for any taxable year (but not the accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for the taxable year. Thus, if a corporation would have had earnings and profits of $500,000 for the taxable year except for the fact that it had a net capital loss of $100,000, which amount was not deductible in determining its taxable income, its earnings and profits for that year if it is a regulated investment company would be $500,000. If the regulated investment company had no accumulated earnings and profits at the beginning of the taxable year, in determining its accumulated earnings and profits as of the beginning of the following taxable year, the earnings and profits for the taxable year to be considered in such computation would amount to $400,000 assuming that there had been no distribution from such earnings and profits. If distributions had been made in the taxable year in the amount of the earnings and profits then available for distribution, $500,000, the corporation would have as of the beginning of the following taxable year neither accumulated earnings and profits nor a deficit in accumulated earnings and profits, and would begin such year with its paid-in capital reduced by $100,000, an amount equal to the excess of the $500,000 distributed over the $400,000 accumulated earnings and profits which would otherwise have been carried into the following taxable year.

§ 1.852–6 *Records to be kept for purpose of determining whether a corporation claiming to be a regulated investment company is a personal holding company.* (a) Every regulated investment company shall maintain in the internal revenue district in which it is required to file its income tax return permanent records showing the information relative to the actual owners of its stock contained in the written statements required by this section to be demanded from the shareholders. The actual owner of stock includes the person who is required to include in gross income in his return the dividends received on the stock. Such records shall be kept at all times available for inspection by any internal revenue officer or employee, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

(b) For the purpose of determining whether a domestic corporation claiming to be a regulated investment company is a personal holding company as defined in section 542, the permanent records of the company shall show the maximum number of shares of the corporation (including the number and face value of securities convertible into stock of the corporation) to be considered as actually or constructively owned by each of the actual owners of any of its stock at any time during the last half of the corporation's taxable year, as provided in section 544.

(c) Statements setting forth the information (required by paragraph (b) of this section) shall be demanded not later than 30 days after the close of the corporation's taxable year as follows:

(1) In the case of a corporation having 2,000 or more record owners of its stock on any dividend record date, from each record holder of 5 percent or more of its stock; or

(2) In the case of a corporation having less than 2,000 and more than 200 record owners of its stock, on any dividend record date, from each record holder of 1 percent or more of its stock; or

(3) In the case of a corporation having 200 or less record owners of its stock, on any dividend record date, from each record holder of one-half of 1 percent or more of its stock.

When making demand for the written statements required of each shareholder by this paragraph, the company shall inform each of the shareholders of his duty to submit as a part of his income tax return the statements which are required by § 1.852–7 if he fails or refuses to comply with such demand. A list of the persons failing or refusing to comply in whole or in part with a company's demand shall be maintained as a part of its record required by this section. A company which fails to keep such records to show the actual ownership of its outstanding stock as are required by this section shall be taxable as an ordinary corporation and not as a regulated investment company.

§ 1.852–7 *Additional information required in returns of shareholders.* Any person who fails or refuses to comply with the demand of a regulated investment company for the written statements which § 1.852–6 requires the company to demand from its shareholders shall submit as a part of his income tax return a statement showing, to the best of his knowledge and belief—

(a) The number of shares actually owned by him at any and all times during the period for which the return is filed in any company claiming to be a regulated investment company;

(b) The dates of acquisition of any such stock during such period and the names and addresses of persons from whom it was acquired;

(c) The dates of disposition of any such stock during such period and the names and addresses of the transferees thereof;

(d) The names and addresses of the members of his family (as defined in section 544 (a) (2)); the names and addresses of his partners, if any, in any partnership; and the maximum number of shares, if any, actually owned by each in any corporation claiming to be a regulated investment company, at any time during the last half of the taxable year of such company;

(e) The names and addresses of any corporation, partnership, association, or trust in which he had a beneficial interest to the extent of at least 10 percent at any time during the period for which such return is made, and the number of shares of any corporation claiming to be a regulated investment company actually owned by each;

(f) The maximum number of shares (including the number and face value of securities convertible into stock of the corporation) in any domestic corporation claiming to be a regulated investment company to be considered as constructively owned by such individual at any time during the last half of the corporation's taxable year, as provided in section 544 and the regulations thereunder; and

(g) The amount and date of receipt of each dividend received during such period from every corporation claiming to be a regulated investment company.

§ 1.852–8 *Information returns.* Nothing in §§ 1.852–6 and 1.852–7 shall be construed to relieve regulated investment companies or their shareholders from the duty of filing information returns required by regulations prescribed under the provisions of subchapter A of chapter 61.

§ 1.853 *Statutory provisions; foreign tax credit allowed to shareholders.*

SEC. 853. *Foreign tax credit allowed to shareholders*—(a) *General rule.* A regulated investment company—

(1) More than 50 percent of the value (as defined in section 851 (c) (4)) of whose total assets at the close of the taxable year consists of stock or securities in foreign corporations, and

(2) Which meets the requirements of section 852 (a) for the taxable year,

may, for such taxable year, elect the application of this section with respect to income, war profits, and excess profits taxes described in section 901 (b) (1), which are paid by the investment company during such taxable year to foreign countries and possessions of the United States.

(b) *Effect of election.* If the election provided in subsection (a) is effective for a taxable year—

(1) The regulated investment company—

(A) Shall not, with respect to such taxable year, be allowed a deduction under section 164 (a) or a credit under section 901 for taxes to which subsection (a) is applicable, and

(B) Shall be allowed as an addition to the dividends paid deduction for such taxable year the amount of such taxes;

(2) Each shareholder of such investment company shall—

(A) Include in gross income and treat as paid by him his proportionate share of such taxes, and

(B) Treat as gross income from sources within the respective foreign countries and possessions of the United States, for purposes of applying subpart A of part III of subchapter N, the sum of his proportionate share of such taxes and the portion of any dividend paid by such investment company which represents income derived from sources within foreign countries or possessions of the United States.

(c) *Notice to shareholders.* The amounts to be treated by the shareholder, for purposes of subsection (b) (2), as his proportionate share of—

(1) Taxes paid to any foreign country or possession of the United States, and

(2) Gross income derived from sources within any foreign country or possession of the United States,

shall not exceed the amounts so designated by the company in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year.

(d) *Manner of making election and notifying shareholders.* The election provided in subsection (a) and the notice to shareholders required by subsection (c) shall be made in such manner as the Secretary or his delegate may prescribe by regulations.

(e) *Cross references.* (1) For treatment by shareholders of taxes paid to foreign countries and possessions of the United States, see section 164 (a) and section 901.

(2) For definition of foreign corporation, see section 7701 (a) (5).

§ 1.853–1 *Foreign tax credit allowed to shareholders*—(a) *In general.* Under section 853, a regulated investment company, meeting the requirements set forth in section 853 (a) and paragraph (b) of this section, may make an election with respect to the income, war-profits, and excess profits taxes described in section 901 (b) (1) which it pays to foreign countries or possessions of the United States during the taxable year, including such taxes as are deemed paid by it under the provisions of any income tax convention to which the United States is a party. If an election is made, the shareholders of the regulated investment company shall apply their proportionate share of such foreign taxes paid, or deemed to have been paid by it pursuant to any income tax convention, as either a credit (under section 901) or as a deduction (under section 164 (a)) as provided by section 853 (b) (2) and § 1.853–2 (b). The election is not applicable with respect to taxes deemed to have been paid under section 902 (relating to the credit allowed to corporate stockholders of a foreign corporation for taxes paid by such foreign corporation).

(b) *Requirements.* To qualify for the election provided in section 853 (a), a regulated investment company (1) must have more than 50 percent of the value of its total assets, at the close of the taxable year for which the election is made, invested in stocks and securities of foreign corporations, and (2) must also, for that year, comply with the requirements prescribed in section 852 (a) and § 1.852–1 (a). The term "value", for purposes of the first requirement, is defined in section 851 (c) (4). For the definition of foreign corporation, see section 7701 (a).

§ 1.853–2 *Effect of election*—(a) *Regulated investment company.* A regulated investment company making a valid election with respect to a taxable year under the provisions of section 853 (a) is, for such year, denied both the deduction for foreign taxes provided by section 164 (a) and the credit for foreign taxes provided by section 901 with respect to all income, war-profits, and excess profits taxes (described in section 901 (b) (1)) which it has paid to any foreign country or possession of the United States. See section 853 (b) (1) (A). However, under section 853 (b) (1) (B) the regulated investment company is permitted to add the amount of such foreign taxes paid to its dividends paid deduction for that taxable year. See § 1.852–1 (a).

(b) *Shareholder.* Under section 853 (b) (2), a shareholder of an investment company, which has made the election under section 853, is, in effect, placed in the same position as a person directly owning stock in foreign corporations, in that he must include in his gross income (in addition to taxable dividends actually received) his proportionate share of such foreign taxes paid and must treat such amount as foreign taxes paid by him for the purposes of the deduction under section 164 (a) and the credit under section 901. For such purposes he must treat as gross income from a foreign country or possession of the United States (1) his proportionate share of the taxes paid by the regulated investment company to such foreign country or possession and (2) the portion of any dividend paid by the investment company which represents income derived from such sources.

(c) *Dividends paid after the close of the taxable year.* For additional rules applicable to certain distributions made after the close of the taxable year which may be designated as income received from sources within and taxes paid to foreign countries or possessions of the United States, see section 855 (d) and § 1.855–1 (f).

(d) *Example.* This section may be illustrated as follows:

(1) The X Corporation, a regulated investment company, has total assets, at the close of the taxable year, of $10 million invested as follows:

Domestic corporations		$4,000,000
Foreign corporations in:		
Country A	$3,500,000	
Country B	2,500,000	
		6,000,000
Total assets		10,000,000

(2) The dividend income of X Corporation is received from the following sources:

Domestic corporations		$300,000
Foreign corporations:		
Country A	$250,000	
Country B	250,000	
		500,000
Total dividend income		800,000
Operation and management expenses		80,000
Net dividend income		720,000
Taxes withheld by Country A on dividends of $250,000 at a rate of 10 percent	$25,000	
Taxes withheld by Country B on dividends of $250,000 at a rate of 20 percent	50,000	
Total foreign taxes withheld		75,000
Income available for distribution		645,000

(3) X Corporation has 250,000 shares of common stock outstanding and distributes the entire $645,000 as a dividend of $2.58 per share of stock.

(4) The X Corporation meets the 50 percent requirement of section 851 (b) (4) and the requirements of section 852 (a). It notifies each shareholder by mail, within the time prescribed by section 853 (c), that by reason of the election they are to treat as foreign taxes paid $0.30 per share of stock ($75,000 of foreign taxes paid, divided by the 250,000 shares of stock outstanding), of which $0.20 represents taxes paid to Country B and $0.10 taxes paid to Country A. The shareholders must report as income $2.88 per share ($2.58 of dividends actually received plus the $0.30 representing foreign taxes paid). Of the $2.88 per share, $1.80 per share ($450,000 (which represents such part of the net dividend income of $720,000 as the foreign dividend income of $500,000 bears to the total dividend income of $800,000) divided by 250,000 shares) is to be considered as received from foreign sources. Ninety cents is to be considered as received from Country A, and ninety cents from Country B.

§ 1.853–3 *Notice to shareholders.* If a regulated investment company makes an election under section 853 (a), in the manner provided in § 1.853–4, the investment company is required, under section 853 (c), to furnish its shareholders with a written notice mailed not less than 30 days after the close of its taxable year. The notice must designate the shareholder's portion of foreign taxes paid to each such country or possession and the portion of the dividend which represents income derived from sources within each such country or possession. For purposes of section 853 (b) (2) and § 1.853–2 (b), the amount that a shareholder may treat as his proportionate share of foreign taxes paid and the amount to be included as gross income derived from any foreign country or possession of the United States shall not exceed the amounts so designated by the company in such written notice. If, however, the amount designated by the company in the notice exceeds the shareholder's proper proportionate share of foreign taxes or gross income from sources within any foreign country or possession, the shareholder is limited to the amount correctly ascertained.

§ 1.853–4 *Manner of making election*—(a) *General rule.* A regulated investment company, to make a valid election under section 853, must—

(1) File with Form 1099 and Form 1096 a statement as part of its return which sets forth the following information:

(i) The total amount of income received from sources within foreign countries and possessions of the United States;

(ii) The total amount of income, war-profits, or excess profits taxes (described in section 901 (b) (1)) paid, or deemed to have been paid under the provisions of any treaty to which the United States is a party, to such foreign countries or possessions;

(iii) The date, form, and contents of the notice to its shareholders;

(iv) The proportionate share of such taxes paid during the taxable year and foreign income received during such year attributable to one share of stock of the regulated investment company;

and

(2) File as part of its return for the taxable year a Form 1118 modified so that it becomes a statement in support of the election made by a regulated investment company for taxes paid to a foreign country or a possession of the United States.

(b) *Irrevocability of the election.* The election is applicable only with respect to taxable years subject to the Internal Revenue Code of 1954, shall be made with respect to all such foreign taxes, and must be made not later than the time prescribed for filing the return (including extensions thereof). Such election, if made, shall be irrevocable with respect to the dividend (or portion thereof), and the foreign taxes paid with respect thereto, to which the election applies.

§ 1.854 *Statutory provisions; limitations applicable to dividends received from regulated investment company.*

SEC. 854. *Limitations applicable to dividends received from regulated investment company*—(a) *Capital gain dividend.* For purposes of section 34 (a) (relating to credit for dividends received by individuals), section 116 (relating to an exclusion for dividends received by individuals), and section 243 (relating to deductions for dividends received by corporations), a capital gain dividend (as defined in section 852 (b) (3)) received from a regulated investment company shall not be considered as a dividend.

(b) *Other dividends*—(1) *General rule.* In the case of a dividend received from a regulated investment company (other than a dividend to which subsection (a) applies)—

(A) If such investment company meets the requirements of section 852 (a) for the taxable year during which it paid such dividend; and

(B) The aggregate dividends received by such company during such taxable year are less than 75 percent of its gross income,

then, in computing the credit under section 34 (a), the exclusion under section 116, and the deduction under section 243, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate dividends received by such company during such taxable year bear to its gross income for such taxable year.

(2) *Notice to shareholders.* The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the credit under section 34, the exclusion under section 116, and the deduction under section 243 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 30 days after the close of its taxable year.

(3) *Definitions.* For purposes of this subsection—

(A) The term "gross income" does not include gain from the sale or other disposition of stock or securities.

(B) The term "aggregate dividends received" includes only dividends received from domestic corporations other than dividends described in section 116 (b) (relating to dividends excluded from gross income). In determining the amount of any dividend for purposes of this subparagraph, the rules provided in section 116 (c) (relating to certain distributions) shall apply.

§ 1.854–1 *Limitations applicable to dividends received from regulated investment company*—(a) *In general.* Section 854 provides special limitations applicable to dividends received from a regulated investment company for purposes of the credit under section 34 and the exclusion under section 116 for dividends received by individuals, and the deduction under section 243 for dividends received by corporations.

(b) *Capital gain dividend.* Under the provisions of section 854 (a) a capital gain dividend as defined in section 852 (b) (3) and § 1.852–4 (b) shall not be considered a dividend for purposes of the credit under section 34, the exclusion under section 116, or the deduction under section 243.

(c) *Rule for dividends other than capital gain dividends.* (1) Section 854 (b) (1) limits the amount that may be treated as a dividend (other than a capital gain dividend) by the shareholder of a regulated investment company, for the purposes of the credit, exclusion, and deduction specified in paragraph (b) of this section, where the investment company receives substantial amounts of income (such as interest, etc.) from sources other than dividends from domestic corporations, which dividends qualify for the exclusion under section 116.

(2) Where the "aggregate dividends received" (as defined in section 854 (b) (3) (B) and § 1.854–3 (b)) during the taxable year by a regulated investment company (which meets the requirements of section 852 (a) and § 1.852–1 (a) for the taxable year during which it paid such dividend) are less than 75 percent of its gross income for such taxable year (as defined in section 854 (b) (3) (A) and § 1.854–3 (a)), only that portion of the dividend paid by the regulated investment company which bears the same ratio to the amount of such dividend paid as the aggregate dividends received by the regulated investment company, during the taxable year, bears to its gross income for such taxable year (computed without regard to gains from the sale or other disposition of stocks or securities) may be treated as a dividend for purposes of such credit, exclusion, and deduction.

(3) Subparagraph (2) of this paragraph may be illustrated by the following example:

Example. The XYZ regulated investment company meets the requirements of section 852 (a) for the taxable year and has received income from the following sources:

Capital gains (from the sale of stock or securities)	$100,000
Dividends (from domestic sources other than dividends described in section 116 (b))	70,000
Dividend (from foreign corporations)	5,000
Interest	25,000
Total	200,000
Expenses	20,000
Taxable income	180,000

The regulated investment company decides to distribute the entire $180,000. It distributes a capital gain dividend of $100,000 and a dividend of ordinary income of $80,000. The aggregate dividends received by the regulated investment company from domestic corporations ($70,000) is less than 75 percent of its gross income ($100,000) computed without regard to capital gains from sales of securities. Therefore, an apportionment is required. Since $70,000 is 70 percent of $100,000, out of every $1 dividend of ordinary income paid by the regulated investment company only 70 cents would be available for the credit, exclusion, or deduction referred to in section 854 (b) (1). The capital gains dividend and the dividend received from foreign corporations are excluded from the computation.

(d) *Dividends received from a regulated investment company during taxable years of shareholders ending after July 31, 1954, and subject to the Internal Revenue Code of 1939.* For the application of section 854 to taxable years of shareholders of a regulated investment company ending after July 31, 1954, and subject to the Internal Revenue Code of 1939, see § 1.34–5 and § 1.116–2.

§ 1.854–2 *Notice to shareholders.* Section 854 (b) (2) provides that the amount that a shareholder may treat as a dividend for purposes of the credit for dividends received by individuals provided by section 34 (a), the exclusion for dividends received by individuals provided by section 116, and the deduction for dividends received by corporations provided by section 243, shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 30 days after the close of the company's taxable year. If, however, the amount so designated by the company in the notice exceeds the amount which may be treated by the shareholder as a dividend for such purposes, the shareholder is limited to the amount as correctly ascertained under section 854 (b) (1) and § 1.854–1 (c).

§ 1.854–3 *Definitions.* (a) For the purpose of computing the limitation prescribed by section 854 (b) (1) (B) and § 1.854–1 (c), the term "gross income" does not include gain from the sale or other disposition of stock or securities. However, capital gains arising from the sale or other disposition of capital assets, other than stock or securities, shall not be excluded from gross income for this purpose.

(b) The term "aggregate dividends received" includes only dividends received from domestic corporations other

than dividends described in section 116 (b) (relating to dividends not eligible for exclusion from gross income). Accordingly, dividends received from foreign corporations will not be included in the computation of "aggregate dividends received". In determining the amount of any dividend for purposes of this section, the rules provided in section 116 (c) (relating to certain distributions) shall apply.

§ 1.855 *Statutory provisions; dividends paid by regulated investment company after close of taxable year.*

SEC. 855. *Dividends paid by regulated investment company after close of taxable year*—(a) *General rule.* For purposes of this chapter, if a regulated investment company—

(1) Declares a dividend prior to the time prescribed by law for the filing of its return for a taxable year (including the period of any extension of time granted for filing such return), and

(2) Distributes the amount of such dividend to shareholders in the 12-month period following the close of such taxable year and not later than the date of the first regular dividend payment made after such declaration,

the amount so declared and distributed shall, to the extent the company elects in such return in accordance with regulations prescribed by the Secretary or his delegate, be considered as having been paid during such taxable year, except as provided in subsections (b), (c) and (d).

(b) *Receipt by shareholder.* Amounts to which subsection (a) is applicable shall be treated as received by the shareholder in the taxable year in which the distribution is made.

(c) *Notice to shareholders.* In the case of amounts to which subsection (a) is applicable, any notice to shareholders required under this subchapter with respect to such amounts shall be made not later than 30 days after the close of the taxable year in which the distribution is made.

(d) *Foreign tax election.* If an investment company to which section 853 is applicable for the taxable year makes a distribution as provided in subsection (a) of this section, the shareholders shall consider the amounts described in section 853 (b) (2) allocable to such distribution as paid or received, as the case may be, in the taxable year in which the distribution is made.

§ 1.855–1 *Dividends paid by regulated investment company after close of taxable year*—(a) *General rule.* In—

(1) Determining under section 852 (a) and § 1.852–1 (a) whether the deduction for dividends paid during the taxable year (without regard to capital gain dividends) by a regulated investment company equals or exceeds 90 percent of its investment company taxable income (determined without regard to the provisions of section 852 (b) (2) (D)),

(2) Computing its investment company taxable income (under section 852 (b) (2) and § 1.852–3), and

(3) Determining the amount of capital gain dividends (as defined in section 852 (b) (3) and § 1.852–4 (b)) paid during the taxable year,

any dividend (or portion thereof) declared by the investment company either before or after the close of the taxable year but in any event before the time prescribed by law for the filing of its return for the taxable year (including the period of any extension of time granted for filing such return) shall, to the extent the company so elects in such return, be treated as having been paid during such taxable year. This rule is applicable only if the entire amount of such dividend is actually distributed to the shareholders in the 12-month period following the close of such taxable year and not later than the date of the first regular dividend payment made after such declaration.

(b) *Election*—(1) *Method of making election.* The election must be made in the return filed by the company for the taxable year. The election shall be made by the taxpayer (the regulated investment company) by treating the dividend (or portion thereof) to which such election applies as a dividend paid during the taxable year in computing its investment company taxable income, or if the dividend (or portion thereof) to which such election applies is to be designated by the company as a capital gain dividend, in computing the amount of capital gain dividends paid during such taxable year. The election provided in section 855 (a) may be made only to the extent that the earnings and profits of the taxable year (computed with the application of section 852 (c) and § 1.852–5) exceed the total amount of distributions out of such earnings and profits actually made during the taxable year (not including distributions with respect to which an election has been made for a prior year under section 855 (a)). The dividend or portion thereof, with respect to which the regulated investment company has made a valid election under section 855 (a), shall be considered as paid out of the earnings and profits of the taxable year for which such election is made, and not out of the earnings and profits of the taxable year in which the distribution is actually made.

