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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE AIR FORCE

Effective upon publication in the FEDERAL REGISTER, the exception of Civilian Director of Logistics Plan in § 6.107 (f) (2) is revoked; the expiration date of June 30, 1952, of paragraphs (a) (4), (f) (1), (f) (2), (g) (2), (h) (1), (h) (2), and (i) (1) of § 6.107 is extended to June 30, 1953.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] L. A. MOYER,
Executive Director.

[F. R. Doc. 52-6313; Filed, June 9, 1952; 8:45 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

DISPOSITION OF SURPLUS TONNAGE

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and of the marketing Agreement, as amended, and the order, as amended (16 F. R. 8437), regulating the handling of dried prunes produced in California, hereinafter referred to as the "order," it is hereby found and determined, that the words "to handlers" appearing in the first sentence of § 993.63 (b) (1) of the order, and the last two sentences of § 993.63 (b) (1) of the said order no longer tend to effectuate the declared policy of the act, and that they should be suspended. As so suspended, said § 993.63 (b) (1) will read as follows:

§ 993.63 *Disposition of surplus tonnage.* * * *

(b) *Sales for export*—(1) *Countries included in estimate of salable percentage.* In the event it appears that the total salable tonnage is not sufficient to meet the estimated domestic and foreign requirements due to the expansion of foreign markets in countries which were considered in estimating the salable percentage to a greater extent than was anticipated at the time of such estimate, the committee may offer to sell, and sell, surplus standard prunes for sale into, and for use in, such foreign channels in such quantities as are necessary to meet the increased demand.

The above-mentioned determination is predicated on the fact that the Prune Administrative Committee, the administrative agency for operations under this program, still has in its possession for disposition a relatively large quantity of surplus standard prunes which it is unable to sell readily in authorized domestic surplus outlets at prices which will be the most advantageous to the persons beneficially interested therein. While some of such prunes might be sold in domestic surplus outlets for such a low-priced usage as animal feed, such sales could not be made at desirable prices. However, it now appears that all, or a large part, of these surplus standard prunes can be sold into export channels at higher prices, if certain restrictions which are now prescribed in § 993.63 (b) (1) of the order are made inoperative. These restrictions which now preclude the making of such sales are as follows: (1) Such sales must be made only to prune handlers for resale in foreign countries; (2) they may not be made at a price below that which reflects the average price received by producers for salable tonnage during the current crop year, plus accrued charges for receiving and storing such surplus; and (3) each such offer to sell must be made to all exporting handlers on a pro rata basis. The permitting of the Prune Administrative Committee to make these sales to any and all persons in its discretion at negotiated prices, and without having to offer to sell pro rata to all exporting handlers the quantities involved should permit the Committee to make such sales in export channels ex-

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FEDERAL REGISTER

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CODIFICATION GUIDE—Con.

peditiously, in large volume, and at the highest prices obtainable. These desirable objectives would be accomplished by the presently proposed suspension action. It is vitally necessary, if the contemplated sales in export channels are to be made, that such sales be completed within a short time, as otherwise it seems that such sales may not be made. The Prune Administrative Committee is now negotiating for the making of such sales on the presently contemplated basis, and it is reasonable to expect that such sales will be consummated in considerable volume if the necessary action can be taken promptly. In this connection, it is required, in § 993.63 (h) of the order, that any surplus tonnage not disposed of by the Prune Administrative Committee by July 31 of the particular crop year (i. e., July 31, 1952, in this instance) must be disposed of thereafter for low-priced uses. The sale of these prunes into export channels would result in higher prices being received for them, with a consequent benefit to prune producers.

Notice of proposed rule making, public procedure thereon, and the delaying of the making of this order effective any later than the time of its execution (see Section 4 of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.), are impracticable, unnecessary, and contrary to the public interest. For the reasons which are set forth above, it is imperative that this order become effective as soon as it is issued. Such action is necessary to enable advantage be taken of the opportunity to make dispositions of these surplus standard prunes in the most advantageous outlets available, and will be for the best interest of the prune producers. The changes effected by this action will not require any preparation by handlers prior to its effective date, but the circumstances are such that it may be made operative immediately upon its execution. The taking of this action has been requested by the unanimous vote of the Prune Administrative Committee, which represents all segments of the prune industry.

It is therefore ordered, That the words "to handlers" in the first sentence of § 993.63 (b) (1) of the order and the provisions of the last two sentences of said § 993.63 (b) (1) be, and they hereby are, suspended, effective on and after the time of the execution of this document.

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

Issued at Washington, D. C., this 5th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-6340; Filed, June 9, 1952; 8:50 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter II—Office of Alien Property, Department of Justice

PART 502—RULES OF PROCEDURE FOR CLAIMS

MISCELLANEOUS AMENDMENTS

Part 502—Rules of Procedure for Claims, Subpart A, General Rules, is hereby amended as follows:

1. Section 502.2 (m) is hereby amended to read as follows:

§ 502.2 *Definitions.* * * *

(m) The term "Chief Hearing Examiner" refers to the hearing examiner designated as such by the Director.

2. Section 502.27 is hereby amended to read as follows:

§ 502.27 *Motion to dismiss.* (a) Motion to dismiss any claim may be made by the Chief of the Claims Branch, which motion shall be in writing and shall state the reasons in support thereof. The Chief of the Claims Branch shall obtain from the Chief Hearing Examiner a date and place of hearing. Thereupon the Chief of the Claims Branch shall serve a copy of the motion, together with a notice of the date and place of hearing, upon all parties, and shall docket the motion and statement of service with the Chief Hearing Examiner.

(b) Hearing on the motion shall be held at the time and place specified in the notice, or at such other time and place as may be fixed by the Hearing Examiner.

(c) Briefs may be submitted before the hearing, at the hearing, or if the Hearing Examiner has reserved ruling on the motion, within a time fixed by the Hearing Examiner after the close of hearing.