(2) *Irrevocability of the election.* After the expiration of the time for filing the return for the taxable year for which an election is made under section 855 (a), such election shall be irrevocable with respect to the dividend or portion thereof to which it applies.

(c) *Receipt by shareholders.* Under section 855 (b), the dividend or portion thereof, with respect to which a valid election has been made, will be includible in the gross income of the shareholders of the regulated investment company for the taxable year in which the dividend is received by them.

(d) *Examples.* The application of paragraphs (a), (b), and (c) of this section may be illustrated by the following examples:

Example (1). The X Company, a regulated investment company, had taxable income (and earnings or profits) for the calendar year 1954 of $100,000. During that year the company distributed to shareholders taxable dividends aggregating $88,000. On March 10, 1955, the company declared a dividend of $37,000 payable to shareholders on March 20, 1955. Such dividend consisted of the first regular quarterly dividend for 1955 of $25,000 plus an additional $12,000 representing that part of the taxable income for 1954 which was not distributed in 1954. On March 15, 1955, the X Company filed its Federal income tax return and elected therein to treat $12,000 of the total dividend of $37,000 to be paid to shareholders on March 20, 1955, as having been paid during the taxable year 1954. Assuming that the X Company actually distributed the entire amount of the dividend of $37,000 on March 20, 1955, an amount equal to $12,000 thereof will be treated for the purposes of section 852 (a) as having been paid during the taxable year 1954. Such amount ($12,000) will be considered by the X Company as a distribution out of the earnings and profits for the taxable year 1954, and will be treated by the shareholders as a taxable dividend for the taxable year in which such distribution is received by them.

Example (2). The Y Company, a regulated investment company, had taxable income (and earnings or profits) for the calendar year 1954 of $100,000, and for 1955 taxable income (and earnings or profits) of $125,000. On January 1, 1954, the company had a deficit in its earnings and profits accumulated since February 28, 1913, of $115,000. During the year 1954 the company distributed to shareholders taxable dividends aggregating $85,000. On March 5, 1955, the company declared a dividend of $65,000 payable to shareholders on March 31, 1955. On March 15, 1955, the Y Company filed its Federal income tax return in which it included $40,000 of the total dividend of $65,000 payable to shareholders on March 31, 1955, as a dividend paid by it during the taxable year 1954. On March 31, 1955, the Y Company distributed the entire amount of the dividend of $65,000 declared on March 5, 1955. The election under section 855 (a) is valid only to the extent of $15,000, the amount of the undistributed earnings and profits for 1954 ($100,000 earnings and profits less $85,000 distributed during 1954). The remainder ($50,000) of the $65,000 dividend paid on March 31, 1955, could not be the subject of an election, and such amount will be regarded as a distribution by the Y Company out of earnings and profits for the taxable year 1955. Assuming that the only other distribution by the Y Company during 1955 was a distribution of $75,000 paid as a dividend on October 31, 1955, the total amount of the distribution of $65,000 paid on March 31, 1955, is to be treated by the shareholders as taxable dividends for the taxable year in which such dividend is received. The Y Company will treat the amount of $15,000 as a distribution of the earnings or profits of the company for the taxable year 1954, and the remaining $50,000 as a distribution of the earnings or profits for the year 1955. The distribution of $75,000 on October 31, 1955, is, of course, a taxable dividend out of the earnings and profits for the year 1955.

(e) *Notice to shareholders.* Section 855 (c) provides that in the case of dividends, with respect to which a regulated investment company has made an election under section 855 (a), any notice to shareholders required under subchapter M, with respect to such amounts, shall be made not later than 30 days after the close of the taxable year in which the distribution is made. Thus, the notice requirements of section 852 (b) (3) (C) and § 1.852–4 (b) with respect to capital gain dividends, section 853 (c) and § 1.853–3 with respect to allowance to shareholder of foreign tax credit, and section 854 (b) (2) and § 1.854–2 with respect to the amount of a distribution which may be treated as a dividend, may be satisfied with respect to amounts to which section 855 (a) and this section apply if the notice relating to such amounts is mailed to the shareholders not later than 30 days after the close of the taxable year in which the distribution is

made. If the notice under section 855 (c) relates to an election with respect to any capital gain dividends, such capital gain dividends shall be aggregated by the investment company with the designated capital gain dividends actually paid during the taxable year to which the election applies (not including such dividends with respect to which an election has been made for a prior year under section 855) for the purpose of determining whether the aggregate of the designated capital gain dividends with respect to such taxable year of the company is greater than the excess of the net long-term capital gain over the net short-term capital loss of the company. See section 852 (b) (3) (C) and § 1.852–4 (b).

(f) *Foreign tax election.* Section 855 (d) provides that in the case of an election made under section 853 (relating to foreign taxes), the shareholder of the investment company shall consider the foreign income received, and the foreign tax paid, as received and paid, respectively, in the shareholder's taxable year in which distribution is made.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revnue.

Approved: May 28, 1957.

DAN THROOP SMITH,
Deputy to the Secretary.

[F. R. Doc. 57–4487; Filed, June 3, 1957; 8:50 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

ANNUAL INCOME QUESTIONNAIRES

In § 4.442 paragraph (c) (2) is amended to read as follows:

§ 4.442 *Annual income questionnaires.* * * *

(c) *Determinations of entitlement.* * * *

(2) *Continued entitlement.* If the anticipated income is not in excess of the maximum statutory limitation, payments will be continued. An increase in the rate payable by reason of a change in the amount of income anticipated will be made effective the first of the calendar year. If the rate payable is reduced, the new rate will be made effective the day following the date of last payment and the claimant will be informed that the new rate may be increased if notice is received within the same or the succeeding calendar year that his income will be less than that reported on the questionnaire.

* * * * *

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interprets or applies sec. 209, Pub. Law 881, 84th Cong.)

This regulation is effective June 4, 1957.

[SEAL] JOHN S. PATTERSON,
Deputy Administrator.

[F. R. Doc. 57–4478; Filed, June 3, 1957; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

UNITED STATES STANDARDS FOR FRESH CRANBERRIES FOR PROCESSING [1]

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Standards for Fresh Cranberries for Processing pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D. C., not later than 30 days after publication hereof in the FEDERAL REGISTER.

The proposed standards are as follows:

GENERAL

Sec.
51.3030 General.

GRADES

51.3031 U. S. No. 1.

UNCLASSIFIED

51.3032 Unclassified.

DEFINITIONS

51.3033 Clean.
51.3034 Mature.
51.3035 Fairly well colored.
51.3036 Damage.
51.3037 Diameter.

AUTHORITY: §§ 51.3030 to 51.3037 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GENERAL

§ 51.3030 *General.* (a) These standards apply only to the commonly cultivated Cranberry (Vaccinium macrocarpon).

(b) The primary purpose of these standards is for classifying Cranberries intended for manufacture of strained sauce. When used for other styles of packs such as cocktail, whole sauce, etc., other size and quality requirements may be specified using the quality factors and defects established in these standards.

GRADES

§ 51.3031 *U. S. No. 1.* "U. S. No. 1" consists of fresh cranberries which are clean, mature, fairly well colored and which are not soft or decayed and which are free from worms or worm holes and which are free from damage caused by bruises, scars, freezing, sunscald, foreign material, disease, insects or mechanical or other means.

(a) The minimum diameter shall be nine-thirty-seconds of an inch.

(b) Incident to proper grading and handling, the following tolerances, by count, shall be permitted in any lot:

(1) 3 percent for cranberries which fail to meet the size requirement;

(2) 20 percent for cranberries which fail to meet the color requirements for individual cranberries;

(3) 10 percent for cranberries which fail to meet the remaining requirements of the grade but not more than one-half of this amount, or 5 percent, shall be allowed for berries which have worm holes or which are soft or affected by decay: *Provided,* That an additional tolerance of 2 percent for berries which are soft or affected by decay, or a total of not more than 7 percent, for berries which have worm holes or which are soft or affected by decay, shall be allowed en route or at destination: *And provided further,* That not more than 1 percent, included in the above tolerances shall be allowed for Black Rot; and,

(4) One-tenth (1/10) of 1 percent for cranberries infested with worms.

UNCLASSIFIED

§ 51.3032 *Unclassified.* "Unclassified" consists of cranberries which have not been classified in accordance with the foregoing grade. The term "unclassified" is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

DEFINITIONS

§ 51.3033 *Clean.* "Clean" means that the cranberries are practically free from dirt, dust, spray residue, or other adhering foreign material.

§ 51.3034 *Mature.* "Mature" means that the cranberry has reached the stage of development which will insure the proper completion of the ripening process.

§ 51.3035 *Fairly well colored.* "Fairly well colored" means that 75 percent of the surface of the individual cranberry, in the aggregate, shows pink or red color characteristic of the variety.

§ 51.3036 *Damage.* "Damage" means any defect which materially affects the edible or processing quality of the cranberry. The following shall be considered as damage:

(a) Foreign material when the processing quality of the cranberries in the container is materially affected; and,

(b) Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(1) Bruises or scars which materially affect the edible or processing quality of the individual cranberry; and,

(2) Insects when any insect injury affects an aggregate area of the surface of the individual cranberry greater than that of a circle one-eighth inch in diameter.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 51.3037 *Diameter.* "Diameter" means the greatest dimension measured at right angles to a line from stem to blossom end of the berry.

Dated: May 29, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-4480; Filed, June 3, 1957; 8:49 a. m.]

[7 CFR Part 52]

UNITED STATES STANDARDS FOR GRADES OF CANNED ONIONS

ADDITIONAL TIME FOR FILING DATA, VIEWS, OR ARGUMENTS

Proposed United States Standards for Grades of Canned Onions were set forth in the notice which was published in the FEDERAL REGISTER of February 20, 1957 (22 F. R. 1038).

In consideration of comments and suggestions received indicating the need for further study of the proposal by industry notice is hereby given of an additional period of time until August 1, 1957, within which written data, views, or arguments may be submitted by interested parties for consideration in connection with the aforesaid proposed United States Standards for Grades of Canned Onions.

Dated: May 29, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-4481; Filed, June 3, 1957; 8:49 a. m.]

[7 CFR Part 922]

VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO APPROVAL OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1956-57 FISCAL YEAR

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, originally effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), as the agency to administer the terms and provisions thereof: (1) That the Secretary of Agriculture find that expenses not to exceed $190,782.90 will be necessarily incurred during the fiscal year November 1, 1956, through October 31, 1957, for the maintenance and functioning of the committee established under the aforesaid marketing agreement and order, and (2) that the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles oranges shall pay during the fiscal year in accordance with the aforesaid marketing agreement and order, the rate of assessment of $0.0075 per carton of oranges handled by such handler as the first handler thereof during such fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D. C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All Documents should be filed in quadruplicate.

As used herein, "handle," "handler," "oranges," "fiscal year," and "carton" shall have the same meaning as is given to each such term in said marketing agreement and order.

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

Dated: May 28, 1957.

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

[F. R. Doc. 57-4498; Filed, June 3, 1957; 8:51 a. m.]

[7 CFR Part 931]

[Docket No. AO-229-A4]

MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO THE TENTATIVE MARKETING AGREEMENT AND TO ORDER REGULATING HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Cedar Rapids-Iowa City marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Cedar Rapids, Iowa, on September 25-26, 1956, pursuant to notice thereof which was issued August 31, 1956 (21 F. R. 6715).

The material issues on the record of the hearing related to:

1. Expansion of the marketing area;
2. Qualifications for attaining pool plant status;
3. Modification of the producer definition;
4. Revision of the producer-handler definition;
5. Level of the Class I price;
6. Application of location differentials on class prices and in paying producers;
7. Payments on unpriced milk disposed of in the marketing area from nonpool plants; and
8. Miscellaneous administrative and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The marketing area as defined in the order should not be changed at this time.

The marketing area in the present order is all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City. As proposed in the hearing notice by the producer organization and handlers in the market, the marketing area would include all the territory within Linn and Johnson Counties (in which counties Cedar Rapids and Iowa City are located) and within Springdale and Wapsinonoc Townships in Cedar and Muscatine Counties, respectively. At the hearing, however, producers took the position that the marketing area should be all Johnson and Linn Counties except the townships of Grant, Spring Grove, Jackson, Washington, Otter Creek, and Maine in the northern part of Linn County.

It was not shown what, if anything, would be accomplished by expansion of the marketing area. Although some handlers now regulated by the order distribute substantial quantities of milk beyond the boundaries of the present marketing area, there is no evidence that they compete in the territory proposed to be added to the present marketing area with handlers who are not now regulated. Data relative to sales by handlers under the Cedar Rapids-Iowa City order in the various localities proposed to be included in the marketing area were not presented at the hearing. Neither was such information with respect to sales by unregulated handlers, if any, with whom they compete, put on the record.

Some milk is sold at retail by producer-handlers at their farms outside the present marketing area. Producers argued that the expanded area was necessary, especially if the milk sold at these various farms became regulated. Elsewhere in this decision, the proposal which would include such sales as pooled milk under the order is denied. Consequently, expanding the marketing area because of competition from producer-handlers, irrespective of its merit, is not a matter of consideration at this time.

Any disruptive or unstable marketing conditions which may prevail in the

Cedar Rapids-Iowa City market at the present time would not, as indicated by the evidence presented at the hearing, be alleviated by expansion of the marketing area. This was recognized by producers who suggested that the marketing area be expanded as a safeguard to unfair competition in the communities adjacent to the marketing area wherein unregulated handlers might, at some future time, have an advantage over handlers subject to the order. It was not shown that such a development is anticipated in the immediate future or from where such handlers who would have an advantage over Cedar Rapids-Iowa City handlers would come.

The degree to which there may or may not be a need for expansion of the marketing area at the present time was emphasized particularly by the position taken by those who would be most affected by a change—handlers now regulated by the Cedar Rapids-Iowa City order. No testimony was presented at the hearing by any such handler in connection with the proposal for expansion of the marketing area.

2. The order should be revised to prescribed standards based on association with the market for qualifying a plant as a pool plant. As now provided in the order, a regulated plant or a pool plant is designated an "approved plant" and is (a) any plant from which Grade A milk is disposed of on a route or through a plant store in the marketing area, and (b) a plant which furnishes milk to an approved plant from which milk is distributed in the marketing area.

The basis for determining which plants shall be pool plants under the Cedar Rapids-Iowa City order, and thereby fully subject to regulation, should be clearly set forth in the order and apply uniformly to all plants, wherever located. Pool plant status should not be determined solely on an occasional shipment of milk to the market, or on approval by a specified health authority. Such a method for determining which plants shall be subject to regulation would not provide a workable basis for administering the order in conjunction with the other provisions recommended in the decision.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A inspection be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not needed on the market would result in no extra value to consumers.

Essential to the operation of a marketwide pool is the establishment of performance standards to apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the marketwide pool and have its producers share in the Class I sales of the market. Any producer who meets the necessary health department requirements should be permitted, under the order, to sell his milk to plants meeting the standards of qualification. Whether or not plants and producers choose to supply the Cedar Rapids-Iowa City market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the marketwide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were to be permitted to share on a pro rata basis the Class I utilization of the entire market without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be dissipated without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with the necessary health department standards.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the Cedar Rapids-Iowa City market may depend. If such plants were allowed to sell a token quantity of milk in the marketing area and pool their surplus whenever Class I outlets were not available to them, the result would be that such handlers could gain an advantage in paying producers through receipt of equalization payments from the Cedar Rapids-Iowa City pool.

The Cedar Rapids-Iowa City market, however, would gain no advantage from the payment of equalization to such a handler. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Because of the difference in marketing practices and functions between distributing plants and supply plants, two sets of performance standards have been provided. A "distributing plant" under the order would be defined as a plant in which milk is processed or packaged and from which any fluid milk product (as hereinafter defined) is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area. "Supply plant" would be defined to mean a plant (except a distributing plant) from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant which is qualified as a pool plant.

In order to qualify as a pool plant, a distributing plant should be required to distribute at least 15 percent of its milk from producers and other plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area.

A distributing plant having more than 85 percent of its business outside the marketing area or in other outlets should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation because of the minor share of its business which is in the marketing area. Full regulation in such case would not be necessary to accomplish the purposes of the order, and might well place such plant at a competitive disadvantage in relation to its competitors in supplying the unregulated market.

Such a minimum is necessary also to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distribution of fluid milk products should be qualified as pool plants under this definition. In order to preserve this distinction, a further condition is placed on distributing plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount during the month to at least 35 percent of their receipts of milk from dairy farmers and from other plants. Any plant which does not qualify on this basis should be deemed to be primarily a supply plant and its status under the pool should be judged by the standards applied to such plants.

A plant from which milk for Class I uses is distributed regularly in the marketing area under normal circumstances may be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant. There may be from time to time plants supplying milk to the marketing area which would not qualify for pool status. Such plants would be subject to payments hereinafter discussed if they are not fully subject to regulation.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that currently the quantity of milk produced for the Cedar Rapids-Iowa City market is adequate on an annual basis for the needs of the mar-

ket. At times, especially during the months of seasonally high production, distributors in the market have not needed all of the milk available from producers in order to keep their Class I outlets fully supplied. In order to assure that all the producers' milk which is pooled with the market will be available for Class I, supply plant standards should be set at levels which require that such milk will be available.

In order to qualify for pool plant status a supply plant should ship to distributing plants which are pool plants at least 35 percent of its receipts of milk from dairy farmers in any month in the form of supplemental supplies of fluid milk products. A supply plant from which a proportionately lesser quantity of milk is disposed of in this manner should not, under the present conditions in the Cedar Rapids-Iowa City market, be considered as primarily associated with the regulated market.

It is recognized that if there is any demand for milk from supply plants it will be greatest during the season of low production. For sustained periods during the months of flush production supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the summertime in order to maintain the eligibility of supply plants to pool.

To avoid this, provision should be made whereby a supply plant may maintain pool plant status throughout the year if it supplies a substantial portion of its producer milk to distributing plants during the months when milk production tends to be lowest. The proposed standards require that a supply plant provide distributing plants which are pool plants with milk to the extent of 50 percent of its producer milk receipts during the period of September through November to maintain automatic pool status for the months of March through June.

Any distributing plant or supply plant which does not meet the standards for a pool plant should be required to file reports and submit to audits by the market administrator to verify the status of such plant.

A finding is made elsewhere in this decision (Issue No. 7) that when milk distributed in the marketing area is from plants which dispose of a major portion of their receipts in another regulated area and which are fully subject to the classification, pricing and pooling provisions of another Federal milk marketing order, it is not necessary to extend full regulation under this order to such plants. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

3. Producer should be defined as any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the other months.

As now provided in the order, to qualify as a producer a dairy farmer must ship to an approved plant and have the approval of the health authorities of Cedar Rapids or Iowa City. Once a person has qualified as a producer his production may be diverted from an approved plant to an unregulated plant at any time during the year and for any period of time. In effect, it is now possible for a dairy farmer to be a producer under the order even though his milk is delivered continuously to an unregulated plant.

Findings are made elsewhere in this decision justifying the establishment of pool plant qualifications based on standards of association with the market and for requiring compensatory payments on unpriced milk received at a pool plant or distributed in the marketing area from a nonpool plant. Accordingly, the producer definition in the order should be revised so as to complement these other provisions.

Whether a farmer qualifies as a producer under the order is based on whether the plant to which he ships is qualified as a pool plant. Under the pool plant definition herein proposed, a plant's qualification as a pool plant is determined on the basis of a minimum specified percentage of the milk received at such plant being distributed as Class I in the marketing area or, in the case of a supply plant, on the basis of a minimum specified percentage of its milk receipts having been shipped to a distributing plant which is a pool plant. If a handler were permitted to divert producer milk in any month and for any length of time to a nonpool plant as now permitted in the order, it would be extremely difficult, if not impossible, to determine the degree, if any, to which such producer actually was associated with this market.

When producer milk is not needed in the market for Class I purposes the movement of such milk to nonpool plants for manufacturing purposes should be facilitated. Allowing for unlimited diversion only during those months when reserve supplies of milk are heaviest will contribute to this end. Unlimited diversion is neither necessary nor desirable during the months of the year when milk of producers regularly associated with the market is needed to supply the Class I needs of the market. It is necessary, however, to provide for limited diversion during such months to enable handlers to divert producer milk on such occasions as week-ends or holidays when milk is not needed in the market for Class I purposes.

Provision should be made so that milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the months of flush production and with respect to not more than one-half of the days on which milk was delivered from a farm during any of the other months and still retain producer status under the order. As heretofore provided in the order, diverted milk shall be deemed to have been received at the plant from which it was diverted.

4. It was proposed by handlers and producers that the plant of a producer-handler from which more than an average of 1,000 pounds of milk daily is disposed of in the marketing area should be a pool plant. The order now exempts from pooling all milk produced on the farm of a producer-handler who receives no milk from other dairy farmers.

There are three producer-handlers in the area, producing a total of between 11,000 and 14,000 pounds of milk daily. The producer-handler handling the largest volume distributes milk in the marketing area through a chain of supermarkets owned by him. The other two sell milk on a cash and carry basis in gallon containers at their farms. One of them is located immediately adjacent to the city limits of Iowa City. The other is in or near the City of Marion, which is contiguous to Cedar Rapids.

Elsewhere in this decision the proposal to expand the marketing area is denied. Accordingly, any change in the producer-handler definition at this time would have no effect on the two producer-handlers operating outside the marketing area.

It was claimed that producer-handlers have the benefit of a share of the Class I market without carrying their fair share of the burden of surplus for the markets. The one producer-handler who distributes milk in the marketing area produces more than an adequate supply for his Class I needs and assumes the full responsibility for marketing his excess production for manufacturing purposes. Moreover, no evidence was presented at the hearing to show that the surplus from his operation is proportionately less than that which is pooled by all producers under the Cedar Rapids-Iowa City order.

Of the three producer-handlers now in business, two began their operations as handlers within the year preceding the time of the hearing. It was argued that unless the producer-handler definition is revised an additional number of producers would come on the market as producer-handlers, bringing about unstable and demoralized marketing conditions. It is not possible to justify this conclusion on the basis of the information contained in the hearing record.

In view of the above, it is concluded that no action should be taken at this time with respect to changing the producer-dealer definition in the order. Accordingly, the request therefor is denied.

5. The Cedar Rapids-Iowa City Class I milk price is now calculated by adding

to the Class II milk price for the preceding month a differential of 65 cents for May and June, 85 cents December through April and $1.15 July through November.

Producers proposed that the Cedar Rapids-Iowa City price be related directly to the Quad Cities order Class I price. The Quad Cities order as amended May 1, 1957, provides for a Class I price equal to the Chicago order Class I price plus 20 cents. Prior to May 1, 1957, the Quad Cities price was the higher of either (a) the Chicago order Class I price plus 20 cents or (b) the Class II price for the preceding month plus a differential of 75 cents for May and June, 95 cents December through April and $1.15 July through November. The price obtained by using the latter alternative averages 6 cents above Cedar Rapids-Iowa City Class I price. For the two full calendar years immediately preceding the hearing, 1954 and 1955, the Cedar Rapids-Iowa City Class I price averaged $3.90, exceeding the Chicago order Class I price of $3.76 for the same period by 14 cents.

The Chicago milkshed is one of the principal milk production areas in the United States. At various times throughout the year, especially during the months of low production, milk from this area is shipped great distances to many markets throughout the country. The Chicago order Class I price is used extensively as a recognized price quotation both locally and nationally. It is not uncommon to fix Class I prices in a market on the basis of the price in a major milk marketing area, such as Chicago, or on the basis of obtaining alternative sources of supply from such major market.

There is extensive overlapping of the production area for the so-called Mississippi Valley order markets of Cedar Rapids-Iowa City, Quad Cities and Dubuque, and producers in such localities may shift from one market to another. Although the marketing areas of Quad Cities and Cedar Rapids-Iowa City are approximately 80 miles apart, a country plant for the Quad Cities market at Coggon, Iowa, is less than 25 miles from Cedar Rapids. Handlers from these Mississippi Valley order markets compete in some localities with Chicago order handlers for supplies. There is much competition among handlers regulated by different of the Mississippi Valley order markets and some of these handlers, in turn, compete for sales with Chicago order handlers.

A hearing has been held to consider regulation for the territory tentatively designed as the North Central Iowa marketing area. Included in this marketing area, as proposed, would be the cities of Waterloo and Marshalltown, each of which is approximately 70 miles from Cedar Rapids. Waterloo and Marshalltown distributors compete for sales with Cedar Rapids-Iowa City order handlers at many locations in eastern Iowa. In addition, there is a significant overlapping of the production areas for the North Central Iowa and Cedar Rapids-Iowa City markets.

In order to insure the maintenance of an adequate, but not excessive, supply of milk for the Cedar Rapids-Iowa City market it is necessary that an appropriate alignment of prices between markets prevail and that the level of such prices be equitable among handlers whose sales areas overlap but who are subject to regulation by different orders.

The Class II price under the Cedar Rapids-Iowa City order, which is based on the prices paid by local manufacturing plants for ungraded milk, is a measure of the value of milk for manufacturing locally. The Chicago order, on the other hand, does not use prices paid by these local manufacturing plants to arrive at its Class I price, but uses instead a "basic formula price" which reflects the value of milk for manufacturing purposes nationally. Such a basic formula price is utilized widely in determining Class I prices in many other Federal order markets. As such, it may be expected to be a most appropriate determinant for use in establishing the Class I price each month in the Cedar Rapids-Iowa City market, especially since handlers in this market must compete in various localities with handlers whose Class I prices are fixed by other orders.

Unless handlers regulated by the Cedar Rapids-Iowa City order are able to anticipate and project the prices they will be required to pay for Class I milk in relation to recognized and established price quotations used in major markets, they will be at a disadvantage with handlers from other markets in competing for Class I sales beyond the confines of the marketing area. Determining the Cedar Rapids-Iowa City order Class I price on a direct relationship with the Chicago order Class I price instead of on the basis of prices paid by local manufacturing plants (i. e. the Class II price), will provide an economically sound basis for determining the Cedar Rapids-Iowa City Class I price.

In view of the aforementioned considerations, it is concluded that the intent of the Act will be best effectuated by fixing the Class I price under the Cedar Rapids-Iowa City order at the level of the Chicago order Class I price plus 15 cents. The level of prices thus obtained should be helpful toward insuring the maintainence of orderly and stable marketing conditions throughout the territory wherein milk is distributed by Cedar Rapids-Iowa City handlers.

6. It was proposed at the hearing that handlers be allowed a location differential with respect to milk moved from the plant at which it is received from producers to a processing plant. Some of the milk normally supplied to the marketing area is received from producers located at significant distances from the marketing area.

Rochester, Minnesota, is 184 miles from Cedar Rapids and 211 miles from Iowa City. Milk from the Minnesota farms of producer members of the Rochester Dairy Cooperative is shipped directly to an Iowa City pool plant when needed in that market. At other times it is diverted to a nonpool plant for manufacturing purposes. During periods of low production supplemental supplies of milk for the marketing area are obtained from the plant of the Rochester Dairy Cooperative in Rochester.

A plant at Clinton, Iowa, 87 miles from Cedar Rapids, is operated by a handler who is also the operator of a pool plant in Cedar Rapids. Although the Clinton plant at the time of the hearing was regulated under the Quad Cities order, the handler stated that he contemplated qualifying it as a pool plant under the Cedar Rapids-Iowa City order.

Under the pool plant definitions provided in this decision, any plant wherever located, by meeting the prescribed performance standards, may qualify as a pool plant. There are various plants in the production area for the Cedar Rapids-Iowa City market which are potential sources of supply for the market. It is therefore necessary that provision be made within the framework of the order for the application of location differentials. Such a provision will appropriately afford equal opportunity for supplying the market to all handlers.

Since it is intended that the minimum prices shall be equal for all milk delivered to the marketing area, an allowance should be made to account for the transportation charges to the marketing area on milk received at a distance from it. Unless such an allowance is provided, handlers would be under strong economic incentive to accept milk only at plants located in the marketing area and this condition would impede the orderly procurement and marketing of milk which is received at other plants. It is, consequently, necessary to recognize by the application of location differentials, which reflect the cost of transporting milk to its place of distribution in the marketing area, the difference in value of milk received at a distance from the market in comparison with milk received at plants in or near the market.

The Quad Cities order was amended effective May 1, 1957, to provide for a location differential which reduces the price for Class I milk received from producers at a pool plant located more than 50 miles from the Rock Island, Illinois, city hall by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Rock Island city hall. The rate charged for a haul of 60 miles by the Dairyland Transport Corporation, Springfield, Missouri, a company specializing in hauling milk and milk products in tank trucks, is 13 cents per hundredweight.

Various plants which are potential sources of supply for the Cedar Rapids-Iowa City market are in some instances located nearer to other markets. Likewise, some plants in the Cedar Rapids-Iowa City production area are associated with markets farther away. A handler operating a pool plant in Cedar Rapids contemplates utilizing his plant at Clinton, Iowa, which is in the Quad Cities marketing area, as a receiving station for his Cedar Rapids operation. Coggon, Iowa, which is about 95 miles from Rock Island, Illinois, in the Quad Cities marketing area and less than 25 miles from Cedar Rapids, is a pool plant under the Quad Cities order. It is important,

therefore, that the location differential be established at a rate which would not tend to adversely affect returns to Cedar Rapids-Iowa City producers in relation to the prices in nearby markets.

It is concluded, therefore, that the Class I price should be reduced by 10 cents for the first 65 miles and by 1.5 cents for each additional 10 miles or fraction thereof with respect to producer milk received at a plant which is not less than 50 miles from a central place in the principal centers of consumption in the marketing area. The city hall in each of the cities of Cedar Rapids and Iowa City is such a place.

Prices paid producers supplying plants to which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered. If the milk of such producer were to be included in this market in the absence of a receiving station the producers would have to deliver the milk to its market at their own expense and at a transportation rate commensurate with the Class I location differential. In adjusting returns to producers because of location, it is appropriate therefore to use the Class I location adjustment rate.

No adjustment should be made in the Class II price because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk in the most advantageous possible manner. Prices paid producers for such milk should not be dependent upon the method employed by the handler in disposing of such milk. To do otherwise would remove part of the incentive for keeping handling costs at a minimum. To insure that milk will not be moved unnecessarily at the expense of producers under the marketwide pool, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after a maximum assignment of 5 percent of the direct producer receipts to Class II milk at such plant.

7. The order should provide that payment be made into the producer-settlement fund with respect to unpriced milk which is allocated to Class I milk in a pool plant. There was no opposition at the hearing to the proposal of producers for including such a provision in the order.

Receipt of milk in excess of Class I disposition is necessary to operate a fluid milk business. Because of seasonal fluctuations in production without corresponding changes in demand, this excess or reserve milk must be marketed in manufactured form in competition with products made from ungraded milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is the primary cause of the instability which may affect fluid milk markets.

Considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which the Cedar Rapids-Iowa City market may obtain milk. Consequently, handlers under the order could obtain such milk at prices reflecting its value as surplus milk. During the months of December through June, when surplus milk may be available in substantial volumes from nonpool sources, the compensation payment on other source milk allocated to Class I milk should be the difference between the minimum price of producer milk used for surplus (Class III) and the Class I price adjusted to the location of the plant from which such other source milk was obtained. This rate will reflect generally the difference in the value between unregulated and regulated milk for Class I use at that time.

During the months of July through November, when milk supplies tend to be shorter than in other months, it is not likely that other source fluid milk products will be available to the market at surplus prices. The compensation payment during these months should be the difference between the marketing area uniform price to producers and the Class I price adjusted to the location of the plant from which such fluid milk products are supplied. The relationship between the supply of and demand for milk in the Cedar Rapids-Iowa City market in the July through November period tends to fluctuate from year to year according to marketing conditions. These conditions will generally prevail also in surrounding markets which are potential sources of supply for unpriced milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months in accordance with the proportion of Class I milk to the total milk pooled and this will tend to affect also conditions in the area from which unpriced milk is obtained.

The compensatory payment rates herein recommended were proposed by producers and substantiated by evidence presented at the hearing. No testimony was given in opposition to the rates herein proposed or in support of different rates.

The rates which are here found to be appropriate for the Cedar Rapids-Iowa City marketing area give recognition to general competitive conditions in the purchase and sale of fluid milk products. However, such conditions do not prevail uniformly in all instances since all transactions are not made under the same circumstances and it would not be administratively feasible to adjust prices or payments to individual transactions. It is therefore necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein proposed are those which will best effectuate the intent of the act under current marketing conditions in the Cedar Rapids-Iowa City area.

Other source milk used in the form of concentrated milk products should be considered to be from a source at the location of the pool plant where it is used. In some instances there will be no and in all cases insignificant transportation charges per hundredweight experienced by handlers on such other source milk under the skim milk equivalent basis of accounting provided in the order. By following this procedure, the compensation payment on other source milk derived from concentrated products, such as condensed milk or nonfat dry milk solids, will be comparable to that on any other source milk which is allocated to Class I milk.

In addition to that other source milk which would enter the marketing area through pool plants, some milk may be distributed directly in the marketing area from nonpool plants. It would not be possible to stabilize the market under the classified pricing program if distribution in the marketing area of unpriced milk from nonpool plants without compensation payments were allowed. Since such milk may be procured on the same basis as other source milk at pool plants it should be classified and priced the same as unpriced milk distributed through any other channels.

No compensation payment should be required on milk classified and priced as Class I under another Federal milk marketing order. The minimum prices for Class I milk under other Federal orders where Cedar Rapids-Iowa City handlers might obtain supplemental supplies approximate or exceed the Cedar Rapids-Iowa City Class I price as adjusted for location of the supplying plants. Since handlers operating plants under other Federal orders must pay for producer milk on a utilization basis, they would not be in a position to dispose of their surplus producer milk on the Cedar Rapids-Iowa City market for Class I use at less than Class I prices.

The compensatory payment charge on Class I milk distributed in the marketing area by a handler regulated under another Federal order should be discontinued. The rate of payment on such milk, which is now required when the Cedar Rapids-Iowa City Class I price is above that of the other Federal order, is the difference between Class I prices in the two orders. With the changes recommended in this decision and under current and prospective marketing conditions, such provision is no longer either necessary or justifiable within the framework of the Cedar Rapids-Iowa City order.

8. The entire order should be redrafted to incorporate therein conforming and clarifying changes made necessary by the amendments recommended in this decision.

(a) In connection with the proposed changes designating which persons would be subject to regulation and application of order provisions to them, new or revised definitions are provided in the attached order, including those for: "fluid milk product", "producer milk", "other source milk", "nonpool plant", "handler", and "Chicago butter price". The definitions for "producer",

"pool plant", "distributing plant", and "supply plant" are discussed elsewhere in this decision.

"Fluid milk product" would mean milk, skim milk, buttermilk, milk drinks (plain or flavored), cream, or any mixture in fluid form of skim milk and cream (except aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers). The items defined as fluid milk products pursuant to this definition are those products which when disposed of by handlers are considered as Class I milk.

"Producer milk" would mean only that skim milk and butterfat contained in milk received at a pool plant directly from producers or diverted from a pool plant to a nonpool plant in accordance with the conditions prescribed in a producer definition (Issue No. 3).

"Other source milk" would be defined as all skim milk and butterfat contained in fluid milk products utilized by the handler in his operations except milk received from producers, fluid milk products received from other plants, and inventory at the beginning of the month. Thus, other source milk would represent skim milk and butterfat which may not be subject to the pricing provisions of this order. It would include all milk products from plants other than pool plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It would include those manufactured products from a plant's own production which are reprocessed or converted into another product during the same or a latter month.

"Nonpool plant" would mean any milk manufacturing, processing, or bottling plant other than a pool plant.

"Handler" would be defined as any person in his capacity as the operator of one or more distributing or supply plants. The definition would also include a cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant.

"Chicago butter price" would represent the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

(b) Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. It has been the practice under the Cedar Rapids-Iowa City order to classify in the lowest class (usually Class III) the differences by which the volume of butterfat and skim milk in fluid milk products at the end of the month exceed the inventory at the beginning of the month. This practice of classifying inventory variations in the lowest price class should be continued and provision therefor should be clearly set forth in the order.

The accounting procedure will be facilitated by providing that month-end inventories of all fluid milk products be classified in Class III milk, regardless of whether such products are held in bulk or in packages. Inventories of such products on hand will then be subtracted under the allocation procedure from any available Class III milk in the following month. The higher use value of any fluid milk products in inventory which are allocated to Class I milk in the following month should be reflected in returns to producers. The mechanics of the attached order provide for the reclassification of inventories on that basis.

Inventories of products designated as Class I milk on hand at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be allocated to any available Class III utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. These briefs and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions set forth in the briefs are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be 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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Cedar Rapids-Iowa City marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

DEFINITIONS

§ 931.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

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

§ 931.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

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

§ 931.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 931.6 *Cedar Rapids-Iowa City marketing area.* "Cedar Rapids-Iowa City marketing area" hereinafter called the "marketing area", means all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City, both in the State of Iowa.

§ 931.7 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March: *Provided,* That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

§ 931.8 *Distributing plant.* "Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 931.9 *Supply plant.* "Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a

Grade A label is shipped during the month to a pool plant qualified pursuant to § 931.10 (a).

§ 931.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided,* That if such shipments are not less than 50 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

§ 931.11 *Nonpool plant.* "Nonpool plant" mean any milk manufacturing, processing or bottling plant other than a pool plant.

§ 931.12 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) Any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 931.13 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 931.14 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 931.7.

§ 931.15 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 931.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 931.17 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

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

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

(a) To administer its terms and provisions;

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

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

(d) To recommend amendments to the Secretary.

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

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

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

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 931.87: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 931.88, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 931.30 and 931.31, or payments pursuant to §§ 931.80, 931.84, 931.86, 931.87, and 931.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 931.50 (a) and the Class I butterfat differential pursuant to § 931.51 (a) both for the current month; and the minimum prices for Class II milk and Class III milk pursuant to § 931.50 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 931.51 (b) and (c), all for the preceding month; and

(2) The 10th day after the end of each month the uniform price pursuant to § 931.71 and the producer butterfat differential pursuant to § 931.81; and

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 931.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 931.7;

(e) Inventories of fluid milk products on hand at the beginning and end of the month;

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

(g) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 931.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(1) His name and address,

(2) The total pounds of milk received from such producer,

(3) The number of days, if less than the entire month, for which milk was received from such producer,

(4) The average butterfat content of such milk, and

(5) The net amount of such handler's payment together with the price paid and the amount and nature of any deductions.

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

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations.

§ 931.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 931.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat which are required to be reported pursuant to § 931.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 931.41 through 931.46.

§ 931.41 *Classes of utilization.* Subject to the conditions set forth in § 931.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product and (2) not accounted for as Class II milk or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat which are not accounted for as Class III milk and which are used to produce any product other than a fluid milk product.

(c) Class III milk shall be all skim milk and butterfat (1) used to produce butter, Cheddar cheese, animal feed, casein and nonfat dry milk solids; (2) contained in inventory of fluid milk products on hand at the end of the month; (3) in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 931.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and (4) in shrinkage of other source milk.

§ 931.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and in other source milk.

§ 931.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 931.44 *Transfers.* Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk produot to the pool plant of another handler, except a producer-handler, unless utilization in another class is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 931.30: *Provided,* That the skim milk or butterfat so assigned to another class shall be limited to the amount thereof remaining in Class II milk and in Class III milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 931.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk of both handlers;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product; and

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant unless:

(1) The transferring or diverting handler claims classification in Class II milk or in Class III milk in a written statement submitted to the market administrator by the operators of both the pool plant and the nonpool plant on or before the 7th day after the end of the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) An equivalent amount of skim milk and butterfat has been used at the nonpool plant during the month in the indicated utilization.

§ 931.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in each class for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water reasonably associated with such solids in the form of whole milk.

§ 931.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 931.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk assigned to producer milk pursuant to § 931.41 (c) (3);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in Class II milk and in Class III milk, in series beginning with Class III milk, an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(5) Subtract from the remaining pounds of skim milk in each class in series beginning with Class III milk, the

pounds of skim milk in other source milk received in the form of fluid milk products which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(6) Add to the pounds of skim milk remaining in Class II milk and in Class III milk, respectively, the pounds of skim milk subtracted from each class pursuant to subparagraph (4) of this paragraph;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products as determined pursuant to § 931.44 (a);

(8) Subtract from the remaining pounds of skim milk in Class III milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class III milk, the difference shall be subtracted from Class I milk; and

(9) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class III. Any amount of excess so subtracted shall be called "overage".

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

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

MINIMUM PRICES

§ 931.50 *Class prices.* Subject to the provisions of §§ 931.51 and 931.52 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the price for Class I milk established under Federal Order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area, plus 15 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the period from the 16th day of the preceding month through the 15th day of the current month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Company, Dixon, Ill.
Borden Company, Sterling, Ill.
Carnation Company, Morrison, Ill.
Carnation Company, Oregon, Ill.
Carnation Company, Waverly, Iowa.
United Milk Products Company, Argo Fay, Ill.

(c) *Class III milk price.* The Class III milk price shall be the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) Subtract 6 cents from the Chicago butter price for the month and multiply the remainder by 4.2.

(2) From the simple average, as computed by the market administrator of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, in barrels for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the month by the Department, subtract 6.5 cents and multiply the remainder by 7.913. If the Department does not publish the above stated price for nonfat dry milk solids there shall be used in lieu thereof the midpoint between the simple averages (using in each price series the midpoint of any price range as one price) as computed by the market administrator, of the weekly Chicago wholesale carlot prices per pound of nonfat dry milk solids in barrels for human consumption, spray and roller process, respectively, as reported within the month by the Department and 8.5 cents, rather than 6.5 cents, shall be deducted in making this computation.

§ 931.51 *Butterfat differentials to handlers.* For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 931.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.140.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.120.

(c) *Class III price.* Subtract 6 cents from the Chicago butter price for the current month and multiply the remainder by 0.120.

§ 931.52 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 50 miles or more from the Cedar Rapids and Iowa City, Iowa, City Halls, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 931.50 (a) shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the Cedar Rapids and Iowa City City Halls: *Provided*, That for the purpose of calculating the location differential adjustment applicable pursuant to this section, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class III milk and Class II milk in the transferee plant after making the calculations prescribed in § 931.46 (a) (5) and the comparable steps in (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable to each plant, beginning with the plant having the largest differential.

§ 931.53 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 931.60 *Producer-handler.* Sections 931.40 through 931.46, 931.50 through 931.52, 931.70, 931.71, and 931.80 through 931.88, shall not apply to a producer-handler.

§ 931.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 931.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Cedar Rapids-Iowa City marketing area than in the marketing area regulated pursuant to such other orders: *Provided*, That the operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 931.30) and allow verification of such reports by the market administrator.

§ 931.62 *Handlers operating nonpool plants.* None of the provisions from §§ 931.44 through 931.52, inclusive, or from §§ 931.70 through 931.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant, except that such handler shall, on or before the 13th day after the end of each month pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month, by the rate determined pursuant to § 931.63.

§ 931.63 *Rate of payment on unpriced milk.* The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount calculated as follows:

(a) During the months of December through June, subtract from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk, the Class III price adjusted by the Class III butterfat differential; and

(b) During the months of July through November subtract from the Class I price f. o. b. such nonpool plant the uniform price to producers adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICE

§ 931.70 *Computation of value of milk for each handler.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 931.46 (a) (9) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of producer milk classified in Class III less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 931.46 (a) (8) and the corresponding step of (b);

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 931.46 (a) (2) and (3) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 931.63 at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided,* That if the source of any such fluid milk product received at a pool plant is not clearly established, such product shall be considered to have been received from a source at the location of the pool plant where it is classified.