(d) Hearing before a Hearing Examiner may be waived by the parties and the matter submitted to the Director on briefs.

(e) Motion to dismiss a claim proceeding shall be granted by the Hearing Examiner, when the claim on its face is not allowable or when it appears that the claim has been abandoned.

(f) Unless review is undertaken by the Director, the decision of the Hearing Examiner upon the motion shall be final and shall be the decision of this Office. The review and appeal provisions of § 502.23 shall apply to decisions of the Hearing Examiner upon such motions.

3. Section 502.28 (a) is amended by addition of the following sentence: "Service by the Chief of the Claims Branch of a notice of the date and place of hearing of a motion shall be in the manner set forth in this paragraph.

(Sec. 301, 55 Stat. 839; 50 U. S. C. App. 616; E. O. 9142, April 21, 1942, 7 F. R. 2985; 3 CFR 1943 Cum. Supp.; E. O. 9725, May 16, 1946, 11 F. R. 5381; 3 CFR 1946 Supp.; E. O. 9788, Oct. 14, 1946, 11 F. R. 11981, 12123, 3 CFR 1946 Supp.)

Executed at Washington, D. C., this 4th day of June 1952.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 52-6365; Filed, June 9, 1952; 8:58 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 309, Amdt. 6]

PART 71—GENERAL PROVISIONS

PART 78—BRUCELLOSIS AND PARATUBERCULOSIS IN DOMESTIC ANIMALS

DEFINITION OF TERM INTERSTATE; INTERSTATE MOVEMENT OF DOMESTIC ANIMALS AFFECTED WITH BRUCELLOSIS OR PARATUBERCULOSIS

On March 26, 1952, there was published in the FEDERAL REGISTER (17 F. R. 2626) a notice of proposed rule-making concerning amendments of the regulations, appearing in Title 9, Chapter 1, Subchapter C, Code of Federal Regula-

tions, which govern the interstate transportation of animals and poultry (9 CFR and Supp. 71.1 et seq). The purpose of the proposed amendments was to define the word "interstate" as used in said Subchapter C and to add to the said subchapter a new Part 78 regulating the interstate movement of domestic animals affected with brucellosis or paratuberculosis. After due consideration of relevant matters presented, and pursuant to the authority vested in him by the acts of Congress approved May 29, 1884, as amended (21 U. S. C. 112–119, 130, and Public Law 238, 82d Cong.), February 2, 1903, as amended (21 U. S. C. 111, 120–122), and March 3, 1905, as amended (21 U. S. C. 123–128), the Secretary of Agriculture hereby amends the said Subchapter C in the following respects:

1. By adding to the definitions appearing in § 71.1 a new paragraph (l) to read as follows:

(l) *Interstate.* From one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia.

(Sec. 2, 32 Stat. 792, ch. 30, 45 Stat. 59, Pub. Law 238, 82d Cong.; 21 U. S. C. 111)

2. By adding, at the end of said Subchapter C, a new part 78, to read as follows:

PART 78—BRUCELLOSIS AND PARATUBERCULOSIS IN DOMESTIC ANIMALS

Sec.

78.1 Interstate movements of paratuberculous and brucellosis-affected domestic animals for immediate slaugher; when permitted.

78.2 Reshipments of purebred reactors.

AUTHORITY: §§ 78.1 and 78.2 issued under sec. 2, 32 Stat. 792, ch. 30, 45 Stat. 59, Pub. Law 238, 82d Cong.; 21 U. S. C. 111. Interpret or apply secs. 6, 7, 23 Stat. 32, as amended, sec. 3, 33 Stat. 1265, as amended; 21 U. S. C. 115, 117, 125.

§ 78.1 *Interstate movements of paratuberculous and brucellosis-affected domestic animals for immediate slaughter; when permitted.* Domestic animals which have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have reacted to a test recognized by the Secretary of Agriculture for brucellosis may be shipped, transported, received for transportation, or otherwise moved interstate for immediate slaughter to a slaughtering establishment operating under the provisions of the Meat Inspection Act of March 4, 1907 (34 Stat. 1260; 21 U. S. C. 71 et seq.), or to a public stockyard where Federal inspection is maintained, for sale to such a slaughtering establishment, in accordance with the following requirements:

(a) Cattle which have reacted to either of such tests shall be marked for identification by branding on the left jaw, in letters not less than 2 nor more than 3 inches high, the letter "B" for brucellosis or the letter "T" for paratuberculosis, as the case may be, and attaching to the left ear a metal tag bearing a serial number and the inscription "U. S. B. A. I. Reacted", or a similar State reactor tag. The metal tag only, affixed to the left ear, shall be sufficient identification for reactors other than cattle.

(b) The reactors shall be accompanied to destination by a certificate issued by a Bureau inspector or a regularly employed State inspector engaged in cooperative brucellosis or paratuberculosis-eradication work, showing (1) that the animals have reacted to a test recognized by the Secretary of Agriculture for brucellosis or paratuberculosis, as the case may be; (2) that they may be moved interstate; and (3) the purpose for which they are to be moved.

(c) The transportation agency shall plainly write or stamp upon the face of each of the waybills, conductors' manifests, or memoranda pertaining to shipments of such reactors the words "Brucellosis Reactors" or "Paratuberculosis Reactors," as the case may be, and a statement to the effect that the vehicle or compartment of the boat in which the animals are to be transported is to be cleaned and disinfected.

(d) The vehicle or the compartment of the boat in which the reactors are transported interstate shall be cleaned and disinfected under the supervision of a Bureau inspector or a regularly employed cooperating State livestock inspector, by the final carrier, at destination, in accordance with the provisions of §§ 71.9 to 71.11, inclusive, of this subchapter.

(e) Any vehicle from which reactors moving interstate are transferred en route to destination shall be cleaned and disinfected in accordance with the provisions of §§ 71.9 to 71.11, inclusive, of this subchapter, by the carrier having possession of the vehicle at the time of transfer.