§ 931.71 *Computation of uniform price.* For each of the months the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f. o. b. pool plants located within 50 miles of the City Hall of Cedar Rapids or Iowa City, as follows:

(a) Combine into one total the values computed pursuant to § 931.70 for all handlers who made the reports prescribed in § 931.30 for such month, except those in default of payments required pursuant to § 931.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 931.82;

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section.

PAYMENT FOR MILK

§ 931.80 *Time and method of payment for producer milk.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 931.71, subject to the butterfat differential computed pursuant to § 931.81 and less location differential deductions pursuant to § 931.82.

(b) On or before the 12th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 931.81 *Butterfat differentials to producers.* The uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, at the rate, rounded to the nearest one-tenth cent, of 0.120 times the Chicago butter price.

§ 931.82 *Location differentials to producers.* The uniform price to be paid producers for milk received at a pool plant located 50 miles or more from the Cedar Rapids and Iowa City, Iowa, City Halls, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the Cedar Rapids and Iowa City, City Halls.

§ 931.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 931.62, 931.84 and 931.86, and out of which he shall make all payments to handlers pursuant to §§ 931.85 and 931.86.

§ 931.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month, each handler shall pay to the market administrator the amount by which the value of milk for such handler pursuant to § 931.70 for such month exceeds the obligation pursuant to § 931.80 of such handler to producers for milk received during the month.

§ 931.85 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 931.80, of such handler to producers for milk received during the month exceeds the value of milk for such handler computed pursuant to § 931.70: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 931.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 931.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

§ 931.87 *Expense of administration.* As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 931.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 931.88 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 931.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions as are authorized by such producers and, on or before the 12th day after the end of each month, pay over such deductions to the association rendering such services.

§ 931.89 *Termination of obligations.* The provisions of this section shall apply

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

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transactions involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

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

§ 931.91 *Suspension or termination.* The Secretary shall, whenever he finds this subpart, or any provision hereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision of this subpart.

§ 931.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations hereunder the final accrual or ascertainment of which require further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 931.93 *Liquidation.* Upon the suspension or termination of provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all accounts, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 931.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

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

Issued at Washington, D. C., this 29th day of May 1957.

[SEAL] F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 57-4501; Filed, June 3, 1957; 8:51 a. m.]

[7 CFR Part 1001]

LIMES GROWN IN FLORIDA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO APPROVAL OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957-58 FISCAL YEAR

Consideration is being given to the following proposals by the Lime Administrative Committee established under the Marketing Agreement, as amended, and Order No. 101, as amended (7 CFR Part 1001; 22 F. R. 2526), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses not to exceed $12,370.00 will be necessarily incurred by said committee during the fiscal year April 1, 1957, through March 31, 1958, for its maintenance and functioning under the aforesaid amended marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles limes shall pay during the fiscal year in accordance with the aforesaid amended marketing agreement and order, the rate of assessment of $0.04 per bushel, or equivalent quantity of limes handled by such handler during such fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D. C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

Dated: May 28, 1957.

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

[F. R. Doc. 57-4500; Filed, June 3, 1957; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 11959]

FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS

ORDER EXTENDING TIME FOR FILING COMMENTS

In the matter of admendment of Part 2 of the Commission's rules and regulations; reallocation of certain fixed,

land mobile and maritime mobile bands between 25 and 470 Mc.

The Commission having extended the time for filing comments, and replies thereto, in a number of related proceedings (Docket Nos. 11990 through 11995); and

It appearing that the public interest would be served by extending the dates herein for a corresponding period;

It is ordered, Pursuant to section 0.322 (b) of the Commission's rules, That, the time for filing original comments in the above-entitled proceeding is extended from June 10, 1957, to September 3, 1957, and the time for replies to September 17, 1957.

Adopted: May 24, 1957.

Released: May 29, 1957.

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

[F. R. Doc. 57-4505; Filed, June 3, 1957; 8:52 a. m.]

[47 CFR Part 21]

[Docket No. 11995]

DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

ORDER EXTENDING TIME FOR FILING COMMENTS

In the matter of amendment of Subparts G and H of Part 21 of the Commission's rules—Domestic Public Radio Services (Other than Maritime Mobile).

The Commission has before it for consideration a petition of Radio-Electronics-Television Manufacturers Association (RETMA), filed on May 16, 1957, seeking an extension of time from June 10, 1957, to July 1, 1957, for filing comments in the above-entitled proceeding; and

It appearing that the Petitioner has shown good cause for the requested continuance; and

It further appearing that the Commission has previously issued orders in related proceedings (Docket Nos. 11992 and 11993) continuing the time for filing comments to September 3, 1957, and that it is desirable to grant like extensions of time in all these related matters;

It is ordered, This 28th day of May, 1957, that pursuant to section 0.258 (c) of the Commision's rules, the time for filing original comments in the above-entitled proceedings is extended from June 10, 1957, to September 3, 1957, and the time for reply comments is extended to September 17, 1957.

Released: May 29, 1957.

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

[F. R. Doc. 57-4506; Filed, June 3, 1957; 8:52 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

NOTICE OF PROPOSALS TO ESTABLISH DEFINITIONS AND STANDARDS OF IDENTITY FOR CANNED ORANGE JUICE; INDUSTRIAL ORANGE JUICE, ORANGE JUICE FOR PROCESSING; CONCENTRATED ORANGE JUICE; AND SWEETENED CONCENTRATED ORANGE JUICE

In the matter of establishing a definition and standard of identity for canned orange juice; industrial orange juice, orange juice for processing; concentrated orange juice; and sweetened concentrated orange juice:

Notice is hereby given that a petition has been filed by the National Association of Frozen Food Packers, 1415 K Street NW., Washington, D. C., the members of which include packers of various types of orange juice and which also acts in behalf of the Florida Canners Association, proposing the adoption of definitions and standards of identity for canned orange juice and industrial orange juice (orange juice for processing). Notice is also given that the Commissioner of Food and Drugs pursuant to the authority delegated to him by the Secretary of Health, Education, and Welfare proposes the adoption of a definition and standard of identity for concentrated orange juice and sweetened concentrated orange juice.

Pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055 as amended 70 Stat. 919; 21 U. S. C. 341, 371) and delegated to him by the Secretary of Health, Education, and Welfare (22 F. R. 1045), the Commissioner of Food and Drugs invites all interested persons to present their views in writing regarding the proposals published in this notice. All views and comments should be submitted in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington 25, D. C., prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

A. The proposals of the National Association of Frozen Food Packers are as follows:

1. That a definition and standard of identity be adopted for canned orange juice, reading as follows:

§ 27.— *Canned orange juice; identity; label statement of optional ingredients.* (a) Canned orange juice is the unfermented, undiluted juice from mature oranges of one or more of the following varieties: Citrus sinensis, Citrus reticulata, hybrids of these except tangerines. Dissolved air, peel oil, and other volatile components present in such juice may be removed by vacuum distillation but the water so removed is restored to the juice to such extent that, after restoration, the juice contains not less than 95 percent by weight of the water originally present therein. Excess seeds and pulp are removed from the food. Before or after sealing in a hermetic container, canned orange juice is so processed by heat as to prevent spoilage. It may contain one of the optional sweetening ingredients specified for use in packaged orange juice, in such quantity that the food measures not less than 10.5° Brix.

(b) The name of the food is "orange juice." If it contains no sweetening ingredient, the word "unsweetened" may immediately precede or follow the words "orange juice."

(c) If the food contains an optional sweetening ingredient, wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "sweetened" or the words "sweetener added" or "with added sweetener" shall conspicuously precede or follow the name, without intervening written, printed, or graphic matter.

2. That a definition and standard of identity be adopted for industrial orange juice, orange juice for processing, reading as follows:

§ 27.— *Industrial orange juice, orange juice for processing; identity; label statement of optional ingredients.* (a) Industrial orange juice, orange juice for processing is the food prepared from one of the optional fruit ingredients specified in paragraph (b) of this section, and one or more of the optional preservatives or one or more of the optional stabilizers specified in paragraph (c) of this section. It may contain one or more of the additional optional ingredients specified in paragraph (d) of this section. It may be treated by heat to reduce enzymatic and microbiological activity. It is packaged in sealed containers.

(b) The optional fruit ingredients referred to in paragraph (a) of this section are:

(1) Packaged orange juice, except that it need not have been sealed in a container.

(2) Packaged orange juice from concentrate, except that it need not have been sealed in a container.

(3) Any combination of subparagraphs (1) and (2) of this paragraph.

(c) The optional preservatives and stabilizers referred to in paragraph (a) of this section are:

(1) Sodium benzoate or benzoic acid or any combination of these, in an amount not exceeding 0.2 percent by weight of the finished food.

(2) Sulfur dioxide, in an amount not exceeding 0.05 percent by weight of the finished product.

(3) Sorbic acid, in an amount not exceeding 0.2 percent of the finished product.

(4) Pectin, guar gum, locust bean gum, gum tragacanth, gum acacia, singly or in combination, in an amount not ex-

ceeding 0.5 percent by weight of the finished food.

(d) The additional optional ingredients referred to in paragraph (a) of this section are:

(1) Orange pulp derived from the fruit of one or more of the varieties specified for use in packaged orange juice.

(2) Orange peel oil or essence derived from the fruit of one or more of such varieties.

(3) Concentrated orange juice for use in packaged orange juice.

(4) One of the sweetening ingredients specified for use in packaged orange juice from concentrate.

(e) (1) If the food is prepared from an optional fruit ingredient specified in paragraph (b) of this section, the label shall bear the statement "prepared from _____" or "prepared from _____ and _____," the blank being filled in with the name or names of the optional fruit ingredient or ingredients used as, for example, "prepared from orange juice and orange juice from concentrate."

(2) When an ingredient specified in paragraph (c), (1), (2), (3), or (4) or in paragraph (d) (3) of this section is used, the label shall bear one of the statements hereinafter set forth, in conjunction with the number of such subparagraph:

(i) Paragraph (c) (1): "Sodium benzoate (or as the case may be, "benzoic acid" or "sodium benzoate and benzoic acid") added as a preservative," or "with added sodium benzoate (or as the case may be, "sodium benzoate and benzoic acid") as a preservative."

(ii) Paragraph (c) (2): "Sulfur dioxide added as a preservative" or "with added sulfur dioxide as a preservative."

(iii) Paragraph (c) (3): "Sorbic acid added as a preservative" or "with added sorbic acid as a preservative."

(iv) Paragraph (c) (4): "_____ added as a stabilizer" or "_____ and _____ added as stabilizers" or "with added _____ as a stabilizer" or "with added _____ and _____ as stabilizers," the blank being filled in with the name or names of the stabilizers used.

(v) Paragraph (d) (3): "Concentrated orange juice added" or "with added concentrated orange juice" or "orange juice concentrate added" or "with added orange juice concentrate."

(3) If the food contains a sweetening ingredient referred to in paragraph (d) (4) of this section, added as such or as a component of concentrated orange juice or of a fruit juice ingredient named in paragraph (b) of this section, the label shall bear the word "sweetened" or the words "sweetener added" or "with added sweetener."

(4) The words "added" or "with added" and the words "as a preservative" need appear on the label only once. The words "added" or "with added" may appear either at the beginning or the end of the list of ingredients declared.

3. The National Association of Frozen Food Packers also proposed definitions and standards of identity for "packaged orange juice" and "packaged orange juice from concentrate". These products were the subject of proposals by Kraft Food Company, published in the FEDERAL REGISTER of November 6, 1956 (21 F. R. 8511), and the Association's proposals with respect to them, which are on file in the Office of the Hearing Clerk, are treated as written comments on the Kraft proposals.

B. The proposals of the Commissioner of Food and Drugs are as follows:

1. To establish a definition and standard of identity for frozen concentrated orange juice, as follows:

§ 27.— *Frozen concentrated orange juice; identity.* Frozen concentrated orange juice is the frozen food prepared by evaporating the juice of mature oranges of one or more of the species Citrus sinensis or Citrus reticulata and hybrids of these, except tangerines, and freezing the concentrate. In its preparation the seeds and excess pulp are removed; excess peel oil may be removed; and orange pulp, orange oil, and orange juice may be added back. It contains not less than 41.8 percent of the solids of orange juice as determined by refractometer, with correction for acidity.

2. To establish a definition and standard of identity for frozen sweetened concentrated orange juice, as follows:

§ 27.— *Frozen sweetened concentrated orange juice; identity.* Frozen sweetened concentrated orange juice complies with the requirements of § 27.— for frozen concentrated orange juice, and in addition contains not less than 4 percent by weight of added sugar, invert sugar, or dextrose or mixtures of these, or sufficient quantities of such sugars to produce a ratio of percent-soluble solids to percent-anhydrous citric acid in the sweetened concentrated orange juice of not less than 10 to 1, whichever amount of sugars is greater.

Dated: May 28, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-4491; Filed, June 3, 1957; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order 4 (Rev.)]

REGIONAL COMMISSIONERS ET AL.

DELEGATION OF AUTHORITY TO ISSUE SUMMONSES AND TO PERFORM OTHER FUNCTIONS

1. All the functions which sections 7602, 7603, 7604 and 7605 (a) of the Internal Revenue Code of 1954 specify shall be performed by the Secretary or his delegate are delegated to the following officers and employees of the Internal Revenue Service:

(a) Regional Commissioners and District Directors.

(b) Inspection: Assistant Commissioner; Director and Assistant Directors, Internal Security Division; Regional Inspectors; and all Internal Security Inspectors.

(c) Alcohol and Tobacco Tax: Assistant Regional Commissioners.

(d) Intelligence: Director; Assistant Director; Assistant Regional Commissioners; Executive Assistants to Assistant Regional Commissioner; Chiefs, Review and Conference Staff; Reviewer-Conferees; and all Chiefs and Assistant Chiefs of Divisions, Branches and Sections, Group Supervisors, and Special Agents, of the National, regional and district offices.

(e) International Operations: Director; Assistant Director; Chiefs of Branches; Special Agents; Internal Revenue Agents; Estate Tax Examiners; and Officers in Charge.

(f) Collection: Chiefs and Assistant Chiefs of the Collection Divisions; Chiefs and Assistant Chiefs of the Delinquent Accounts and Returns Branches; Group Supervisors; and Collection Officers.

(g) Audit: Chiefs of Divisions and Branches; Group Supervisors; Internal Revenue Agents; and Estate Tax Examiners.

2. Each of the officers and employees referred to in paragraph 1 of this order may designate any other employee of the Internal Revenue Service as the individual before whom a person summoned pursuant to section 7602 of the Internal Revenue Code of 1954 shall appear. Any such other employee of the Internal Revenue Service, when so designated in a summons, is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

3. The authority herein delegated to issue a summons and the authority to enforce such summons as provided for in sections 7602 and 7604, respectively, of the Internal Revenue Code of 1954 may not be redelegated. The remaining authorities herein delegated may be redelegated only by the Assistant Commissioner (Inspection), each Regional Commissioner, each District Director of Internal Revenue and the Director of International Operations to officers and employees within their jurisdiction.

4. This order supersedes Delegation Order No. 4 (20 F. R. 4143) issued June 7, 1955.

Issued: May 21, 1957.

Effective date: May 21, 1957.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner.

[F. R. Doc. 57-4488; Filed, June 3, 1957; 8:50 a. m.]

[Order 51]

CHIEF AND ASSISTANT CHIEF, COLLECTION DIVISION, ET AL.

DELEGATION OF AUTHORITY TO SIGN PROOFS OF CLAIM AND OTHER DOCUMENTS

The following officers are hereby authorized, to the extent District Directors are now authorized, to sign proofs of claim and other documents asserting obligations incurred under the internal revenue laws (including taxes, penalties and interest), in order to claim and collect such obligations in any proceeding under the Bankruptcy Act and any receivership, decedent's estate, corporate dissolution, or other insolvency proceeding:

1. Chief and Assistant Chief, Collection Division.

2. Chief and Assistant Chief, Delinquent Accounts and Returns Branch.

3. Chief, Special Procedures Section.

The authority herein delegated may not be redelegated.

Issued: May 21, 1957.

Effective date: May 21, 1957.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner.

[F. R. Doc. 57-4489; Filed, June 3, 1957; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 563]

CALIFORNIA

SMALL TRACT CLASSIFICATION

MAY 15, 1957.

1. Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, under Part II, Document 4, California State Office, dated November 19, 1954 (19 F. R. 7697), I hereby classify the following described public lands, totaling approximately 88,400 acres in San Bernardino County, California, as suitable for disposition under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended:

SAN BERNARDINO BASE AND MERIDIAN

T. 1 N., R. 5 E., S. B. M.,
Sec. 8, SW¼, N½NW¼.
T. 2 N., R. 3 E., S. B. M.,
Sec. 26, SW¼NW¼, S½SW¼, NW¼SW¼.
T. 2 N., R. 4 E., S. B. M.,
Secs. 13, 22, 23, 24, all;
Sec. 25, S½NW¼;
Sec. 27, W½NE¼, NW¼SW¼;
Sec. 28, NE¼SE¼.
T. 2 N., R. 5 E., S. B. M.,
Sec. 1, S½;
Secs. 2, 3, all;
Sec. 4, N½;
Sec. 5, N½;
Sec. 10, E½;
Sec. 14, N½N½, S½;
Secs. 12, 16, 19, 21, 24, 28, all.
T. 2 N., R. 6E., S. B. M.,
Sec. 6, W½SW¼;
Sec. 7, W½NW¼.
T. 3 N., R. 2 E., S. B. M.,
Secs. 1 to 7, incl. 9 to 15 incl., all.
T. 3 N., R. 3 E., S. B. M.,
Sec. 2, all;
Secs. 5 to 9 incl., all;
Secs. 11, 12, 13, 17, 18, all;
Sec. 4, S½, NW¼, S½NE¼, NE¼NE¼;
Sec. 10, N½NW¼, SW¼NW¼.
T. 3 N., R. 3 E., S. B. M.,
Sec. 14, NE¼, S½NW¼, NE¼NW¼, N½SW¼, SE¼;
Sec. 15, W½NE¼, N½SE¼;
Sec. 23, N½NE¼;
Sec. 24, NE¼, N½NW¼.
T. 3 N., R. 4 E., S. B. M.,
Secs. 1, 6, 8, 9, 10, 19, 20, 23, 24, 25, 26, all;
Sec. 3, N½;
Sec. 4, E½;
Sec. 21, W½, SE¼;
Sec. 22, S½, NE¼;
Sec. 36, N½.
T. 3 N., R. 5 E., S. B. M.,
Secs. 6, 19, 25, 26, 29, all;
Sec. 7, NW¼, N½SW¼, W½NE¼, NW¼SE¼;
Sec. 17, S½NW¼, SW¼, SW¼NE¼, W½SE¼;
Sec. 18, S½;
Sec. 20, W½, SE¼, SE¼NE¼, W½NE¼;
Sec. 21, S½NW¼, SW¼;
Sec. 30, N½;
Sec. 32, S½;
Sec. 35, NE¼.
T. 4 N., R. 2 E., S. B. M.,
Secs. 3, 13, 26, 27, 28, 33, 34, 35, all;
Sec. 1, N½, W½SE¼, NE¼SE¼;
Sec. 2, SW¼NW¼, NE¼SW¼;
Sec. 4, S½NE¼, NE¼SE¼;
Sec. 5, N½;
Sec. 6, N½NE¼, NE¼NW¼;
Sec. 7, N½, N½SE¼;
Sec. 9, N½NW¼, E½E½;
Sec. 12, W½E½, SE¼SE¼;
Sec. 14, S½SW¼;
Sec. 18, E½SE¼;
Sec. 22, E½, SW¼;
Sec. 32, NE¼.
T. 4 N., R. 3 E., S. B. M.,
Secs. 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 17, 18, 20, 21, 28, 34, 35, all;
Sec. 6, N½, N½SE¼, N½ of lot 2 of SW¼, SE¼SE¼, NE¼SW¼;
Sec. 7, E½E½, SW¼SE¼, S½NW¼SW¼, N½SW¼SW¼;
Sec. 13, N½, N½SW¼;
Sec. 14, N½, SE¼;
Sec. 22, W½NW¼, E½NE¼;
Sec. 23, NW¼, SE¼, N½SW¼;
Sec. 24, N½S½;
Sec. 27, S½, S½N½;
Sec. 30, NW¼SW¼;
Sec. 31, E½SW¼, W½SE¼;
Sec. 32, NW¼;
Sec. 33, N½, N½S½.
T. 4 N., R. 4 E., S. B. M.,
Secs. 3, 4, 6, 7, 8, 9, 10, 11, 14, 15, 23, 26, 27, all;
Sec. 5, S½;
Sec. 24, N½;
Sec. 25, S½;
Sec. 35, N½.
T. 2 N., R. 5 E., S. B. M.,
Secs. 2, 3, 4, 5, 6, 7, 8, 9, 12, 16, 17, 19, 21, 24, 28, 29, 30, 31, 32, 33, all;
Sec. 1 S½;
Sec. 10, E½;
Sec. 14, N½N½, S½;
Sec. 22, E½.
T. 3 N., R. 5 E., S. B. M.,
Sec. 24, all;
Sec. 26, E½;
Sec. 35, NE¼.

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279–284), as amended.

4. All valid applications filed prior to May 15, 1957, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5 (a).

R. G. SPORLEDER,
Officer-in-Charge, Southern Field Group, Los Angeles, California.

[F. R. Doc. 57-4460; Filed, June 3, 1957; 8:45 a. m.]

[75700]

MINNESOTA

NOTICE OF FILING OF PLATS OF SURVEY AND ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

MAY 28, 1957.

Plats of survey of the lands described below, accepted January 24, 1957, will be officially filed in the Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D. C., effective 10:00 a. m., on July 8, 1957.

FOURTH PRINCIPAL MERIDIAN, MINNESOTA

T. 63 N., R. 17 W.,
Sec. 8, Lot 11, 0.47 acre.
T. 64 N., R. 19 W.,
Sec. 36, Lot 4, 1.69 acres.

These plats represent the surveys of two islands which was not included in the original surveys of the townships.

No application may be allowed under the homestead or small tract or any other nonmineral public land laws unless lands have already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merit. The lands will not be subject to occupancy or disposition until they have been classified.

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

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

2. All valid applications, under the Homestead and Small Tract Laws, by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 274–284 as amended),

presented prior to 10:00 a. m., on July 8, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m., on October 7, 1957, will be governed by the time of filing.

3. All valid applications and selections under the nonmineral public land laws, other than those coming under paragraph (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m., on October 7, 1957, will be considered filed simultaneously at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

All inquiries relating to the lands should be addressed to the Manager, Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D. C.

H. K. SCHOLL,
Manager.

[F. R. Doc. 57-4461; Filed, June 3, 1957; 8:45 a. m.]

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The National Park Service has filed an application, Serial No. Fairbanks 09919, for the withdrawal of the lands described below, from mining entry only. The applicant desires the land for administrative and public use development and protection of scenic highway lands within the Mt. McKinley National Park.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MT. MCKINLEY NATIONAL PARK—FAIRBANKS MERIDIAN

T. 14 S., R. 6 W.,
That portion of Section 18 west of the west bank of the Nenana River.
T. 14 S., R. 7 W.,
Sections 4, 5, 6, 7, 8, 9, 14, and 15 and those portions of Sections 3, 10, 11, 12, and 13, west of the west bank of the Nenana River.
T. 14 S., R. 8 W.,
Sections 1, 2, 11, and 12.
T. 13 S., R. 7 W.,
S½ 31, all of 32, and those portions of Sections 33 and 34 west of the west bank of the Nenana River.

Comprising in all about 10,900 acres.

From the west section line of Sections 2 and 11, T. 14 S., R. 8 W., an area one-half mile in width on either side of the centerline of the existing Mount McKinley National Park highway to Mile 10 on said highway.

From Mile 10 to Mile 13.5 a one mile width on either side of the centerline of said highway (Savage River area).

From Mile 13.5 to Mile 29.0, an area one-half mile in width on either side of the centerline of said highway.

From Mile 29.0 to Mile 30.5 a one mile width on either side of said highway (Teklanika River area).

From Mile 30.5 to Mile 42.0 an area one-half mile in width on either side of the centerline of said highway.

From Mile 42.0 to Mile 43.5 a one mile width on either side of the centerline of said highway (Rust Fork Toklat River area).

From Mile 43.5 to Mile 45.5 an area one-half mile in width on either side of the centerline of said highway.

From Mile 45.5 to Mile 46.5 a one mile width on either side of the centerline of said highway (Polychroms Pass area).

From Mile 46.5 to Mile 52 an area one-half mile in width on either side of the centerline of said highway.

From Mile 52.0 to Mile 54.5 a one mile width on either side of the centerline of said highway (Toklat River area).

From Mile 54.5 to Mile 65.0 an area one-half mile in width on either side of the centerline of said highway.

From Mile 65.0 to Mile 67.0 a one mile width on either side of the centerline of said highway (Camp Eielson area).

From Mile 67.0 to Mile 81.5 an area one-half mile in width on either side of the centerline of said highway.

At Mile 81.5 an area described as follows: Commencing at Mile 81.5 north to the north line of the Mount McKinley National Park boundary, thence along the north boundary line of said park a distance of four miles, thence south a distance of 5.5 miles, thence east a distance of 3.8 miles, thence in a northerly direction to the Point of Beginning.

Comprising in all 70.150 acres, more or less.

L. T. MAIN,
Acting Operations Supervisor.

[F. R. Doc. 57-4462; Filed, June 3, 1957; 8:45 a. m.]

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Department of the Air Force has filed an application, Serial No. Fairbanks 014603, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The applicant desires the land for an addition to Ladd Air Force Base.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

FAIRBANKS AREA

T. 1 N., R. 1 E., Fairbanks Meridian
Section 33, all.
Containing 640 acres.

L. T. MAIN,
Acting Operations Supervisor.

[F. R. Doc. 57-4463; Filed, June 3, 1957; 8:45 a. m.]

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The Department of the Air Force has filed an application, Serial No. Fairbanks 014601, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The applicant desires the land for an Air Force Station.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

FAIRBANKS AREA

FAIRBANKS MERIDIAN

T. 1 N., R. 1 W.,
Section 16: All.
Containing 640 acres.

L. T. MAIN,
Acting Operations Supervisor.

[F. R. Doc. 57-4464; Filed, June 3, 1957; 8:46 a. m.]

National Park Service

[Order 14, Amdt. 10]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY RELATING TO DISPOSAL OF SURPLUS FEDERAL PROPERTY

MAY 28, 1957.

Paragraph (h) of section 1 of Order No. 14, issued December 1, 1954 (19 F. R. 8824), is amended to read as follows:

(h) Recommendations to General Services Administration relating to disposition of surplus Federal real property to State and local agencies for park, recreation, and historic monument purposes, and compliance action in connection with properties transferred (except for

periodic inspection of properties, and review of the grantees' biennial reports and their acceptance when satisfactory) pursuant to the act of June 10, 1948 (62 Stat. 350; 50 U. S. C., 1952 ed., sec. 1622 (h), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended (40 U. S. C., 1952 ed., sec. 484).

(Secretary's Order No. 2640, 5 U. S. C., 1952 ed., sec. 22; sec. 2, Reorg. Plan No. 3 of 1950)

CONRAD L. WIRTH,
Director.

[F. R. Doc. 57-4466; Filed, June 3, 1957; 8:46 a. m.]

Office of the Secretary

[Order 2508, Amdt. 21]

BUREAU OF INDIAN AFFAIRS

DELEGATION OF AUTHORITY WITH RESPECT TO CONVEYANCE OF BUILDINGS AND IMPROVEMENTS

MAY 27, 1957.

Order No. 2508, as amended (14 F. R. 258), is further amended by addition of a new section, to read as follows:

SEC. 40. *Conveyance of buildings and improvements.* The Commissioner of Indian Affairs may exercise all of the authority of the Secretary contained in the act of August 6, 1956 (70 Stat. 1057). This act permits the conveyance to Indian tribes of title to Federally owned buildings and improvements (including personal property used in connection therewith) no longer required by the Bureau, and also, declarations of forfeiture of such conveyances.

FRED A. SEATON,
Secretary of the Interior.

[F. R. Doc. 57-4465; Filed, June 3, 1957; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. S-73]

WATERMAN STEAMSHIP CORP.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held under sections 605 (c) and 805 (a) of the Merchant Marine Act, 1936, as amended, upon an application of Waterman Steamship Corporation for an operating-differential subsidy agreement on the following described services:

1. U. S. Gulf/U. K. and Continent Service: Between U. S. Gulf ports (Key West to Mexican border) and ports in the United Kingdom, Eire and Continental Europe north of Portugal, with the privilege of calling approximately one sailing per month outbound only at North Atlantic ports. (30 to 42 sailings per year.)

2. Atlantic-Gulf-California/Far East Service: Westbound: From U. S. Atlantic ports (Maine-Atlantic Coast Florida but not including Key West) and U. S. Gulf ports (Key West-Mexican border) via Panama Canal, completing at California ports to Far East (Japan, Formosa, the Philippines and the Continent of Asia from Union of Soviet Socialist Republics to Siam, inclusive); and Eastbound: From Far East to U. S. Atlantic ports and U. S. Gulf ports. (18 to 30 sailings per year.)

3. Pacific Coast/Far East Service: Between California, Washington and Oregon ports and ports in the Far East with approximately one sailing per month directly from California ports and one sailing per month directly from Washington and Oregon ports; the third monthly sailing calling at both California and Washington and Oregon ports, alternating each month its last call at such areas. (30 to 42 sailings per year.)

4. U. S. North Atlantic/Continent Service: Between U. S. North Atlantic ports (Maine-Virginia inclusive) and ports in Continental Europe north of Portugal. (18 to 30 sailings per year.)

5. U. S. Gulf/Mediterranean and Black Sea Service: Between U. S. Gulf ports (Key West to Mexican border) and ports on the Mediterranean Sea, Black Sea and in Portugal, Spain South of Portugal, Spanish and French Morocco (Tangier to southern border of French Morocco), with the privilege of calling approximately one sailing per month at U. S. South Atlantic ports (Virginia to Key West). (18 to 30 sailings per year.)

The purpose of the hearing under section 605 (c) is to receive evidence relevant to the following: (1) whether the application with respect to the operations hereinabove described is one with respect to a vessel or vessels to be operated on a service, route or line, served by citizens of the United States which would be in addition to the existing service or services, and, if so, whether the service already provided by vessels of United States registry in such service, route, or line is inadequate, and in the accomplishment of the purposes and policy of the act, additional vessels should be operated thereon; (2) whether the application covering the aforesaid operations is one with respect to a vessel operated or to be operated in a service, route or line served by two or more citizens of the United States with vessels of United States registry, and if so, whether the effect of such an agreement would be to give undue advantage or be unduly prejudicial as between citizens of the United States in the operation of vessels in competitive services, routes, or lines; and (3) whether it is necessary to enter into an agreement covering these operations in order to provide adequate service by vessels of United States registry.

An issue of the proceeding will be whether the Board should grant the written permissions sought under section 805 (a) of the act to permit the Applicant to operate in the domestic service between U. S. Gulf ports east of and including New Orleans, Louisiana, and ports in Puerto Rico; and to permit the Applicant's affiliate, Pan-Atlantic Steamship Corporation, to operate in the domestic services (1) between U. S. Atlantic ports and between U. S. Atlantic and Gulf ports, (2) between U. S. Pacific Coast ports and ports in Puerto Rico and from ports in Puerto Rico to Miami and Jacksonville, Florida; and (3) between U. S. Pacific and U. S. Atlantic Coast ports. Also for Sword Line, Inc., owned by M. P. McLean, Chairman of Waterman, to continue to charter the S. T. "Coalinga Hills" to Pan-Atlantic Steamship Corporation for operation in the U. S. Atlantic/U. S. Gulf of Mexico Coastwise Trade, and for Waterman Steamship Corporation to continue to charter the S. T. "Maxton" to Pan-Atlantic Steamship Corporation for operation in the U. S. Atlantic/U. S. Gulf of Mexico Coastwise Trade.

The purpose of the hearing under section 805 (a) of the act is to receive evidence relevant to whether the Applicant and/or its affiliate, Pan-Atlantic Steamship Corporation, or predecessors in interest, were in bona fide operation as common carriers by water in the domestic intercoastal or coastwise services as described above in 1935 over the routes for which application is made and have so operated since that time, except as to interruptions to service over which the Applicant, its affiliate, or predecessors in interest, had no control, and if not whether the granting of such applications (a) will result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal service or (b) would be prejudicial to the objects and policy of the act.

The hearing will be before an Examiner at a time and place to be announced, in accordance with the Federal Maritime Board's Rules of Practice and Procedure and a recommended decision will be issued.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in the proceeding are requested to notify the Secretary of the Federal Maritime Board within fifteen (15) days from publication hereof, and should promptly file petitions for leave to intervene in accordance with said Rules of Practice and Procedure.

By Order of the Federal Maritime Board.

Dated: May 28, 1957.

JAMES L. PIMPER,
Secretary.

[F. R. Doc. 57-4483; Filed; June 3, 1957; 8:49 a. m.]

BANKS INTERNATIONAL CO. ET AL.

NOTICE TO SHOW CAUSE WHY FREIGHT FORWARDER REGISTRATIONS ISSUED TO CERTAIN REGISTRANTS SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its Office in Washington, D. C., the 27th day of May 1957, the Board entered the following order:

Whereas, the following registrants were assigned freight forwarder registration numbers pursuant to General Order 72 (46 CFR 244):

Name	Registration No.	Date issued
Banks International Co. (Frank J. Banks, dba).	1074 (New York)	7-16-51
Bushman, Roy	1711 (New York)	2-15-54
Stephenson Shipping Service (Dwight D. Stephenson, Jr., dba).	1951 (Miami)	11-22-55
World Forwarders (Nicholas B. Santangelo, dba).	852 (New York)	5-23-51

Whereas, the Board has by registered letters requested these registrants to furnish certain information in connection with their forwarding activities, pursuant to section 244.3 of General Order 72; and

Whereas, each of the registrants named above has failed to respond to registered letters in violation of General Order 72; now, therefore,

It is ordered, That the above named registrants show cause, in writing or at a public hearing to be hereafter set if requested by registrant, within thirty days from the date of publication hereof in the FEDERAL REGISTER why their registrations should not be cancelled for the reasons above stated; and

It is further ordered, That failure of any registrant named above to respond as ordered hereby will result in automatic cancellation of its freight forwarder registration without further action by the Board; and that notice of such cancellation shall be sent to the registrant by the Secretary; and

It is further ordered, That a copy of this order be sent by registered mail to each of the above-named registrants at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: May 28, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-4484; Filed, June 3, 1957; 8:49 a. m.]

MEMBER LINES OF ATLANTIC (PASSENGER) CONFERENCE

NOTICE OF AGREEMENT FILED WITH THE BOARD FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 7840-30, between the member lines of the Atlantic (passenger) Conference, modifies the provision of the basic agreement of that conference (No. 7840, as amended) which provides that agents, responsible clerks of general agents and their wives and dependent children, may be granted a 75 percent reduction in fare, by adding a clause providing that in connection with the annual convention of the American Society of Travel Agents to be held in Madrid, Spain, from October 12 to 19, 1957, the 75 percent reduction may be granted, eastbound and westbound, to (a) the accompanying husband of a qualified female agent or of a qualified female responsible clerk, provided such agent or clerk is registered for attendance at said convention, and (b) to a salaried employee of the American Society of Travel Agents traveling to attend such convention and to an accompanying husband or wife of such an employee. Under such clause, departure from Europe on the westbound voyage must take place on or before December 31, 1957, after which date said clause becomes void.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: May 28, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-4485; Filed, June 3, 1957; 8:49 a. m.]

EAST COAST COLOMBIA CONFERENCE

NOTICE OF AGREEMENT FILED WITH THE BOARD FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 7590-7, between the member lines of the East Coast Colombia Conference, modifies the basic agreement of that conference (No. 7590, as amended) to provide (1) for a deposit in the sum of $50,000 as a guarantee of the faithful performance of the terms of the agreement; (2) that the chairman of the conference shall be the sole arbitrator of any dispute arising out of or breach of the agreement; and (3) that the damages assessed for breach or violation of the agreement shall be liquidated at a maximum sum equal to four (4) times the amount of the freight or other monies which the offending party would have received for the transportation of the cargo involved in such breach. The agreement presently provides for a deposit in the sum of $10,000; that disputes arising under the agreement shall be settled by a board of arbitrators selected under the terms of the agreements; and that the penalty for breach of the agreement shall be liquidated in an amount equal to four times the amount of the freight involved. Agreement No. 7590, as amended, covers the trade between U. S. Atlantic and Gulf ports and the ports of Barranquilla, Cartagena and Puerto Colombia, Colombia, S. A.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: May 28, 1957.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-4486; Filed, June 3, 1957; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11704; FCC 57M-514]

MT. STERLING BROADCASTING CO.

FIRST STATEMENT CONCERNING PRE-HEARING CONFERENCES AND ORDER CONTINUING HEARING

In re application of Mt. Sterling Broadcasting Company, Mt. Sterling, Kentucky; Docket No. 11704, File No. BP-10301; for construction permit.

The first pre-hearing conference was held herein on May 22, 1957. All parties were represented by counsel.

Dates were fixed by the Hearing Examiner as follows:

1. Date for exchange of direct case—June 14, 1957 (tr. 7, 12).

2. Date for furnishing copies of rebuttal testimony and exhibits to be offered—June 24, 1957 (tr. 7-12, 14).

3. Date for hearing—June 27, 1957 (tr. 12-13).

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

1. Notice to be given and steps to be taken in the event applicant decides to take measurements after receiving copy of rebuttal testimony and exhibits (tr. 14).

2. At least two copies of exhibits to be exchanged (tr. 16).

3. Arrangements for informal conference or conferences (tr. 16-18).

4. Notification to be given concerning witnesses to be cross-examined (tr. 18-19).

5. Waiver of further pre-hearing conference unless Hearing Examiner is advised to be contrary (tr. 15, 19).

It is ordered, This 28th day of May 1957, that the foregoing agreements and requirements shall govern the course of the proceeding to the extent indicated, unless modified by the Hearing Examiner for cause by the Commission upon review of the Hearing Examiner's ruling.

It is further ordered, That the hearing herein, previously scheduled for June 24, 1957, is continued until June 27, 1957.

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

[F. R. Doc. 57-4507; Filed, June 3, 1957; 8:53 a. m.]

[Docket No. 11866]

ALLOCATION OF CERTAIN FREQUENCIES

FOURTH NOTICE OF HEARING

In the matter of allocation of frequencies in the bands above 890 Mc., Docket No. 11866.

Notice is hereby given that the hearing in the above-entitled matter will be resumed at 2 p. m. on June 3, 1957. The first witness to be heard will be Mr. James Williams, appearing on behalf of the Radio Electronics Television Manufacturers Association. The witnesses for the American Petroleum Institute will follow immediately thereafter. The witnesses for the National Association of Manufacturers, previously scheduled to appear the week of June 3, will be the first witnesses to appear the week of June 10. The witness for the American Newspaper Publishers Association will be rescheduled for a later date.

Dated: May 28, 1957.

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

[F. R. Doc. 57-4508; Filed, June 3, 1957; 8:53 a. m.]

[Docket Nos. 11940, 11941; FCC 57M-512]

SARKES TARZIAN, INC. AND GEORGE A. BROWN, JR.

ORDER CONTINUING HEARING

In re applications of Sarkes Tarzian, Inc., Bowling Green, Kentucky; Docket No. 11940, File No. BPCT-2114; George A. Brown, Jr., Bowling Green, Kentucky; Docket No. 11941, File No. BPCT-2131; for construction permits for new television stations.

The Hearing Examiner has under consideration a petition filed on May 20, 1957, by Sarkes Tarzian, Inc., one of the applicants in the above-entitled proceeding, requesting that the timetable to govern further proceedings in the above-entitled matter be extended for a period of three weeks; and oral argument on the above petition held on May 24, 1957; and

It appearing that on April 4, 1957, the Hearing Examiner issued an Order setting the following dates for further proceedings:

May 28, 1957—Exchange of exhibits;
June 10, 1957—Further prehearing conference;
June 17, 1957—Hearing; and

It further appearing that no convincing arguments were presented in opposition to the said petition to show that the rights of the competing parties would be prejudiced or adversely affected by a grant thereof; and

It further appearing that sufficient good cause, in accordance with the provisions of § 1.365 (a) of the Commission's rules, has been shown to warrant a grant of the relief requested in said petition, but the workload of the Examiner will not permit the scheduling of the hearing on the requested date;

It is ordered, This 24th day of May 1957, that the above petition for extension of time be granted in the following particulars:

June 18, 1957—Exchange of exhibits;
June 24, 1957—Further prehearing conference; and

It is further ordered, That the date for the hearing in the above-entitled matter is hereby continued to a date to be set by further Order herein.

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

[F. R. Doc. 57-4509; Filed, June 3, 1957; 8:53 a. m.]

[Docket No. 11971; FCC 57M-510]

MOON ELECTRIC CO.

ORDER CONTINUING HEARING

In the matter of the application of George Moon, Jr., d/b as Moon Electric Company, Docket No. 11971, File Nos. 477-C2-P-57 1800-C2-L-57; for authorization to establish a new station for two-way communications in the Domestic Public Land Mobile Radio Service at Clearwater, Florida (KIJ-357).

It is ordered, this 27th day of May 1957, that the hearing now scheduled for May 28, 1957, is continued indefinitely, pending action on protestant's Petition to Withdraw Protest, filed May 24, 1957.

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

[F. R. Doc. 57-4510; Filed, June 3, 1957; 8:53 a. m.]

[Docket No. 12009; FCC 57M-511]

SALOME S. NAKDIMEN ET AL.

ORDER CONTINUING HEARING

In re application of Salome S. Nakdimen, Administratrix, estate of Hiram S. Nakdimen, deceased (transferor) and George T. Hernreich, (transferee), Docket No. 12009, File No. BTC-2422; for Commission consent to the relinquishment by transferor of positive control of American Television Company, Inc., permittee of Station KNAC-TV, Fort Smith, Arkansas.

On the oral request of counsel for Southwestern Radio and Television Company, protestant, and without objection by counsel for the other parties,

It is ordered, This 28th day of May, 1957, that the hearing now scheduled for June 12, 1957 is continued to Monday, July 1, 1957, as 10:00 a. m., in the offices of the Commission, Washington, D. C.

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

[F. R. Doc. 57-4511; Filed, June 3, 1957; 8:53 a. m.]

[Docket No. 12033; FCC 57-539]

WBBF, INC.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR ORAL ARGUMENT

In re application WBBF, Inc. (WBBF), Rochester, New York; Docket No. 12033, File No. BR-1906; for renewal of license.