(f) The reactors shall not be shipped or transported in vehicles or in compartments of boats containing healthy animals susceptible to brucellosis or paratuberculosis unless all of the animals are for immediate slaughter or unless the reactors are kept separate from the other animals by a partition securely affixed to the sides of the vehicle or compartment.

§ 78.2 *Reshipments of purebred reactors.* Purebred animals which have been moved interstate for breeding purposes, and which, subsequent to such movement, have reacted to a test recognized by the Secretary of Agriculture for paratuberculosis or which, never having been vaccinated for brucellosis, have, subsequent to such movement, reacted to a test recognized by the Secretary of Agriculture for brucellosis, may be reshipped interstate for purposes other than immediate slaughter in accordance with the following requirements:

(a) The reactors shall be returned to the point of origin, consigned to the original owner.

(b) The reactors shall not be shipped or transported in vehicles or in compartments of boats containing healthy animals susceptible to brucellosis or paratuberculosis unless such reactors are kept separate from the other animals by a partition securely affixed to the sides of the vehicle or compartment.

(c) The reactors shall be accompanied to destination by a certificate issued by a Bureau inspector or a regularly employed State inspector engaged in cooperative brucellosis or paratuberculosis-eradication work, showing (1) that the animals have reacted to a test recognized by the Secretary of Agriculture for brucellosis or paratuberculosis, as the case may be; (2) that they may be shipped interstate; and (3) the purpose for which they are to be shipped.

(d) Test charts for the original test and any subsequent retest, showing that such tests were properly conducted, shall be submitted for examination to the Bureau or State inspector who issues the certificate.

(e) Reactor cattle shall be marked for identification by branding on the left jaw, in letters not less than 2 nor more than 3 inches high, the letter "B" for brucellosis or the letter "T" for paratuberculosis, as the case may be, and attaching to the left ear a metal tag bearing a serial number and the inscription "U. S. B. A. I. Reacted", or a similar State reactor tag. The metal tag only, affixed to the left ear, shall be sufficient identification for reactors other than cattle.

(f) The reactors shall not be shipped to any State or Territory or the District of Columbia without specific provision by the appropriate livestock sanitary official thereof for the segregation or quarantine of such reactors until their death by slaughter or from natural causes.

(g) The reactor shall not again be moved interstate except for immediate slaughter in accordance with the provisions of § 78.1.

(h) The vehicle or the compartment of the boat in which the reactors are transported interstate shall be cleaned and disinfected under the supervision of a Bureau inspector or a regularly employed cooperating State livestock inspector, by the final carrier, at destination in accordance with the provisions of §§ 71.9 to 71.11, inclusive, of this subchapter.

The foregoing amendments shall become effective on the 10th day of July 1952.

Done at Washington, D. C., this 5th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-6349; Filed, June 9, 1952; 8:53 a. m.]

Chapter III—Bureau of Dairy Industry, Department of Agriculture

PART 301—SANITARY INSPECTION OF PROCESS OR RENOVATED BUTTER

MISCELLANEOUS AMENDMENTS

Pursuant to the applicable provisions of an act of Congress approved June 24, 1946, entitled "An Act to authorize the condemnation of materials which are intended for use in process or renovated butter and which are unfit for human consumption, and for other purposes" (60 Stat. 300; 26 U. S. C. 2325, 2326, and 2327) the amended regulations (16 F. R. 10149) relating to the sanitary inspection of process or renovated butter, here-

tofore issued in connection with the above-mentioned act, are hereby further amended, effective as of the time of the execution of this document, in the following respects:

1. Add, immediately after § 301.9, a new § 301.9a reading as follows:

§ 301.9a *Process or renovated butter factory.* One or more plants, storehouses, and other premises where process or renovated butter is manufactured (either in whole or in part), packaged, stored, or otherwise handled, and all premises where ingredients intended for use therein are stored, which are operated under the same management and so long as they are considered to be on the same bonded premises by, and are covered under the same bond in that connection to, the Bureau of Internal Revenue, United States Treasury Department: *Provided,* That, if any such manufacturing operation is conducted as aforesaid in part at a plant at one location and in part at a plant at another location, all ingredients handled, including (but not limited to) butter oil, shall be used exclusively by that bonded manufacturer at his factory in the manufacture of process or renovated butter.

2. Amend the proviso at the end of § 301.12 to read as follows: ": *Provided, however,* That butter oil may be stored under seal in commercial cold storage warehouses."

3. Amend § 301.25 by changing the period at the end thereof to a colon and adding, immediately thereafter, the following: ": *And provided further,* That butter oil which is produced at one plant of a process or renovated butter factory may be transported to and used in the manufacture of process or renovated butter at another plant of the same factory if (a) said butter oil is transported between the two plants under seal, and (b) prior to the production of such butter oil all ingredients used in such production were inspected and passed pursuant to the requirements of this part."

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and delay the effective date of this amendatory action later than the time of the execution of this document (see section 4 of the Administrative Procedure Act; 5 U. S. C. 1001 et sec.). The renovated or process butter manufacturers who were covered under this act and these regulations were recently reorganized as one company, and such company is now the only person covered thereunder. These further amendments are necessary to adapt the amended regulations to cover this new situation satisfactorily. It is imperative that such further amendments be put into effect immediately in order to allow the new company to operate its business efficiently. Such further amendments have previously been discussed by officials of the Bureau of Dairy Industry of the Agricultural Research Administration of this Department with appropriate officials of the new company, as well as with appropriate officials of the Bureau of Internal Revenue of the United States Treasury Department, which latter Bureau also exercises governmental supervision over plants of this nature from a tax standpoint, and it is mutually agreed by all such officials that these further changes are appropriate and necessary, and that they should be made effective as soon as practicable. No advance preparation for the putting of these further amendments into effect will be needed.