1. The Commission has before it for consideration (a) a "Protest to Grant of Renewal and Request for Hearing" filed on June 18, 1954, pursuant to Section 309 (c) of the Communications Act of 1934, as amended, by Federal Broadcasting Company, Inc., licensee of Station WSAY, Rochester, New York, directed against the Commission's action of May 20, 1954, granting without hearing the above-entitled application; (b) an "Opposition to Protest" filed on June 28, 1954, by WBBF, Inc.; (c) the Commission's Memorandum Opinion and Order adopted July 14, 1954 (FCC 54-869) dismissing the protest on the grounds that the protestant failed to specify with particularity facts, matters and things relied upon which warrant the designation of the above-entitled application for hearing under said Section 309 (c) of the act; (d) a "Petition for Reconsideration" filed on August 5, 1954, pursuant to said Section 309 (c) of the act, by Federal Broadcasting Company, Inc., directed against the Commission's action of July 14, 1954, denying the protest; (e) an "Opposition to Petition for Reconsideration" filed on August 16, 1954, by WBBF, Inc.; (f) the Commission's Order adopted November 3, 1954 (FCC 54-1373), denying said petition for reconsideration on the grounds that the protest lacked specificity and that the deficiencies in a protest, which was denied because the protestant had failed to state with the requisite particularity the facts, matters and things relied upon in the protest, cannot be cured after the expiration of the statutory period of protest by filing a petition for reconsideration of the denial; and (g) the decision of the United States Court of Appeals for the District of Columbia Circuit in the case of Federal Broadcasting System, Inc., v. Federal Communications Commission, et al. (Case No. 12494), decided February 23, 1956.

2. The factual situation involved in the instant protest and the arguments of the parties are set out in full in the Commission's Memorandum Opinion and Order of July 14, 1954, and its Order of November 3, 1954, and need not be repeated herein. In essence, the protest alleged that the renewal of license of Station WBBF would result in economic injury to Federal in the form of lost revenue and injury to its competitive position. Federal requested that the renewal application be set for hearing on the issue "whether the refusal of Station WBBF to consent to the rebroadcast of its programs by Station WSAY and the combination sales policy of Station WBBF and Station WGVA in Geneva demonstrate that WBBF, Inc., is not qualified to operate Station WBBF in the public interest" and on the conclusory issue as to whether the renewal

of license of Station WBBF would serve the public interest. On the basis of the pleadings before it, the Commission determined as to the first element of the requested issue that no requests to rebroadcast programs had been made of the present owner of Station WBBF since August 26, 1953, when the Commission granted an application for transfer of the station to the present owner, and that such deficiency could not be cured after the expiration of the statutory period of protest. As to the second element of the requested issue, the Commission determined that the allegation concerning combination sales rates and that this policy constitutes unfair competition, is insufficient, in the absence of any further facts, to warrant designation of the renewal application for hearing. Accordingly, the Commission dismissed the Petition for Reconsideration. Upon appeal, the Court of Appeals in its decision of February 23, 1956, determined that the protestant had specified facts with sufficient particularity to warrant a hearing on the protest. However, the Court went on to state that:

> At the same time, we do not wish to be understood as saying that the Commission may not ultimately—for some good reason—be able to justify a denial of the protest without hearing. We do not pass on that question: we do not decide whether or not the matters alleged by Federal "would tend to show, if established at a hearing, that the grant of the license contravened public interest, convenience and necessity, or that the licensee was technically or financially unqualified, contrary to the Commission's initial finding. Federal Broadcasting Co. v. Federal Communications Commision, supra at p. 563 of 225 F. 2d. We do not understand that the Commission has passed on the substantive issues here involved: at least it has not done so with clarity. True, it advised Federal by letter in an earlier proceeding that WBBF's refusal to allow re-broadcast privileges did not contravene the Commission's Rules or the Communications Act. And it said in its latest order (that of July 16, 1954) that the discount arrangement did not violate any Federal law or public policy. But lack of actual violation of law or regulation is not decisive: the question is whether the alleged conduct is contrary to the public interest, or otherwise demonstrates unfitness of the licensee. Cf. Mansfield Journal v. Federal Communications Commission, supra note 2. The Commission should approach the matter in that light. Only if it is clear from the face of the protest, taking all the protestant's allegations as true, that there is no real merit in protestant's position or substantial possibility that a hearing will reveal merit, should the protest be rejected without a hearing.

3. In the light of the above, we find the protestant has specified with particularity the facts, matters and things upon which it relies to show that the Commission's grant was not in the public interest. Federal Broadcasting System, Inc., v. FCC, et al., supra. We find further, as was found in our Memorandum Opinion and Order herein of July 14, 1954, that protestant is a "party in interest" within the meaning of section 309 (c) of the act. A question is thus presented as to the type of hearing which is required with respect to protestant's issues. In its decision, the Court of Appeals stated:

> The foregoing views are based on our interpretation of the statutes as they stood at the time of the Commission's challenged action. After this case was argued here, and while it was under advisement, there was enacted Public Law 391, 84th Congress, 2nd Session, approved January 20, 1955 [sic 1956]. We do not deem it necessary or appropriate to decide here and now whether the new legislation is to be applied retroactively, or, if it is to be so applied, in what manner (if at all) it affects the present case. Those questions have not been presented to us by the parties. If they are raised, they should be dealt with in the first instance by the Commission.

We believe that the 1956 amendments to Section 309 (c) are applicable to the case before us. Federal Broadcasting System, Inc. v. FCC, (1956) 239 F. 2d 941.

4. Section 309 (c) of the Communications Act of 1934, as amended, states as follows:

> The Commission shall, within thirty days of the filing of the protest, render a decision making findings as to the sufficiency of the protest in meeting the above requirements; and, where it so finds, shall designate the application for hearing upon issues relating to all matters specified in the protest as grounds for setting aside the grant, except with respect to such matters as to which the Commission, after affording protestant an opportunity for *oral argument*, finds, for reasons set forth in the decision, that, even if the *facts* alleged were to be proven, no grounds for setting aside the grant are presented. (Emphasis supplied.)

The instant protest contains allegations of fact, and conclusions drawn therefrom by the protestant. The facts alleged with respect to the refusal of the previous licensee of Station WBBF to accede to blanket requests by protestant to rebroadcast certain general categories of programs was considered by the Commission in connection with the transfer of license to the present owner, which transfer was opposed by protestant upon this ground, and the Commission found that a grant of the transfer was in the public interest. We have given further consideration to the facts alleged in the protest, including those facts relating to the combination sales rate for Stations WBBF and WGVA and the grants of a discount to advertisers who purchase time on both stations, and upon such consideration, it appears on the basis of the pleadings presently before us, extremely unlikely that, even if these facts were proven, grounds would be presented for setting aside our grant. Therefore, we shall afford the parties an opportunity at oral argument to discuss this question.

5. The protest filed by Federal Broadcasting System, Inc., requests, in addition, that the Commission postpone the effective date of its action granting the application for renewal until after hearing and decision. Section 309 (c) provides, in part, as follows:

> * * * pending hearing and decision the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities of authorization in question pending the Commission's decision after hearing. (Emphasis added.)

The case before us clearly comes within the first exception set forth in the above-quoted provisions of the act, i. e., that the authorization involved (renewal of license) is necessary to the maintenance of an existing service. Accordingly, the effective date of the protested grant will not be postponed.[1]

6. In view of the foregoing, *It is ordered*, That pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application is designated for oral argument at the offices of the Commission in Washington, D. C., on the question whether, if the facts alleged in the protest were to be proven, grounds have been presented for setting aside the grant of said application.

7. *It is further ordered*, That the protestant and the Chief, Broadcast Bureau, are hereby made parties to the proceeding herein and that:

(1) The oral argument shall commence at 10 a. m. on June 13, 1957, and shall be held before the Commission en banc;

(2) The parties intending to participate in the oral argument shall file their appearances not later than June 6, 1957;

(3) The parties to the proceeding have until the date of the oral argument to file briefs or memoranda of law.

Adopted: May 24, 1957.

Released: May 29, 1957.

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

[F. R. Doc. 57-4512; Filed, June 3, 1957; 8:53 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 344]

UNION STOCK YARDS CO. OF OMAHA (LTD.)

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on April 19, 1957, authorizing the respondent, Union Stock Yards Company of Omaha (Ltd.), Omaha, Nebraska, to assess the current schedule of rates and charges to and including February 6, 1958, unless changed by further order before the latter date.

By documents filed with the Hearing Clerk on May 13, 1957, the respondent petitioned for authority to modify the cur-

[1] Since section 307 (d) of the Communications Act (as well as section 9 (b) of the Administrative Procedure Act) would in any event require that the license remain in effect until completion of agency proceedings on the renewal application, a contrary conclusion here would have no practical effect.

rent schedule of rates and charges in certain respects, and to assess the current schedule of rates and charges, as so modified, for a period of two years. The modifications requested by the respondent are set forth below.

SECTION NO. 1—YARDAGE CHARGES

	Present rates (per head)	Proposed rates (per head)
(a) All livestock received, and (b) all livestock reweighed or resold:		
Cattle (except bulls 700 pounds or over)	$0.93	$0.99
Bulls (minimum 700 pounds)	1.35	1.45
Calves (maximum 400 pounds)	.53	.57
Hogs	.33	.36
Sheep or goats	.19	.21
Horses or mules	.95	1.00
Exceptions:		
(a) Yardage will not be assessed against livestock handled for the railroads, unloaded for feed, water, and rest, unless such stock changes ownership.		
(b) Yardage will not be assessed against livestock forwarded to other markets or to the country, or returned to point of origin, provided the livestock has not changed ownership, and is forwarded in the same name as originally consigned.		
(c) Yardage charges on slaughter livestock consigned direct to packers will be at the following rates, provided packers accept delivery of stock at unloading chutes and remove stock from premises as soon as weighed:		
Cattle (except bulls 700 pounds or over)	.47	.50
Bulls (minimum 700 pounds)	.68	.73
Calves	.27	.29
Hogs	.17	.18
Sheep or Goats	.10	.11
(d) Livestock resold or reweighed, other than through a commission firm, in these yards for local delivery will be assessed the following yardage charges:		
Cattle (except bulls 700 pounds or over)	.30	.32
Bulls (minimum 700 pounds)		.45
Calves	.18	.19
Hogs	.11	.12
Sheep or Goats	.06	.07
(e) Livestock resold or reweighed, other than through a commission firm, in these yards for shipment off the market, the following charges will apply:		
Cattle (except bulls 700 pounds over)	.14	.15
Bulls (minimum 700 pounds)		.22
Calves	.08	.09
Hogs	.06	.06
Sheep or Goats	.03	.03

SECTION NO. 2—DRIVING LIVESTOCK TO RAILROAD CHUTES

PRESENT RATES

Driving livestock to Railroad Chutes for outbound shipment the following charges will apply:

Cattle or calves	$2.00 per car.
Hogs	$1.00 per deck.
Sheep or goats	$1.00 per deck.
Horses or mules	$2.00 per car.

NOTE: This charge will not apply to livestock stopped for feed, water, and rest, or to try the market and is forwarded without change of ownership.

PROPOSED RATES

(a) Driving livestock picked up from not more than two pens to Railroad Chutes for outbound shipment, the following charges will apply:

Cattle or calves	$2.00 per car,
Hogs	$1.00 per deck.
Sheep or goats	$1.00 per deck.
Horses or mules	$2.00 per car.

(b) An additional charge of 50¢ per pickup will be made if more than two pickups per car or per deck are required.

NOTE: This charge will not apply to livestock stopped for feed, water, and rest.

SECTION NO. 4—TESTING, VACCINATING, BRANDING, CASTRATING, DEHORNING, DIPPING, SPRAYING FOR USE OF FACILITIES

	Present rates	Proposed rates
Testing cattle (tuberculosis and/or brucellosis)[1]	$0.75 per head	$0.75 per head.
Vaccinating cattle [1]	$0.05 per head	$0.10 per head.
Branding cattle[1]	$0.05 per head	$0.10 per head.
Castrating cattle [1]	$0.05 per head	$0.10 per head.
Dehorning cattle[1]	$0.05 per head	$0.10 per head.
Temperaturing and/or vaccinating hogs [1]	$0.10 per head	$0.10 per head.
Spraying hogs (includes labor and material) [1]	$0.10 per head ($5.00 min.).	$0.10 per head. ($5.00 min.).
Dipping sheep (including labor and material) [2]	$0.10 per head ($40.00 min.).	$0.15 per head. ($20.00 min.).
Minimum to be prorated over all sheep being dipped at same time regardless of ownership. Spraying cattle (includes labor and material).[2]	$0.20 per head	$0.25 per head.

[1] The service of testing and vaccinating cattle and hogs is performed by accredited veterinarians authorized by the Stock Yards Company to perform these services under the supervision and regulations of the Federal and State authorities. The authorized veterinarians, whose service charges are filed with the United States Department of Agriculture, will collect the above charges for the account of this company.

[2] The service of spraying cattle is performed by persons authorized by the Stock Yards Company to perform this service. The service of dipping sheep is performed by this company. Both of these services are performed under the supervision of Federal and State authorities. Charges for these services will be paid by the owner or his representative to the Stock Yards Company.

The above-mentioned services are performed at the owner's risk. The Stock Yards Company will not assume responsibility for loss or damage to livestock incident thereto.

SECTION NO. 5—DISINFECTING

When it is necessary to clean and disinfect any portion of this company's pens, chutes, alleys, etc., by reason of the movement in or through the yard, of livestock infected with contagious diseases, the owner of such infected livestock will be required to pay for disinfecting as follows:

	Present rates	Proposed rates
Single load pens	$2.50	$3.50
Double load pens	4.00	5.00
Chutes	2.50	3.50

Alleys: Same ratio as single pens.

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. It appears, therefore, that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 28th day of May 1957.

[SEAL] DAVID M. PETTUS,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F. R. Doc. 57-4502; Filed, June 3, 1957; 8:52 a. m.]

Office of the Secretary

HUNTER-LIGGETT MILITARY RESERVATION; LOS PADRES NATIONAL FOREST, CALIFORNIA

ORDER INTERCHANGING ADMINISTRATIVE JURISDICTION OF MILITARY AND NATIONAL FOREST LANDS

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by Public Law 804 of the 84th Congress, approved July 26, 1956, it is ordered as follows:

(1) The following described lands of the United States which lie within and adjacent to Los Padres National Forest, California, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture:

MOUNT DIABLO MERIDIAN

T. 22 S., R. 4 E.,
Sec. 10, Lots 5, 6, 7, and 8;
Sec. 11, SW¼SW¼;
Secs. 13 and 14;
Sec. 15, lots 2, 3, 5, 6, 9, and N½NW¼;
Sec. 22, lots 3 and 4;
Secs. 23 and 24;
Sec. 25, lot 1, N½, N½SW¼, and N½SE¼;
Secs. 26 and 36.
T. 23 S., R. 4 E.,
Secs. 1, 12, and 13.
T. 22 S., R. 5 E.,
Sec. 18, lots 3, 4, and SE¼SW¼;
Sec. 19;
Sec. 20 W½W½, SE¼SW¼, and S½SE¼;
Sec. 21, SW¼SW¼;
Sec. 28, NW¼NW¼;
Sec. 29, area lying North of middle branch of Mill Creek (approximately N½ of section);
Sec. 30;
Sec. 31, lot 1, E½NE¼, NW¼NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, W½NE¼, SE¼NE¼, NW¼, and S½;
Sec. 33, SW¼SW¼.
T. 22 S., R. 6 E.,
Those parts of the W½ of section 29 and of the S½NE¼ and the SE¼NW¼ and the NE¼SE¼ of section 30 lying southerly and westerly of a line parallel with and distant 600 feet northerly and easterly of the road along the Nacimiento River.
T. 23 S., R. 5 E.,
Sec. 4, lots 3 and 4, S½NW¼, N½SW¼, and W½SE¼;
Secs. 5 and 6;
Sec. 7, lots 1, 3 and 4, E½, NE¼NW¼, and SE¼SW¼;
Sec. 8;
Sec. 9, S½NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 10, those parts of W½NW¼, SE¼NW¼, NW¼SW¼, and W½E½ lying outside of drainage of Nacimiento River;

Sec. 16, NW¼NE¼, W½, and S½SE¼;
Sec. 17, W½NE¼, N½NW¼, and S½;
Sec. 18, except lot 3;
Sec. 19, except E½E½;
Sec. 20, S½NE¼, S½SW¼, and SE¼;
Sec. 21, N½NE¼, SW¼NE¼, and NW¼SE¼;
Sec. 28, SW¼SE¼;
Secs. 29, 30 and 31;
Sec. 32, except lot 1;
Sec. 33, N½, N½SW¼, SW¼SW¼, and NW¼SE¼.

T. 24 S., R. 5 E.,
Sec. 4, SW¼NE¼, W½, W½SE¼, and NE¼SE¼;
Sec. 5, lot 4, E½NE¼, NW¼NE¼ except that certain 2 acre tract of land conveyed by Piedmont Land & Cattle Co., a corporation to the State of California by deed dated February 10, 1932 and recorded February 27, 1932 in Vol. 325, official records of Monterey County, at page 372;
Sec. 10, except NW¼NW¼;
Sec. 11, S½N½, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 12, SW¼, and S½SE¼;
Sec. 13;
Sec. 14, lot 1, N½, and E½SE¼;
Sec. 15;
Sec. 23, except lot 1;
Sec. 24;
Sec. 25, except lot 6.

T. 24 S., R. 6 E.,
Sec. 18, lot 2;
Sec. 26, SW¼SW¼;
Sec. 27, SW¼NW¼, and S½;
Sec. 28, NW¼NE¼, S½NE¼, E½NW¼, E½SW¼, and SE¼;
Sec. 30, NE¼SE¼SW¼, S½SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 31, lots 1, 2, 3, 4, and 6;
Sec. 33, NE¼, and E½SE¼;
Sec. 34;
Sec. 35, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 36, S½NW¼, and S½;
Excepting from the SE¼NE¼ of section 35 and the SW¼NW¼ of section 36, that certain 5.11 acre tract conveyed by William J. Evans and wife to James Pierce Baldwin and wife by deed dated May 26, 1925 and recorded June 4, 1925, in Volume 58, official records of Monterey County, at page 324.

T. 24 S., R. 7 E.,
Sec. 28, those parts of SW¼NW¼, W½SW¼, SE¼SW¼, and SE¼ outside of drainage of Nacimiento River;
Sec. 29, those parts of N½NE¼, and SE¼NE¼ outside of drainage of Nacimiento River;
Sec. 30, lots 11 and 12, and SW¼SE¼;
Sec. 31, lots 1, 2, 7, 8, 9, 10, 11, 12, SW¼NE¼, and SE¼;
Sec. 32, NE¼ and S½;
Secs. 33 and 34, all outside drainage of Nacimiento River.

Also, that part of Hunter Liggett Military Reservation lying westerly of a line beginning at the intersection of the ridge between Santa Lucia Creek and Rattlesnake Creek and the North boundary of said reservation (said point of beginning being in Section 15, T. 21 S., R. 5 E., on the boundary of Los Padres National Forest), thence south and east with the height of land to the junction of Rattlesnake and Penal Creeks, thence easterly and southerly with a low ridge to an intersection with the boundary of Los Padres National Forest (being coincident with south line of old Upper Milpitas Grant) on the east line of Section 26, T. 21 S., R. 5 E., (this includes about 1954 acres of the Upper Milpitas Grant).

(2) All national forest lands within the following described areas are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army:

MOUNT DIABLO MERIDIAN

T. 21 S., R. 5 E.,
Sec. 35, S½SE¼, and SE¼SW¼.

T. 22 S., R. 5 E.,
Secs. 1, and 2;
That part of sec. 3 in the drainage area of Wizard Gulch;
Secs. 10 to 13, inclusive;
Those parts of secs. 14, 15, 23 and 24 lying northerly of a line parallel with and distant 600 feet northerly of the road along the Nacimiento River;
Sec. 16, E½E½NE¼;
Sec. 36, SE¼SE¼.

T. 23 S., R. 5 E.,
Secs. 1, 2 and 12;
Those parts of secs. 3, 4, 10, 11, 13 and 14 lying in the drainage area of San Miguel Creek;
That part of sec. 36 lying in the drainage area of Nacimiento River.

T. 21 S., R. 6 E.,
Fractional secs. 31 and 32.

T. 22 S., R. 6 E.,
Fractional secs. 4 and 5;
Secs. 6, 7, and 8;
Fractional sec. 9;
Secs. 17 and 18;
That part of sec. 19 lying north and east of a line parallel with and distant 600 feet northerly and easterly of the road along the Nacimiento River;
Sec. 20, NE¼NE¼, W½E½, W½, and SE¼SE¼;
Fractional sec. 21, N½ and S½S½;
Fractional sec. 28, N½;
Those parts of the N½ and N½SE¼ of sec. 29, and of the NE¼NE¼ and N½NW¼ of sec. 30 lying northerly and easterly of a line parallel with and distant 600 feet northerly and easterly of the road along the Nacimiento River;
That part of sec. 31 lying south and east of Slick Rock Creek;
Sec. 32, SW¼SW¼.

Tps. 23 and 24 S., R. 6 E.,
Those parts lying in the drainage of Nacimiento River.

T. 23 S., R. 7 E.,
Sec. 31, SW¼, and SW¼SE¼.

T. 24 S., R. 7 E.,
Fractional sec. 5;
Secs. 6, 7, 8 and 17;
Those parts of secs. 18, 19, and 20 lying in the drainage of Nacimiento River.

The military lands transferred to the jurisdiction of the Secretary of Agriculture by this order will be made available by the Department of Agriculture for use by the Department of the Army for military maneuvers and training purposes, as may from time to time be requested by the Army, under such terms and conditions as may then be in effect governing the use of national forest lands by the Department of the Army.

Pursuant to section 2 of Public Law 804 of the 84th Congress, approved July 26, 1956, the national forest lands transferred to the jurisdiction of the Secretary of the Army by this order are hereafter subject only to the laws applicable to other lands comprising the Hunter-Liggett Military Reservation. The Military lands transferred to the jurisdiction of the Secretary of Agriculture by this order are hereafter subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

This order shall be effective upon publication in the FEDERAL REGISTER.

Dated: March 28, 1957.

[SEAL] WILBER M. BRUCKER,
Secretary of The Army.

Dated: April 12, 1957.

E. L. PETERSON,
Assistant Secretary of Agriculture.

[F. R. Doc. 57-4504; Filed, June 3, 1957; 8:52 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. F-39]

CURTISS-WRIGHT CORP.