(Sec. 1, 60 Stat. 300; 26 U. S. C. 2325)

Issued at Washington, D. C., and to become effective on, this 5th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-6338; Filed, June 9, 1952; 8:50 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 69]

PART 600—DESIGNATION OF CIVIL AIRWAYS

ALTERATIONS

The civil airway alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

Part 600 is amended as follows:

1. Section 600.11 is amended to read:

§ 600.11 *Green civil airway No. 1 (Patricia Bay, British Columbia to United States-Canadian Border via Millinocket, Maine).* That airspace over United States territory lying within 2 miles either side of the southwest course of the Vancouver, British Columbia, radio range between the intersection of the north course of the Patricia Bay, British Columbia, radio range and the southwest course of the Vancouver, British Columbia, radio range and the Vancouver, British Columbia, radio range station. That airspace over United States territory lying within 5 miles either side of direct lines from the Megantic, Quebec, Canada, radio range station via the Millinocket, Maine, radio range station to the Fredericton, New Brunswick, radio range station.

2. Section 600.16 *Green civil airway No. 6 (Laredo, Tex., to Norfolk, Va.)* is amended between the Palacios, Tex., radio range station and the Lake Charles, La., radio range station by deleting the following portion: "Houston, Tex., radio range station; Beaumont, Tex., radio range station; Lake Charles, La., radio range station;" and by adding the following portion to read: "the intersection of the southeast course of the Palacios, Tex., radio range and the southwest course of the Galveston, Tex., radio range; Galveston, Texas, radio range station; Lake Charles, La., radio range station;

3. Section 600.103 *Amber civil airway No. 3 (El Paso, Tex., to Great Falls, Mont.)* is amended by deleting the portion which reads: "the intersection of the north course of the Cheyenne, Wyo., radio range and the southeast course of the Douglas, Wyo., radio range; Douglas, Wyo., radio range station; the intersection of the northwest course of the Douglas, Wyo., radio range and the east course of the Casper, Wyo., radio range; Casper, Wyo., radio range station;" and by adding the following portion in lieu thereof: "the intersection of the north course of the Cheyenne, Wyo., radio range and the east course of the Casper, Wyo., radio range; Casper, Wyo., radio range station;"

4. Section 600.209 *Red civil airway No. 9 (San Diego, Calif., to Winslow, Ariz.)* is amended between the Yuma, Ariz., radio range station and the Gila Bend, Ariz., radio range station by adding the following portion to read: "the intersection of the east course of the Yuma, Ariz., radio range and the west course of the Gila Bend, Ariz., radio range;"

5. Section 600.248 *Red civil airway No. 48 (Missoula, Mont., to Livingston, Mont.)* is amended by correcting name of facility at Livingston, Mont., from "radio marker station." to "radio range station."

6. Section 600.296 is added to read:

§ 600.296 *Red civil airway No. 96 (Palacios, Tex., to Baton Rouge, La.).* From the Palacios, Tex., radio range station via the Houston, Tex., radio range station; Beaumont, Tex., radio range station to the Lake Charles, La., radio range station. From the intersection of the east course of the Lake Charles, La., radio range and the southwest course of the Baton Rouge, La., radio range via the Baton Rouge, La., radio range station to the Madisonville, La., fan marker.

7. Section 600.632 *Blue civil airway No. 32 (Pendleton, Oreg., to Talkeetna, Alaska)* is amended between the Seattle Wash., radio range station and the United States-Canadian Border to read: "From the Seattle, Wash., radio range station via the intersection of the northwest course of the Seattle, Wash., radio range and the south course of the Patricia Bay, British Columbia, radio range; the Patricia Bay, British Columbia, radio range station to the intersection of the north course of the Patricia Bay, British Columbia, radio range and the southeast course of the Comox, British Columbia, radio range, excluding the portion which lies outside the continental United States."

8. Section 600.641 is amended to read:

§ 600.641 *Blue civil airway No. 41 (Hartford, Conn., to United States-Canadian Border).* From the Hartford, Conn., radio range station via the intersection of the northwest course of the Hartford, Conn., radio range and the south course of the Westfield, Mass., radio range; Westfield, Mass., radio range station; the intersection of the north course of the Westfield, Mass., radio range and the southwest course

of the Concord, N. H., radio range; Concord, N. H., radio range to the Portland, Maine, radio range station. From the Bangor, Maine, radio range station to the intersection of the northeast course of the Bangor, Maine, radio range and the United States-Canadian border.

9. Section 600.645 *Blue civil airway No. 45 (Lake Charles, La., to Baton Rouge, La.)* is revoked.

10. Section 600.6004 is amended by changing the caption to read: "*VOR civil airway No. 4 (Portland, Oreg., to Washington, D. C.)*", by changing the first portion to read: "From the Portland (Manor), Oreg., omnirange station via the The Dalles, Oreg., omnirange station; intersection of the The Dalles omnirange 96° True and the Pendleton omnirange 254° True radials;", and by changing the portion between St. Louis, Mo., omnirange station and Louisville, Ky., omnirange station to read: "St. Louis, Mo., omnirange station, including a north alternate; Evansville, Ind., omnirange station, including a south alternate; the intersection of the Evansville omnirange 80° True and the Louisville omnirange 269° True radials; Louisville, Ky., omnirange station."

11. Section 600.6006 is amended by changing caption to read: "*VOR civil airway No. 6 (Oakland, Calif., to New York, N. Y.)*", by adding the following first portion to read: "From the Oakland, Calif., omnirange station via the Sacramento, Calif., omnirange station; intersection of Sacramento omnirange 40° True and the Reno omnirange 268° True radials; Reno, Nev., omnirange station; Lovelock, Nev., omnirange station; Battle Mt., Nev., omnirange station to the Wells, Nev., omnirange station.", and by deleting "Millersburg, Ind., omnirange station, including a south alternate;" and adding in lieu thereof: "Goshen, Ind., omnirange station, including a south alternate;"

12. Section 600.6007 *VOR civil airway No. 7 (Miami, Fla., to Milwaukee, Wis.)* is amended by changing the last portion to read: "From the Evansville, Ind., omnirange station via the Terre Haute, Ind., omnirange station, including a west alternate; La Fayette, Ind., omnirange station, including a west alternate; Chicago Heights, Ill., omnirange station, including an east and a west alternate; the intersection of the Chicago Heights omnirange 342° True and the Milwaukee omnirange 179° True radials to the Milwaukee, Wis., omnirange station."

13. Section 600.6008 *VOR civil airway No. 8 (Long Beach, Calif., to Washington, D. C.)* is amended by deleting "Millersburg, Ind., omnirange station;" and by adding in lieu thereof: "Goshen, Ind., omnirange station;"

14. Section 600.6012 *VOR civil airway No. 12 (Albuquerque, N. Mex., to Philadelphia, Pa.)* is amended by deleting "Loogootee, Ill., omnirange station, including a north alternate;" and by adding in lieu thereof; "Vandalia, Ill., omnirange station, including a north alternate;"

15. Section 600.6014 *VOR civil airway No. 14 (Roswell N. Mex., to Boston, Mass.)* is amended by deleting "Loogootee, Ill., omnirange station, including a north alternate;" and by adding in lieu thereof: "Vandalia, Ill., omnirange station, including a north alternate;"

16. Section 600.6021 *VOR civil airway No. 21 (Long Beach, Calif., to United States-Canadian Border)* is amended between Delta, Utah, omnirange station and Salt Lake City, Utah, omnirange station to read: "Delta, Utah, omnirange station; intersection of the Delta omnirange 023° True and Salt Lake City omnirange 179° True radials; Salt Lake City, Utah, omnirange station;"

17. Section 600.6022 is amended to read:

§ 600.6022 *VOR civil airway No. 22 (Mobile, Ala., to Tallahassee, Fla.)*. From the Mobile, Ala., omnirange station via the intersection of the Mobile omnirange 70° True and the Crestview omnirange 274° True radials; Crestview, Fla., omnirange station; Marianna, Fla., omnirange station to the Tallahassee, Fla., omnirange station, excluding that portion above 19,000 feet which lies within the Tyndall AFB danger area (Area II), between sunset and sunrise.

18. Section 600.6023 is amended to read:

§ 600.6023 *VOR civil airway No. 23 (San Diego, Calif., to Bellingham, Wash.)*. From the San Diego, Calif., omnirange station via the intersection of the San Diego omnirange 337° True and the Long Beach omnirange 133° True radials to the Long Beach, Calif., omnirange station. From the Bakersfield, Calif., omnirange station via the Fresno, Calif., omnirange station; Modesto, Calif., omnirange station; Sacramento, Calif., omnirange station to the Red Bluff, Calif., omnirange station. From the Medford, Oreg., omnirange station via the Eugene, Oreg., omnirange station; Portland (Manor), Oreg., omnirange station, including a west alternate via the intersection of the Eugene omnirange 341° True and the Newburg omnirange 204° True radials, the Newburg, Oreg., omnirange station, and the intersection of the Newburg omnirange 020° True and the Portland (Manor) omnirange 234° True radials; intersection of the Portland (Manor) omnirange 353° True and the Seattle omnirange 197° True radials, excluding that portion which overlaps the Fort Lewis danger area; Seattle, Wash., omnirange station; intersection of the Seattle omnirange 359° True and the Bellingham omnirange 169° True radials to the Bellingham, Wash., omnirange station.

19. Section 600.6025 is amended to read:

§ 600.6025 *VOR civil airway No. 25 (Oakland, Calif., to Red Bluff, Calif.)*. From the Oakland, Calif., omnirange station via the Sacramento, Calif., omnirange station to the Red Bluff, Calif., omnirange station.

20. Section 600.6027 is amended to read:

§ 600.6027 *VOR civil airway No. 27 (San Francisco, Calif., to Oakland, Calif.)*. From the San Francisco, Calif., omnirange station to the Oakland, Calif., omnirange station.

21. Section 600.6028 is amended to read:

§ 600.6028 *VOR civil airway No. 28 (Oakland, Calif., to Modesto, Calif.)*. From the Oakland, Calif., omnirange station to the Modesto, Calif., omnirange station.

22. Section 600.6032 is amended to read:

§ 600.6032 *VOR civil airway No. 32 (Wells, Nev., to Fort Bridger, Wyo.)*. From the Wells, Nev., omnirange station via to the Wendover, Utah, omnirange station; Salt Lake City, Utah, omnirange station to the Fort Bridger, Wyo., omnirange station.

23. Section 600.6040 *VOR civil airway No. 40 (Flint, Mich., to Pittsburgh, Pa.)* is amended by deleting "Lansing, Mich., omnirange 74° True" and by adding in lieu thereof: "Lansing, Mich., omnirange 71° True"

24. Section 600.6048 *VOR civil airway No. 48 (Burlington, Iowa, to Chicago Heights, Ill.)* is amended by deleting "Burlington omnirange 94° True" and by adding in lieu thereof: "Burlington omnirange 93° True"

25. Section 600.6055 *VOR civil airway No. 55 (Dayton, Ohio, to Muskegon, Mich.)* is amended by deleting "Millersburg, Ind., omnirange station;" and by adding in lieu thereof: "Goshen, Ind., omnirange station;"

26. Section 600.6059 *VOR civil airway No. 59 (Evansville, Ind., to Bradford, Ill.)* is amended by changing first portion to read: "From the Evansville, Ind., omnirange station to the Vandalia, Ill., omnirange station, including an east alternate."