NOTICE OF PROPOSED ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that the Atomic Energy Commission proposes to issue to the Curtiss-Wright Corporation, a construction permit substantially as set forth in Appendix A below unless on or before 15 days after publication of this notice in the FEDERAL REGISTER a request for formal hearing is filed in the manner prescribed by § 2.102 (b) of the Commission's Rules of Practice (10 CFR Part 2). There is annexed as Appendix B a Memorandum submitted by the Division of Civilian Application which summarizes the principal features of the proposed reactor and the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 29th day of May 1957.

For the Atomic Energy Commission.

H. L. PRICE,
Director,
Division of Civilian Application.

APPENDIX A—CONSTRUCTION PERMIT

The Curtiss-Wright Corporation (hereinafter referred to as "Curtiss-Wright") on October 24, 1956, filed its application for a Class 104 license to construct and operate a nuclear reactor (hereinafter referred to as "the reactor"). Amendments to the application were filed on December 28, 1956, and March 12, 1957. The application as amended will be referred to herein as "the application".

The Atomic Energy Commission (hereinafter referred to as the "Commission") has found that:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, C. F. R., Part 50, "Licensing of Production and Utilization Facilities."

B. Curtiss-Wright proposes to utilize the reactor in the conduct of research and development activities of the types specified in Section 31 of the Atomic Energy Act of 1954.

C. Curtiss-Wright is financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter 1, C. F. R.; to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

D. Curtiss-Wright is technically qualified to design and construct the reactor.

E. Curtiss-Wright has submitted sufficient information to provide reasonable assurance that a reactor of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public and that additional information required to complete its application will be supplied.

F. The issuance of a construction permit to Curtiss-Wright will not be inimical to the common defense and security and to the health and safety of the public.

Pursuant to the Atomic Energy Act of 1954 and Title 10, C. F. R., Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to Curtiss-Wright to construct the reactor as a utilization facility. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Atomic Energy Act of 1954 and rules, regulations and orders of the Atomic Energy Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below.

A. The earliest completion date of the reactor is July 1, 1957. The latest date for completion of the reactor is January 31, 1958. The term "completion date" as used herein means the date on which construction of the reactor is completed except for the introduction of the fuel material.

B. The site proposed for the location of the reactor is the location at Quehanna, Pennsylvania, specified in the Preliminary Hazards Evaluation Report accompanying the application filed October 29, 1956.

C. The general type of facility authorized for construction is a light water cooled and moderated research reactor designed to operate at a thermal power level of 1,000 kilowatts, as described in the application.

This permit is subject to submittal by Curtiss-Wright to the Commission (by proposed amendment of the application) of the complete, final Hazards Summary Report (portions of which may be submitted and evaluated from time to time) and a finding by the Commission that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor in accordance with the specified procedures.

Upon completion (as defined in Paragraph "A" above) of the construction of the facility in accordance with the terms and conditions of this permit, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed in conformity with the application as amended and in conformity with the provisions of the act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to Curtiss-Wright pursuant to section 104c of the act, which license shall expire twenty (20) years after the date of this construction permit.

Pursuant to § 50.60 of the regulations in Title 10, Chapter 1, C. F. R., Part 50, the Commission has allocated to Curtiss-Wright for use in the operation of the reactor, 8.1 kilograms of uranium 235 contained in uranium at the isotopic ratios specified in Curtiss-Wright's application as amended. Estimated schedules of special nuclear material transfers to Curtiss-Wright and returns to the Commission are contained in Appendix "A" which is attached hereto. Deliveries by the Commission to Curtis-Wright in accordance with Schedule 1 in Appendix "A" will be conditioned upon Curtiss-Wright's return to the Commission of special nuclear material substantially in accordance with Schedule 2 of Appendix "A".

Date of Issuance:

For the Atomic Energy Commission.

Director,
Division of Civilian Application.

APPENDIX "A" TO CURTISS-WRIGHT'S CONSTRUCTION PERMIT DOCKET NO. F-39

SCHEDULE 1

Estimated schedule of transfers of special nuclear material from the Commission to Curtiss-Wright:

Calendar year of transfer	Kilograms of contained U-235
1957	6.0
1959	4.0
1960-1976 (17 years, total of 5.0 per year)	85.0
Total transfers	95.0

SCHEDULE 2

Estimated schedule of transfers of special nuclear material from Curtiss-Wright to the Commission:

Calendar year of transfer	Kilograms of contained U-235 recoverable scrap	Spent fuel	Total
1957	1.5		1.5
1959	0.8	3.0	3.8
1960-1976 (17 years total)	[1] 17.0	[2] 64.6	81.6
1977-Return of inventory		4.4	4.4
		72.0	91.3

[1] 1.0 kilogram per year.
[2] 3.8 kilograms per year.

APPENDIX B—MEMORANDUM

PART I—DESCRIPTION OF THE REACTOR

The Curtiss-Wright Corporation has submitted a license application for a reactor to be built and operated on an 80-square-mile tract of land at Quehanna, Pennsylvania. The proposed reactor is a one-megawatt light water moderated and cooled, solid fuel type often referred to as a "pool" type or swimming-pool reactor. The core is immersed in a 20-foot-wide by 40-foot-long by 26-foot-deep pool with a minimum of 19 feet of water covering the core. Considerations of neutron economy may at times dictate the use of a beryllium oxide reflector. The reinforced concrete pool is separated into two sections, one being a three sided end section penetrated by three beam tubes for experimentation purposes, the other a 20-foot x 24-foot section used for bulk shielding studies.

The reactor core will be made of the type fuel elements contained in the Materials Testing Reactor (MTR) located at the National Reactor Testing Station, Arco, Idaho. There will be a maximum of ten fuel bearing plates per element. Each plate is essentially a sandwich of aluminum-uranium alloy between two layers of aluminum cladding. A fuel element will contain about 170 gms of U-235 enriched to about 90%. These elements are supported by a grid plate capable of accommodating a 9 x 6 array or a total of 54 elements. With this number of fuel elements many flexible arrangements are possible, and present plans do include placing peripheral rows of beryllium oxide elements as a reflector around the fuel elements. Previous experience with this type of core places the cold clean critical mass at 2.75–2.85 kg U-235 but usually the requirements for available reactivity to override xenon poisoning and experimental needs will increase the critical mass to 3.4 or 3.6 kg.

In this case, the applicant states that the maximum reactivity requirements for prolonged operation at 100 kw and 1000 kw are as follows:

Source	Reactivity required at— 100 kw	1000 kw
Negative temperature coefficient	0.0006	0.001
Equilibrium poisons (Xe, Sm, etc.)	.018	.040
Xe override	.000	[1] .006
Burnup (1,000 days)	.0005	[1] .005
Rate of change of power level	.003	.003
Addition of smallest increment of reactivity available	.003	.003
Totals	[2] .025	[2] .053

[1] Only one of these values is indicated in the total shown.
[2] No allowance made for experimental reactivity requirements.

The reactor control system consists of three (3) safety shim rods and one (1) control rod. The boron carbide safety-shim rods have a reactivity control worth of 2.5 percent each for a water reflected core and 3.8 percent each for a beryllium oxide reflected core. The stainless steel control rod under similar conditions will have reactivity worth of 0.6 percent and 1.2 percent respectively. The safety-shim rods are magnetically coupled to the drives which are capable of driving the rods at 24 in./min. Upon power failure or receipt of scram signal the rods will fall freely into the core. The control rod drive mechanism is rated at 6 in./min.

When operating at low power, up to 100 kw, convective cooling will be sufficient to cool the core. For operation at power levels in excess of 100 kw, water will be pumped through the core at 700 gpm and recirculated via a holdup tank to allow essentially all of the N^{16} activity to decay.

The reactor is to be housed in a 48-foot-wide x 120-foot-long bay of the Radioactive Materials Laboratory Building. The exterior construction consists of aluminum panels fastened to structural framework. Estimated leakage rate with all doors closed and the ventilator off is estimated to be one air change in 32 hours.

The site selected by Curtiss-Wright for its research facilities comprises 51,175 acres of which 8,579 are owned outright and 42,596 leased from the State of Pennsylvania for 99 years. This tract, approximating a circle of 10 miles diameter, lies in North Central Pennsylvania, encompassing portions of Elk, Cameron and Clearfield Counties.

The reactor itself will be located a minimum of 3 miles from the present boundary of the property. The countryside surrounding the site is largely uninhabited with the closest towns of any appreciable size being 10 miles from the reactor. The area within a 25 mile radius has a population density of approximately 28 people/square mile.

PART II—HAZARDS ANALYSIS

1. *General considerations.* There is an extensive body of relevant knowledge and successful operating experience for reactors of the type under consideration. Pool-type reactors using fuel elements and having core arrangements generally similar to those proposed for this reactor have been safely and successfully operating for several years. The power levels of these reactors are in the 10–100 kilowatt range for the Geneva demonstration reactor and the Penn State Reactors, the few megawatt range for the Oak Ridge Reactors and the many megawatt range for the MTR.

Although none of these previously built and operating units is exactly duplicated in the design of the proposed reactor, and while there are certain features proposed for this

reactor, such as the greater flexibility occasioned by the large number of available fuel positions (54), which will require special attention prior to the issuance of operational approval, the stability and predictability of pool-type reactors has been demonstrated by the extensive successful operation of these reactors and there is no reason to doubt that an adequately engineered and carefully constructed reactor of the type proposed by the applicant should be capable of safe operation.

One feature of importance in these considerations is the characteristic of negative temperature coefficient shared by this reactor in common with others of this type. The negative temperature coefficient contributes to both the static stability and the dynamic stability of the reactor. A reactor possesses static stability in changing temperatures if it decreases in reactivity with an increase in temperature (negative temperature coefficient), i. e., if for any cause there is a rise of temperature within the reactor, the effective multiplication factor, or its ability to sustain a chain reaction, will then tend to decrease. Consequently, the rate of heat production or power level will also decrease, tending to offset the rise in temperature. Conversely, if the temperature coefficient were positive, the reactor would be unstable to temperature changes. The proposed Curtiss-Wright reactor possesses a relatively strong negative temperature coefficient of reactivity, which tends to insure stability in the event of probable types of power excursions. This characteristic of a strong negative temperature coefficient is consistent with the operating experience of other reactors of the MTR type.

The extent of density changes in the coolant or moderator brought about by changes in temperature has a strong influence on the sign and magnitude of the overall temperature coefficient. However, such density changes do not result instantaneously from temperature variations in the fuel elements, and as a result oscillations may develop in the neutron flux and reactor power. If such oscillations are rapidly damped out because of the inherent features of the reactor, the reactor is said to have good dynamic stability. Although this phenomenon has not been completely analyzed with respect to the proposed reactor, its general aspects should not be significantly different from satisfactory observations of this characteristic made in existing reactors having similar nuclear characteristics.

2. *Radiation.* Since an appraisal of the maximum credible accident has not yet been made, it has not been possible accurately to evaluate the effects of such an accident on the operating personnel of the applicant or upon the public in the areas adjacent to the reactor site. The present plans of the applicant do not include a vapor shell, and the protection of the public in the event of an accident is largely dependent on the isolation of the reactor. Whether operation under these conditions will prove to be acceptable will, of course, depend upon the results of an analysis of the maximum credible accident (which must be defined and approved prior to initial operation) and a determination that the level of containment proposed, when considered in conjunction with the isolation of the reactor, is sufficient to protect the public.

In lieu of a calculation based on the as yet undetermined maximum credible accident, the applicant has presented the results of calculations which would indicate that, should all the fission products from equilibrium operation at 1 MW be released under the most unfavorable meteorological conditions, some persons off-site might be subject to levels of irradiation greater than are considered safe for continued exposure and it would probably be necessary to institute evacuation procedures. However, based on a rather extensive body of relevant knowledge and successful operational experience with pool-type reactors, we believe that, when the maximum credible accident for this reactor has been defined, it will involve a release of much less than 100 percent of the fission products and that the risk to the public will be shown to be acceptably low.

3. *Summary.* The application has been reviewed at this time only for the purpose of determining whether, based on information contained in the application, and taking into account the wealth of experience which has been gained from operation of reactors of this general type, there is reasonable assurance that a facility of this general type, to be operated in the range of power levels proposed, can be designed, constructed and operated at the proposed site without undue risk to the health and safety of the public.

In making this determination, it has not been necessary, as has been pointed out previously, to define the magnitude of the maximum accident which it is credible to expect might actually occur in this reactor. It has also not been necessary to examine closely those details of reactor design, the proposed instrumentation system, or the plan of operating procedures which have been presented thus far by the applicant.

Prior to the time when the reactor, as built, is allowed to go critical, a final evaluation of the hazard aspects of the completed reactor, the operating and supervisory procedures, and the emergency plans, must show that there is reasonable assurance that the reactor, whose detailed design is then known, can be operated as proposed without undue risk to the health and safety of the public.

PART III—TECHNICAL QUALIFICATIONS

Since 1947, Curtiss-Wright in conjunction with the AEC and the Air Force has been actively engaged in the study of various proposals for nuclear aircraft power plants including calculations relating to a large number of reactor types. The Nuclear Power Department of the Company's Research Division now employs about 200 persons of whom fifty are directly involved in nuclear physics and instrumentation, and health physics.

Supervisory Personnel associated with the proposed reactor have had broad and varied experience at a number of installations devoted to nuclear research and technology including the Oak Ridge School of Reactor Technology, the Oak Ridge School of Nuclear Studies, the Oak Ridge National Laboratory, the Argonne National Laboratory, the Savannah River Plant, Pennsylvania State University, and the University of Rochester.

PART IV—FINANCIAL QUALIFICATIONS OF APPLICANT

Estimated cost of the facility is $2,470,549, and its estimated annual operating expense is $960,000. The inventory of special nuclear material is not expected to exceed $60,000 at any one time.

Curtiss-Wright's total current assets at December 31, 1955, were $194,000,000 while current liabilities were $69,000,000 making a current ratio of 2.8 to 1. Its total assets amounted to $227,000,000, in which Stockholders' equity was $158,000,000 or 69.4 percent. There is no long-term debt.

Net sales have risen from $176,000,000 in 1951 to $509,000,000 in 1955. In the same period net income after taxes has increased from $7,000,000 to $35,000,000.

It is concluded from the above that Curtiss-Wright is financially qualified to construct and operate the research reactor for which it has sought a license and to pay Commission charges for the use and loss or consumption of special nuclear material loaned it.

PART V—CONCLUSIONS

Based on the above considerations, it is concluded that:

a. There is reasonable assurance that a facility of the general type proposed can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

b. The applicant is technically and financially qualified to engage in the proposed activities.

For the Division of Civilian Application.

H. L. PRICE,
Director.

[F. R. Doc. 57-4494; Filed, June 3, 1957; 12:30 p m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7375 et al.]

SERVICE TO PUERTO RICO

NOTICE OF CHANGE OF DATE OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that the oral argument in the above-entitled proceeding now assigned for June 12 is reassigned to June 11, 1957. The oral argument will be held at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., May 28, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-4513; Filed, June 3, 1957; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-11908, G-11909]

BLAINE DUNBAR ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

MAY 28, 1957.

In the matters of Blaine Dunbar, Operator, Docket No. G-11908; Carter-Jones Drilling Company, Operator, et al.[1] Docket No. G-11909.

Take notice that on February 4, 1957, Blaine Dunbar (Dunbar), Operator, in Docket No. G-11908, and Carter-Jones Drilling Company (Carter-Jones),[2] Operator, et al., in Docket No. G-11909, filed applications, as supplemented on May 2, 1957, in Docket No. G-11909, pursuant to section 7 of the Natural Gas Act, for Dunbar to abandon service to Tennessee Gas Transmission Company (Tennessee) with respect to his interest in certain leases in the Tabasco Field, Hildalgo County, Texas, and Carter-Jones, Operator, et al., to continue such service. Dunbar, Operator, et al.,[3] were authorized on March 2, 1956, in Docket

[1] "Et al." parties are Julian Hurst, Bluford Stinchcomb and Harry L. Martin.

[2] A partnership composed of J. K. Maxwell, H. C. Jones, C. C. Woodruff and W. T. Maxwell.

[3] Same "et al." parties as in footnote 1.

No. G–9397, to sell their respective shares of gas to Tennessee from the aforementioned leases, pursuant to a sales contract dated September 16, 1955. Both applications are on file with the Commission and open to public inspection.

Applicants state that on October 25, 1956, Dunbar assigned his interest in the properties dedicated to the above-mentioned contract, in addition to other properties in Hidalgo County not dedicated to said contract, to J. K. Maxwell, Trustee, who, in turn, assigned said interest acquired from Dunbar to Carter-Jones, et al., on October 26, 1956.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 24, 1957, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 14, 1957. 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] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–4467; Filed, June 3, 1957; 8:46 a. m.]

[Docket No. G–11033]

HUMBLE OIL & REFINING CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 27, 1957.

Take notice that Humble Oil & Refining Company, Applicant, a Texas corporation whose address is Houston, Texas, filed on September 7, 1956, an application as amended January 7, 1957, and April 15, 1957, 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, as amended, which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce to El Paso Natural Gas Company for resale from production in the Amacker Tippett and King Mountain Fields, Upton County, Texas.

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 July 11, 1957, at 9:30 a. m., e. d. 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 § 1.30 (c) (1) or (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 June 17, 1957. 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] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–4468; Filed, June 3, 1957; 8:46 a. m.]

[Docket No. G–12069]

TRICE PRODUCTION CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 27, 1957.

Take notice that Trice Production Company (Applicant), a Delaware corporation with its principal place of business in Longview, Gregg County, Texas, filed an application on February 25, 1957, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act for authority to sell natural gas 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 to public inspection.

Applicant proposes to sell natural gas in interstate commerce to American Louisiana Pipe Line Company for resale from production on acreage acquired by assignment from Pan American Petroleum Corporation (Pan American). The acquired acreage is a portion of the total acreage subject to a sales contract dated June 1, 1953, as amended, and executed by and between Stanolind Oil and Gas Company, now Pan American, and American Natural Gas Company, predecessor in interest to American Louisiana Pipe Line Company. The assigned acreage comprises Section 16, T9S, R5W, Welsh Field, Jefferson Davis Parish, Louisiana, except for the 160 acres out of the south part of Section 16.

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 July 11, 1957, at 9:30 a. m., e. d. 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 § 1.30 (c) (1) or (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 June 17, 1957. 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] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–4469; Filed, June 3, 1957; 8:47 a. m.]

[Docket No. G–12359]

REAGAN J. CARAWAY, OPERATOR, ET AL.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 27, 1957.

Take notice that Reagan J. Caraway, Operator, et al.[1] (Applicant) filed an application on April 8, 1957, for permission and approval to abandon service pursuant to section 7 (b) of the Natural Gas Act, 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 to public inspection.

Applicant seeks permission and approval to abandon the sale of natural gas in interstate commerce to United Gas Pipe Line Company from the Gustave Herbert Lease located in the South Jeanerette Field, St. Mary Parish, Louisiana, which service was previously

[1] Et al. parties are George F. Bauerdorf, C. H. Lyons, W. P. Prentiss, Homer D. Key, Helen H. Feldman and Percival E. Jackson, Executors of the Estate of Joseph Feldman, Deceased.

authorized in Docket No. G–7676 by the Commission's order issued April 24, 1956 in the Docket Nos. G–7666, et al., proceedings.

The application states that the wells involved are oil wells and the delivery and production of gas therefrom have declined to less than 500 Mcf per month, an amount insufficient to meet the contract obligation. Applicant and United Gas Pipe Line Company entered into an agreement dated October 10, 1956 canceling the sales contract dated April 5, 1953.

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 July 9, 1957 at 9:30 a. m., e. d. 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 § 1.30 (c) (1) or (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 June 17, 1957. 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] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–4470; Filed, June 3, 1957; 8:47 a. m.]

[Docket No. G–12451]

OHIO FUEL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 27, 1957.

Take notice that on April 22, 1957, The Ohio Fuel Gas Company (Ohio Fuel), an Ohio corporation with its principal place of business in Columbus, Ohio, filed an application for a certificate of public convenience and necessity authorizing the construction and operation of 50 feet of 3½-inch O. D. natural gas transmission pipeline with appurtenances in Tuscarawas County, Ohio, extending from its existing Line FO–1460 to a proposed town border regulating station at Port Washington, Tuscarawas County, Ohio. The proposed facilities, to cost approximately $100, will be used to initiate natural gas service to the community of Port Washington, all as more fully described in the application on file with the Commission and open to public inspection. Applicant will also build a gas distribution system in Port Washington, estimated to cost $39,000.

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 July 10, 1957, at 9:30 a. m., e. d. 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 § 1.30 (c) (1) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for The Ohio Fuel Gas Company 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 C. F. R. 1.8 or 1.10) on or before June 28, 1957. 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] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–4471; Filed, June 3, 1957; 8:47 a. m.]

[Docket Nos. G–12221, G–12269, G–12327]

PACIFIC NORTHWEST PIPELINE CORP.

NOTICE OF APPLICATIONS AND DATE OF HEARING

MAY 27, 1957.

Take notice that Pacific Northwest Pipeline Corporation (Applicant), a Delaware corporation with its principal place of business in Salt Lake City, Utah, filed applications in the above-named dockets[1] for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for authority to construct and operate facilities and to sell and deliver natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications herein, which are on file with the Commission and open to public inspection.

Applicant, in its application in Docket No. G–12221, proposes to construct and operate 34.5 miles of 6- and 4-inch lateral pipeline from a proposed tap on its main 26-inch pipeline in Snohomish County, Washington, to a measuring and regulating station to be located at the Northwestern Portland Cement Company plant at Grotto, Washington. The facilities are proposed to be used to sell and deliver natural gas to the cement company on a direct interruptible basis. The application states that the estimated requirements of the plant are as follows:

Year of operation	1	2	3
Peak day (Mcf)	3,350	3,350	3,350
Annual (Mcf)	873,600	918,400	918,400

The gas is to be used for operation of the cement plant.