27. Section 600.6066 *VOR civil airway No. 66 (San Diego, Calif., to Midland, Tex.)* is amended between Yuma, Ariz., omnirange station and Gila Bend, Ariz., omnirange station to read: "Yuma, Ariz., omnirange station; intersection of the Yuma omnirange 87° True and the Gila Bend omnirange 261° True radials; Gila Bend, Ariz., omnirange station;"

28. Section 600.6084 *VOR civil airway No. 84 (Lansing, Mich., to Flint, Mich.)* is amended by deleting "Lansing omnirange 74° True" and by adding in lieu thereof: "Lansing omnirange 71° True"

29. Section 600.6101 is amended to read:

§ 600.6101 *VOR civil airway No. 101 (Ogden, Utah, to Burley, Idaho)*. From the Ogden, Utah, omnirange station to the Burley, Idaho, omnirange station.

30. Section 600.6109 is added to read:

§ 600.6109 *VOR civil airway No. 109* [Unassigned.]

31. Section 600.6110 is added to read:

§ 600.6110. *VOR civil airway No. 110 (San Francisco, Calif., to Modesto, Calif.)*. From the point of intersection of the San Francisco omnirange 218° True radial and a line bearing 319° True from the Salinas, Calif., VHF VAR station via the San Francisco, Calif., omnirange station; intersection of the San Francisco omnirange 038° True and the Modesto omnirange 273° True radials to the Modesto, Calif., omnirange station.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 302. 52 Stat. 985, as amended; 49 U. S. C. 452)

This amendment shall become effective 0001, e. s. t., June 10, 1952.

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

[F. R. Doc. 52-6315; Filed, June 9, 1952; 8:46 a. m.]

[Amdt. 74]

PART 601—DESIGNATION OF CONTROL AREAS, CONTROL ZONES, AND REPORTING POINTS

ALTERATIONS

The control area, control zone and reporting point alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted to become effective when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest, and therefore is not required.

Part 601 is amended as follows:

1. Section 601.11 is amended by changing caption to read:

§ 601.11 *Green civil airway No. 1 control areas (Patricia Bay, British Columbia, to United States-Canadian Border via Millinocket, Maine).*

2. Section 601.101 is amended to read:

§ 601.101 *Amber civil airway No. 1 control areas (United States-Mexican Border to Nome, Alaska).* Those portions of Amber civil airway No. 1 within the limits of the continental United States. From the intersection of the southeast course of the Sitka, Alaska, radio range and the United States-Canadian Border to a line extended at right angles across such airway through a point 25 miles northwest of the McGrath, Alaska, radio range station. From a line extended at right angles across such airway through a point 50 miles southeast of the Nome, Alaska, radio range station to the Nome, Alaska, radio range station.

3. Section 601.239 is amended to read:

§ 601.239 *Red civil airway No. 39 control areas (Bethel, Alaska, to Fairbanks, Alaska).* From a line extended at right angles across such airway through a point 25 miles southwest of the McGrath, Alaska, radio range station to the Fairbanks, Alaska, radio range station.

4. Section 601.296 is added to read:

§ 601.296 *Red civil airway No. 96 control areas (Palacios, Tex., to Baton Rouge, La.).* All of Red civil airway No. 96.

5. Section 601.641 is amended by changing caption to read:

§ 601.641 *Blue civil airway No. 41 control areas (Hartford, Conn., to United States-Canadian Border).*

6. Section 601.645 *Blue civil airway No. 45 control areas (Lake Charles, La., to Baton Rouge, La.)* is revoked.

7. Section 601.1137 *Control area extension (Key West, Fla.)* is amended by changing name "Miami West Oceanic control area" to read: "New Orleans Oceanic Control Area."

8. Section 601.1171 is amended to read:

§ 601.1171 *Control area extension (El Paso, Tex.).* Within 5 miles either side of the north course of the El Paso radio range extending from the radio range station to a point 10 miles north of the Newman non-directional radio beacon, excluding the portion which overlaps danger areas, and all that area south of El Paso bounded on the northeast by VOR civil airway No. 66, on the south by a line 5 miles south of and parallel to a direct line between the Clint, Tex., non-directional radio beacon and the Hudspeth, Tex., omnirange station, and on the west by a line 5 miles west of and parallel to the centerline of the south course of the El Paso, Tex., radio range, excluding the portion which lies outside the continental limits of the United States.

9. Section 601.1206 is amended to read:

§ 601.1206. *Control area extension (Midland, Tex.).* From the Midland, Tex., radio range station extending 5 miles on the northeast side of the southeast course of the radio range to a point 25 miles southeast of the radio range station, and all that area between the Midland, Tex., radio range station and the El Paso, Tex., radio range station bounded on the north by Green civil airway No. 5 and on the south by VOR civil airway No. 66.

10. Section 601.1213 is added to read:

§ 601.1213 *Control area extension (Chatsworth, Calif.).* All that area bounded on the northwest by Green civil airway No. 4, on the east by Amber civil airway No. 1, and on the south by Red civil airway No. 90.

11. Section 601.1227 *Control area extension (Tampa, Fla.)* is revoked.

12. Section 601.1227 is added to read:

§ 601.1227 *Control area extension (Lovelock, Nev.).* From the Lovelock, Nev., omnirange station extending 5 miles either side of the 18° True radial of the omnirange to a point 15 miles north, and extending 5 miles either side of the 198° True radial of the omnirange to Green civil airway No. 3.

13. Section 601.1230 *Control area extension (Miami, Fla.)* is amended by changing name "Miami Oceanic Control Area" to read: "New Orleans Oceanic Control Area."

14. Section 601.1257 *Control area extension (Millersburg, Ind.)* is revoked.

15. Section 601.1257 is added to read:

§ 601.1257 *Control area extension (Goshen, Ind.).* All that area within a 15 mile radius of the Goshen, Ind., omnirange station.

16. Section 601.1282 *Control area extension (Wichita, Kans.)* is amended by adding the following portion of present control area extension: "and all that area south of the Wichita, Kans., radio range station bounded on the southwest by Blue civil airway No. 22, on the west by Blue civil airway No. 5 and on the northeast by VOR civil airway No. 73, and the area bounded on the northeast by Blue civil airway No. 22, on the southwest by VOR civil airway No. 74 and on the west by Blue civil airway No. 5."

17. Section 601.1285 is amended to read:

§ 601.1285 *Control area extension (Shreveport, La.).* All that area within a 40 nautical mile radius of Barksdale Air Force Base.

18. Section 601.1305 *Control area extension (Mountain Home, Idaho)* is amended by adding the following to present control area extension: "excluding the portion which overlaps danger areas."

19. Section 601.1983 *3-mile control zone* is amended by correcting name of airport at Everett, Wash., to read: "Everett, Wash.: Paine AFB."

20. Section 601.1984 *5-mile control zone* is amended by adding the following airports to read:

Farewell, Alaska: Farewell Airport.
McGrath, Alaska: McGrath Airport.
Minchumina, Alaska: Minchumina, Airport.
Nantucket, Mass.: Nantucket Memorial Airport.

and by correcting name of airport at Rome, N. Y., from "Rome, N. Y.: Rome AAF" to read: "Rome, N. Y.: Griffiss AFB."

21. Section 601.2038 is amended to read:

§ 601.2038 *Shreveport, La., control zone.* Within a 5 mile radius of the Shreveport Municipal Airport extending 5 miles either side of the northwest course of the Shreveport radio range from the Airport to the Dixie Fan Marker, and within a 7 mile radius of Barksdale AFB extending 5 miles either side of the southeast course of the Barksdale AFB radio range from the Air Force Base to the Elm Grove Fan Marker.

22. Section 601.2223 is amended to read:

§ 601.2223 *Charleston, W. Va., control zone.* Within a 5 mile radius of the Kanawha County Airport, extending 2 miles either side of the ILS localizer course to a point 10 miles northeast of the outer marker, and within 2 miles either side of the east and west courses of the Charleston, W. Va., radio range extending from the localizer course to a point 10 miles west of the radio range station.

23. Section 601.2234 *Miami, Fla., control zone* is amended by changing name "Naval Air Station" to read: "MCAS, Miami, Fla."

24. Section 601.4011 is amended by changing caption to read:

§ 601.4011 *Green civil airway No. 1 (Patricia Bay, British Columbia to United States-Canadian Border via Millinocket, Maine).*

25. Section 601.4016 *Green civil airway No. 6 (Laredo, Tex., to Norfolk, Va.)* is amended by deleting the following reporting points: "the intersection of the southwest course of the Houston, Tex., radio range and the southeast course of the Richmond, Tex., radio range; Houston, Tex., radio range station; Beaumont, Tex., radio range station;"

26. Section 601.4101 *Amber civil airway No. 1 (United States-Mexican Border to Nome, Alaska)* is amended by adding the following reporting points between the Skwentna, Alaska, radio range station and the Nome, Alaska, radio range station: "Farewell, Alaska, radio range station; McGrath, Alaska, radio range station;"

27. Section 601.4239 is amended to read:

§ 601.4239 *Red civil airway No. 39 (Bethel, Alaska, to Fairbanks, Alaska).* Minchumina, Alaska, radio range station; Nenana, Alaska, radio range station.

28. Section 601.4296 is added to read:

§ 601.4296 *Red civil airway No. 96 (Palacios, Tex., to Baton Rouge, La.).* The intersection of the southwest course of the Houston, Tex., radio range and the southeast course of the Richmond, Tex., radio range; Houston, Tex., radio range station; Beaumont, Tex., radio range station.

29. Section 601.4641 is amended by changing caption to read:

§ 601.4641 *Blue civil airway No. 41 (Hartford, Conn., to United States-Canadian Border).*

30. Section 601.4645 *Blue civil airway No. 45 (Lake Charles, La., to Baton Rouge, La.)* is revoked.

31. Section 601.6004 is amended by changing the caption to read:

§ 601.6004 *VOR civil airway No. 4 control areas (Portland, Oreg., to Washington, D. C.).*

32. Section 601.6006 is amended by changing the caption to read:

§ 601.6006 *VOR civil airway No. 6 control areas (Oakland, Calif., to New York, N. Y.).*

33. Section 601.6023 is amended to read:

§ 601.6023 *VOR civil airway No. 23 control areas (San Diego, Calif., to Bellington, Wash.).* All of VOR civil airway No. 23 including a west alternate.

34. Section 601.6025 is amended to read:

§ 601.6025 *VOR civil airway No. 25 control areas (Oakland, Calif., to Red Bluff, Calif.).* All of VOR civil airway No. 25.

35. Section 601.6027 is amended to read:

§ 601.6027 *VOR civil airway No. 27 control areas (San Francisco, Calif., to Oakland, Calif.).* All of VOR civil airway No. 27.

36. Section 601.6028 is amended to read:

§ 601.6028 *VOR civil airway No. 28 control areas (Oakland, Calif., to Modesto, Calif.).* All of VOR civil airway No. 28.

37. Section 601.6032 is amended to read:

§ 601.6032 *VOR civil airway No. 32 control areas (Wells, Nev., to Fort Bridger, Wyo.).* All of VOR civil airway No. 32.

38. Section 601.6101 is amended to read:

§ 601.6101 *VOR civil airway No. 101 control areas (Ogden, Utah, to Burley, Idaho).* All of VOR civil airway No. 101.

39. Section 601.6109 is added to read:

§ 601.6109 *VOR civil airway No. 109 control areas.* [Unassigned.]

40. Section 601.6110 is added to read:

§ 601.6110 *VOR civil airway No. 110 control areas (San Francisco, Calif., to Modesto, Calif.).* All of VOR civil airway No. 110.