In its application in Docket No. G–12269, Applicant seeks authority to construct and operate 4.5 miles of 3½-inch lateral pipeline with appurtenances to extend from a proposed tap on its existing 6⅝-inch Uravan lateral line northwest to Union Carbide Nuclear Company's plant at Slick Rock, all in San Miguel County, Colorado. The proposed facilities will be used to sell up to 750 Mcf of natural gas to the plant on an interruptible basis for use in its "calcination process to upgrade uranium cake."

The estimated annual deliveries to the plant will be 205,000 Mcf.

In Docket No. G–12327, Applicant seeks authority to construct and operate 41 miles of 6⅝-inch O. D. pipeline extending east-southeast from a point on Applicant's authorized 6⅝-inch O. D. Coeur d'Alene lateral north of Coeur d'Alene to a metering station at the Bunker Hill Company plant near Kellogg, Shoshone County, Idaho. Bunker Hill will purchase natural gas directly from Applicant for use in various metallurgical and chemical industrial processes, including the refining of zinc and lead. Propane and oil, the fuels in present use, will be superseded except where they are preferable for process purposes and in emergencies. The service to Bunker Hill will be firm.

Applicant states that along the proposed pipeline in Docket No. G–12327 are several small towns not now authorized to be served with natural gas, and these towns, Cataldo, Wardner, Kellogg, Osburn, and Wallace, will probably be served by either Citizens Utilities Company or Shoshone Natural Gas Company, depending on the outcome of present efforts by the two firms to secure state and municipal authorizations. Applicant further states that the proposed line has been planned with sufficient capacity for the Bunker Hill plant plus the communities, and that it expects that the distribution systems will be built and operating in the 1957–58 heating season, since it expects to file an application in the fall of 1957 for authority to serve the towns. Applicant gives the following estimate of gas requirements:

[1] The application in Docket No. G–12221 was filed on March 14 and supplemented on April 17, 1957; Docket No. G–12269 was filed on March 21, 1957, and Docket No. G–12327 was filed on April 1, and supplemented April 24, 1957.

	1st year	2d year	3d year
The Bunker Hill Company:			
Peak day (Mcf)	4,500	4,500	4,500
Annual (Mcf)	1,150,000	1,150,000	1,150,000
Five Communities:			
Peak day (Mcf)	2,700	3,900	5,000
Annual (Mcf)	690,000	996,000	1,278,000
Totals:			
Peak day (Mcf)	7,200	8,400	9,500
Annual (Mcf)	1,840,000	2,146,000	2,428,000

The estimated cost of the facilities proposed herein is as follows:

Docket No. G–12221	$1,031,452
Docket No. G–12269	113,940
Docket No. G–12327	1,230,300

and will be financed from funds on hand and current earnings.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 15, 1957, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (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 June 20, 1957. 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 procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–4472; Filed, June 3, 1957; 8:47 a. m.]

[Docket No. E–6757]

SIERRA PACIFIC POWER CO.

NOTICE OF APPLICATION

MAY 27, 1957.

Take notice that on May 20, 1957, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Sierra Pacific Power Company ("Applicant"), a corporation organized under the laws of the State of Maine and doing business in the States of California and Nevada with its principal business office at Reno, Nevada, seeking an order authorizing the issuance of unsecured promissory notes payable to such bank or banks from which Applicant may borrow funds, up to but not exceeding $4,000,000 face amount at any one time outstanding for periods not exceeding twelve months from the date of original issue or renewal thereof, as the case may be, such notes issued either originally or upon renewal from time to time to have maturity dates not later than December 31, 1958. Said notes will bear interest at a rate per annum not in excess of one quarter of 1% over the prime rate in effect at the time of the borrowing or the renewal or extension of the loans, as the case may be. The proceeds will be used to reimburse Applicant for construction expenditures heretofore made and, together with other cash from operations, to carry out the construction program in progress and contemplated in 1957 and 1958.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 17th day of June 1957, file with the Federal Power Commission, Washington 25, D. C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–4473; Filed, June 3, 1957; 8:47 a. m.]

[Docket No. G–12066]

MORRIS OIL AND GAS CO., INC.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 27, 1957.

Take notice that Morris Oil and Gas Company, Inc. (Applicant), a West Virginia corporation with its principal place of business in Grantsville, West Virginia, filed an application on February 21, 1957, for permission and approval to abandon service pursuant to section 7 (b) of the Natural Gas Act, 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 to public inspection.

Applicant seeks to abandon the sale of natural gas in interstate commerce to Hope Natural Gas Company (Hope) for resale from production in the Sherman District, Calhoun County, West Virginia, which sale was previously authorized in Docket No. G–5653.

The application states that the volume of gas available for delivery has declined to a point where it is no longer economically feasible to continue such sale.

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 July 9, 1957, at 9:30 a. m., e. d. 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 § 1.30 (c) (1) or (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 June 17, 1957. 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] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–4474; Filed, June 3, 1957; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1065]

INSURED ACCOUNTS FUND

NOTICE OF AND ORDER FOR HEARING ON APPLICATION

MAY 27, 1957.

Notice is hereby given that Insured Accounts Fund ("Fund"), an unincorporated trust organized under the laws of the Commonwealth of Massachusetts, registered under the Investment Company Act of 1940 ("act") as an open-end diversified management investment company, has filed an application pursuant to section 6 (c) of the act for an order exempting it from the provisions of sections 16 (a) and 18 (i) of the act, so as to permit it to issue non-voting certificates of beneficial interest.

Fund was organized under a Declaration of Trust dated April 10, 1957, for the purpose of receiving money from investors by the issuance and sale of certificates of beneficial interest ("certificates") and for the purpose of investing the proceeds in obligations of the United States of America, in accounts of savings and loan associations insured by the Federal Savings and Loan Insurance Corporation, and in bank deposits insured by the Federal Deposit Insurance Corporation.

Under the Declaration of Trust and the By-Laws of Fund complete management and control is vested in its trustees. No provision is made for meetings of certificate holders nor for voting rights of such holders and the trustees themselves are given the right to fill vacancies occurring on the board of trustees.

Section 18 (i) of the act provides, in part, as follows:

(i) Except as provided in subsection (a) of this section, or as otherwise required by law, every share of stock hereafter issued by a registered management company (except a common-law trust of the character described in section 16 (b)) shall be a voting stock and have equal voting rights with every other outstanding voting stock * * *

Section 16 (a) of the act provides, in pertinent part:

(a) No person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company, at an annual or special meeting duly called for the purpose; except that vacancies occurring between such meetings may be filled in any otherwise legal manner if immediately after filling any such vacancy at least two-thirds of the directors then holding office shall have been elected to such office by the holders of the outstanding voting securities of the company at such an annual or special meeting. In the event that at any time less than a majority of the directors of such company holding office at that time were so elected by the holders of the outstanding voting securities, the board of directors or proper officer of such company shall forthwith cause to be held as promptly as possible and in any event within sixty days a meeting of such holders for the purpose of electing directors to fill any existing vacancies in the board of directors unless the Commission shall by order extend such period. The foregoing provisions of this subsection shall not apply to members of an advisory board * * *

Section 35 (d) of the act makes it unlawful for a registered investment company to adopt as part of its name or of any security issued by it any word or words which may be deceptive or misleading.

Section 6 (c) of the act provides that the Commission may conditionally or unconditionally exempt any person or any transaction or class of transactions from any provision of the act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Fund's investment policy as stated in its Declaration of Trust is—

to invest * * * in obligations of the United States of America, insured accounts in savings and loan associations, and in insured accounts in insured banks, as herein provided.

* * * * *

Insured accounts in savings and loan associations are defined to be withdrawable accounts in "insured institutions" as defined in the Act of Congress creating Federal Savings and Loan Insurance Corporation (12 U. S. C. 1724 to 1730) so that each such withdrawable account is fully covered by insurance of accounts provided by Federal Savings and Loan Insurance Corporation. Insured accounts in insured banks are defined to be insured deposits (excluding bank checking accounts) in insured banks, as provided in the Act of Congress creating the Federal Deposit Insurance Corporation (12 U. S. C. 1811 to 1831) so that each such deposit is fully covered by insurance of deposits as provided by Federal Deposit Insurance Corporation.

Fund asserts that in order for its investment accounts in savings and loan associations and its deposits in insured banks (to the extent that they exceed $10,000 in any single institution) to be "fully covered by insurance" as stated in its Declaration of Trust, such accounts and deposits must be carried and deposited by Fund as trustee or fiduciary for its certificate holders as separate and valid trust estates of such certificate holders within the meaning of the Acts of Congress providing for insurance of accounts and deposits, and the rules and regulations adopted under such Acts. Fund further asserts that if voting rights in, and control of, Fund are vested in its certificate holders to the extent required by the cited provisions of the Investment Company Act, Fund would not be considered a trustee or fiduciary within the meaning of the insurance laws cited above and that Fund would not be able to obtain full insurance coverage for its accounts and deposits or multiple insurance for its certificate holders.

The application also points out that section 16 (b) of the act makes the provisions of section 16 (a) inapplicable to investment companies existing at the time the act was passed which were organized as strict common-law trusts and Fund asks that it be treated as a trust organized prior to the enactment of the act.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application;

It is ordered, Pursuant to section 40 (a) of said act, that a hearing on the aforesaid application under the applicable provisions of the act and of the rules of the Commission thereunder, be held on the 17th day of June 1957 at 10:00 a. m., in the offices of the Securities and Exchange Commission, Washington 25, D. C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission his application as provided in Rule XVII of the Commission's rules of practice, on or before the date provided in the Rule, setting forth any issues or law or facts which he desires to controvert or any additional issues which he deems raised by this Notice and Order or by such application.

It is further ordered, That William W. Swift or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether an exemption from sections 18 (i) and 16 (a) of the act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

(2) Whether Fund can obtain the full insurance coverage as claimed.

(3) Whether in light of the facts and circumstances as stated, the name "Insured Accounts Fund" is deceptive or misleading within the meaning of section 35 (d) of the act.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by registered mail to Insured Accounts Fund, Federal Savings and Loan Insurance Corporation and Federal Deposit Insurance Corporation and that notice to all persons shall be given by publication of this Notice and Order in the FEDERAL REGISTER; and that a general release of this Commission in respect of this Notice and Order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 57-4475; Filed, June 3, 1957; 8:48 a. m.]

[File No. 70-3549]

AMESBURY ELECTRIC LIGHT CO. ET AL.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE WITH RESPECT TO MERGER OF PUBLIC UTILITY SUBSIDIARIES OF HOLDING COMPANY

MAY 23, 1957.

In the matter of Amesbury Electric Light Company, Essex County Electric Company, Haverhill Electric Company, Lawrence Electric Company, The Lowell Electric Light Corporation, New England Power Company, New England Electric System; File No. 70-3549.

New England Electric System ("NEES"), a registered holding company, and certain of its subsidiary companies, namely, Amesbury Electric Light Company ("Amesbury"), Essex County Electric Company ("Essex"), Haverhill Electric Company ("Haverhill"), Lawrence Electric Company ("Lawrence"), The Lowell Electric Light Corporation ("Lowell"), and New England Power Company ("NEPCO") having filed with this Commission a joint application-declaration and amendments thereto, pursuant to sections 6 (a), 7, 9 (a), 10, 12 (b), 12 (d), and 12 (e) of the Public Utility Holding Company Act of 1935 and Rules U-44, U-45, and U-62 promulgated thereunder, regarding a proposal whereby, among other things, Amesbury, Haverhill, Lawrence, and Lowell will be merged into Essex which, upon the consummation of such merger, is expected to change its name to Merrimack-Essex Electric Company, and the resultant company will acquire certain transmission lines from NEPCO.

A public hearing having been held after appropriate notice, the Commis-

sion having considered the record and having this day filed its Findings and Opinion herein, on the basis of such Findings and Opinion:

It is ordered, That said joint application-declaration, as amended, be, and it hereby is, granted and permitted to become effective forthwith, subject, however, to the terms and conditions contained in Rule U-24 and subject to the following additional term and condition:

That a copy of these Findings and Opinion and Order be sent to each public stockholder of record of Amesbury, Essex, Haverhill, Lawrence, and Lowell.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57-4476; Filed, June 3, 1957; 8:48 a. m.]

[File No. 22-2096]

BERLINER KRAFT-UND LICHT (BEWAG)-AKTIENGESSELSCHAFT (BERLIN POWER AND LIGHT CO.)

NOTICE OF APPLICATION FOR EXEMPTION

MAY 27, 1957.

Notice is hereby given that Berliner Kraft-Und Licht-Aktiengesselschaft (the Company), a corporation organized and existing under the laws of Germany, has filed an application pursuant to section 304 (d) of the Trust Indenture Act of 1939 for an order exempting from the provisions of sections 310 (a) (3) and 310 (b) (1) of the act 4⅞ Percent Debt Adjustment Debenture Bonds, due January 1, 1978, and 4½ Percent Debt Adjustment Debenture Bonds, due January 1, 1978, to be issued by the Company under an indenture to be dated as of January 1, 1956, between the Company and Schroder Trust Company as trustee and Deutsche Kreditsicherung Kommanditgesselschaft Dr. Alexander Kreuter, a limited partnership as co-trustee, in connection with the Company's offer of settlement to be made pursuant to Annex II of the London Agreement on German External Debts of February 27, 1953, between the Government of the Federal Republic of Germany, the United States of America and other countries.

Section 304 (d) of the act permits the Commission, on application by the issuer and after opportunity for hearing thereon, to exempt by order from any one or more provisions of the act, any security proposed to be issued by a person organized and existing under the laws of a foreign government if and to the extent that the Commission finds that compliance with such provision or provisions is not necessary in the public interest and for the protection of investors.

The application states, with respect to the request for exemption from section 310 (a) (3) of the act to permit the co-trustee to hold title to a security mortgage as follows:

(1) The Company has outstanding debentures which have been in default for many years. The London Agreement provides, among other things, for the consensual settlement of foreign currency obligations of German corporate debtors by the refunding and extension of such obligations.

(2) The Company is liable only for the repayment of debentures which may be validated pursuant to the Validation Law for German Foreign Currency Bonds of August 25, 1952.

(3) The terms of the offer negotiated by the Company for its outstanding obligations provide for the issuance by it of its Debt Adjustment Debenture Bonds, due January 1, 1978, in exchange for its outstanding validated debentures.

(4) Neither the debt adjustment debenture bonds to be issued under the exchange offer nor the outstanding old debentures are secured by any mortgage, pledge, charge or other lien on any of the real property or other assets of the company. However, the terms of the offer of settlement and the new indenture permit the Company, in its discretion, to register in favor of Deutsche Kreditsicherung Kommanditgesselschaft Dr. Alexander Kreuter, the co-trustee under the indenture, as security for the then outstanding debenture bonds and the then outstanding non-surrendered old debentures a security mortgage on substantially all of its fixed assets.

(5) Section 310 (a) (3) of the Trust Indenture Act of 1939 requires that the rights, powers, duties and obligations be conferred upon the American institutional trustee alone or jointly with the co-trustee unless under the laws of any jurisdiction in which acts are to be performed the institutional trustee is incompetent or unqualified to act.

(6) The rights in the security of both the holders of the new obligations and the old obligations are rights in German property, created under German mortgage law and to a large extent dependent upon the interpretation of the German Implementation Law; and such right in the security should be adjudicated only by German courts.

(7) The indenture, under which the new obligations will be issued, specifically requires that the supplemental indenture which must be entered into by the Company and the Trustees prior to the creation of the security mortgage shall, unless otherwise permitted by the Trust Indenture Act as then in effect or any order entered by the Commission with respect to such supplemental indenture, contain provisions conferring all rights and powers, and imposing all duties and obligations, with respect to the security mortgage on the institutional trustee and the co-trustee, jointly, and requiring joint exercise or performance by the institutional trustee and co-trustee of such rights, powers, duties and obligations.

The application states, with respect to the request for exemption from section 310 (b) (1), to permit the same organization to act as co-trustee under the old and new indenture as follows:

(1) The provisions of the German Implementation Law, which was adopted in order to allow an orderly and nondiscriminatory settlement of debts under the London Agreement, prohibit the German debtor from making payments or any other performance with respect to any old obligation until all refunding obligations issued by all German debtors have been paid in full.

(2) By virtue of the provisions of the Implementation Law, the co-trustee under the old indenture is prohibited from taking any action to collect the old debentures out of the general assets of the company or to enforce any of the covenants of such indenture in Germany.

(3) The co-trustee will hold no title to any property of the company subject to any lien and, even though, upon registration of the security mortgage (if this should ever occur) such co-trustee will hold title to the resulting coordinate mortgage securing the old non-surrendered debentures, it is without power, so long as any of the new debenture bonds are outstanding to foreclose such mortgage or to institute any proceedings for such purpose.

(4) Disqualification of the proposed co-trustee pursuant to the provisions of section 310 (b) (1) of the act is not only unnecessary because of the absence of any actual or potential conflict of interest but would be undesirable from the standpoint of the holders of the debenture bonds and the Company.

(5) The co-trustee is one of a very limited group of trust companies in Germany which has had substantial experience with the duties of a co-trustee under indentures subject to United States law. It is presently co-trustee under several indentures entered into in implementation of the London Agreement and is more familiar with the London Agreement and the Implementation Law than any other German organization.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is now on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission at any time on or after June 10, 1957, unless prior thereto a hearing is ordered by the Commission. Any interested person may, not later than June 7, 1957, at 5:30 p. m., e. d. s. t., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57-4477; Filed, June 3, 1957; 8:48 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation No. 63]

CLINICAL THERMOMETERS

INSTITUTION OF INVESTIGATION AND HEARING

Investigation instituted. Upon application of the American Clinical Thermometer Guild, Incorporated, New York, N. Y., received May 23, 1957, the United States Tariff Commission, on the 29th day of May 1957, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted an investigation to determine whether clinical thermometers, finished or unfinished, classifiable under paragraph 218 (a) of the Tariff Act of 1930 are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Public hearing ordered. A public hearing in this investigation will be held beginning at 10 a. m., e. d. s. t., on September 4, 1957, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C. Interested parties desiring to appear and be heard at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date set for hearing.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D. C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: May 29, 1957.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57-4493; Filed, June 3, 1957; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 29, 1957.

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. 33785: *Substituted service—Motor-rail-motor, Pennsylvania R. R.* Filed by The Eastern Central Motor Carriers Association, Inc., for the Pennsylvania Railroad Company, and interested motor carriers. Rates on freight of various commodities loaded in mobilvans (demountable truck or trailer bodies) transported on railroad flatcars between Chicago, Ill., and Kearny, N. J., originating at or destined to points beyond the named points reached by motor carriers.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA No. 33786: *Substituted service—Motor-rail-motor, Pennsylvania R. R.* Filed by The Eastern Central Motor Carriers Association, Inc., for the Pennsylvania Railroad Company, and interested motor carriers. Rates on various commodities, loaded in highway truck trailers and transported on railroad flatcars between Harrisburg, Pa., and Cincinnati, Ohio, on traffic originating at or destined to points on motor carriers beyond the named points.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA No. 33787: *Substituted service—Motor-rail-motor, Pennsylvania R. R.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for The Pennsylvania Railroad Company, and interested rail carriers. Rates on various commodities loaded in highway truck trailers and transported on railroad flat cars between Detroit, Mich., and Baltimore, Md.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA: No. 33788: *Substituted service—Motor-rail-motor, Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., for The Pennsylvania Railroad Company, and interested motor carriers. Rates on various commodities loaded in highway trailers and transported on railroad flat cars between Cleveland, Ohio, and Philadelphia, Pa., on traffic originating at or destined to points on motor carriers beyond the named points.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, I. C. C. 15.

FSA No. 33789: *Substituted service—Motor-rail-motor, Pennsylvania, D. & H., and B. & M. Railroads.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on various commodities, loaded in highway trailers and transported on railroad flat cars between East Cambridge and Worcester, Mass., on the one hand, and Chicago and East St. Louis, Ill., Cincinnati, and Cleveland, Ohio, Detroit, Michigan., Indianapolis, Ind., and Louisville, Ky., on the other.

Grounds for relief: motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA No. 33790: *Substituted service—Motor-rail-motor, B. & M., D. & H., and Erie Railroads.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on various commodities, loaded in highway truck trailers and transported on railroad flat cars, between East Cambridge, Mass., and Hammond, Ind., on traffic originating at or destined to points on motor carriers beyond the named points.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Ind., Agent, tariff I. C. C. 15.

FSA No. 33791: *Substituted service—Motor-rail-motor, N. Y., N. H., & H. and Pennsylvania Railroads.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on various commodities, loaded in highway truck trailers, and transported on railroad flat cars between Boston, Mass., on the one hand and Chicago and East St. Louis, Ill., Cleveland, Ohio, and Indianapolis, Ind., on the other.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA No. 33792: *Substituted service—Motor-rail-motor, Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for The Pennsylvania Railroad Company, and interested motor carriers. Rates on various commodities loaded in highway truck trailers and transported on railroad flat cars between Harrisburg, Pa., on the one hand, and Chicago and East St. Louis, Ill., Cincinnati and Cleveland, Ohio, and Indianapolis, Ind., on the other, on traffic originating at or destined to points on motor carriers beyond the named points.

Grounds for relief: Motor carrier competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

FSA No. 33793: *Substituted service—Motor-rail-motor, Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers, Association, Inc., Agent, for The Pennsylvania Railroad Company, and interested motor carriers. Rates on various commodities loaded in highway truck trailers and transported on railroad flat cars between Kearny, N. J., or Philadelphia, Pa., on one hand, and Cleveland, Ohio, and Indianapolis, Ind., on the other, on traffic originating at or destined to points on motor carriers beyond the named points.

Grounds for relief: Motor truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., Agent, tariff I. C. C. 15.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 57-4479; Filed, June 3, 1957; 8:49 a. m.]