41. Section 601.7001 is amended by deleting the following reporting points:

Eau Claire, Wis., omnirange station.
Green Bay, Wis., omnirange station.
Joliet, Ill., omnirange station.
Vandalia, Ill., omnirange station.
Wausau, Wis., omnirange station.

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

This amendment shall become effective 0001, e. s. t., June 10, 1952.

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

[F. R. Doc. 52-6316; Filed, June 9, 1952; 8:46 a. m.]

[Amdt. 27]

PART 608—DANGER AREAS

ALTERATION

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

Part 608 is amended as follows:

In § 608.12, the Yuma, Arizona area (D-382), published on October 6, 1951, in 16 F. R. 10204, is amended by changing the "Description by Geographical Coordinates" column to read:

Beginning at lat. 33°00'00" N, long. 113°52'00" W; due S to lat. 32°55'45" N; WSW to lat. 32°54'45" N, long. 114°00'00" W; due S to lat. 32°52'15" N; westerly to lat. 32°51'15" N, long. 114°21'00" W; due N to lat. 32°52'30" N; WSW to lat. 32°51'15" N, long. 114°31'00" W; due N to lat. 33°00'00" N; due E to lat. 33°00'00" N, long. 113°52'00" W, point of beginning.

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

This amendment shall become effective on June 10, 1952.

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

[F. R. Doc. 52-6314; Filed, June 9, 1952; 8:46 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter V—Bureau of Employment Security, Department of Labor

PART 604—POLICIES OF THE UNITED STATES EMPLOYMENT SERVICE

OCCUPATIONAL ANALYSIS ACTIVITIES

Pursuant to the authority vested in me by section 12, 48 Stat. 117, as amended, 29 U. S. C. 49k, Reorganization Plan No. 2 of 1949 and by delegation from the Secretary of Labor, this part is amended in the manner set forth below:

A new section designated as § 604.18 is added as follows:

§ 604.18 *Occupational analysis activities.* It is the policy of the United States Employment Service:

(a) To use the Dictionary of Occupational Titles, job descriptions, and other occupational tools to promote sound interviewing, placement, and counseling.

(b) To use the classification structure of the Dictionary of Occupational Titles as the basic system for identifying and classifying applications and employer orders, and for statistical reporting.

(c) To promote the development of new or improved occupational analysis products or techniques that will contribute to better employment service operations.

(d) To engage in job analysis and related activities as a means of keeping United States Employment Service occupational source material and publications abreast of the technological changes that occur in occupations.

(e) To supply information about occupational analysis materials, techniques, and their use to employers, to labor organizations, and to government and private agencies, and to encourage the collaboration of such organizations in the development of occupational analysis materials.

(Sec. 12, 48 Stat. 117; 29 U. S. C. 49 k. Interprets or applies 48 Stat. 113, as amended, 58 Stat. 293; 29 U. S. C. 49–491, 38 U. S. C. 695–695f)

Signed at Washington, D. C., this 3d day of June 1952.

ROBERT C. GOODWIN,
Director of the Bureau of Employment Security.

[F. R. Doc. 52-6318; Filed, June 9, 1952; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[Regs. 111; T. D. 5911]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

MISCELLANEOUS AMENDMENTS

On October 18, 1951, notice of proposed rule making, regarding section 218 of the Revenue Act of 1950, approved September 23, 1950, was published in the FEDERAL REGISTER (16 F. R. 10640). Such notice stated that the regulations therein set forth in tentative form were subject to any changes which might be necessitated by the Revenue Bill of 1951 (H. R. 4473) then pending before the Congress. Legislation relating to the subject matter of the notice was enacted as section 331 of the Revenue Act of 1951, approved October 20, 1951. After consideration of all relevant matter presented by interested persons regarding the rules proposed, the amendments to Regulations 111 (26 CFR Part 29) set forth below are hereby adopted. Such amendments are necessary in order to conform Regulations 111 to section 218 of the Revenue Act of 1950, and to section 331 of the Revenue Act of 1951.

PARAGRAPH 1. There is inserted immediately following § 29.130–1 the following:

SEC. 218. STOCK OPTIONS [REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950].

(a) *Treatment of certain employee stock options.* Supplement B of chapter 1 is hereby amended by adding at the end thereof the following new section:

SEC. 130A. EMPLOYEE STOCK OPTIONS.

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

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

(2) No deduction under section 23 (a) shall be allowable at any time to the employer corporation of such individual or its parent or subsidiary corporation with respect to the share so transferred; and

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

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

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

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

(2) The fair market value of the share at the time the option was granted.

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

(c) *Acquisition of new stock.* If stock transferred to an individual upon his exercise of the option is exchanged by him for stock or securities in an exchange within the provisions of section 112 (b) (2) or (3), or if new stock, as described in section 113 (a) (19), is acquired upon a distribution with respect to such stock, the stock or securities acquired in such exchange and such new stock shall be considered as having been transferred to him upon his exercise of such option. A similar rule shall be applied in the case of a series of such exchanges or acquisitions.

(d) *Definitions.* As used in this section—

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

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

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

(C) Such individual, at the time the option is granted, does not own stock possessing more than 10 per centum of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation. For the purposes of this subparagraph—

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

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

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

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

(4) *Disposition.* The term "disposition" includes a sale, exchange, gift, or any transfer of legal title, but does not include—

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

(B) An exchange which is within the provisions of section 112 (b) (2) or (3); or

(C) A mere pledge or hypothecation.

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

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

(2) The fair market value of such stock at the time of the granting of such option shall be considered as (A) the fair market value of such stock on the date of the original granting of the option, (B) the fair market value of such stock on the date of the making of such modification, extension, or renewal, or (C) the fair market value of such stock at the time of the making of any intervening modification, extension, or renewal, whichever is the highest.

(b) *Effective date.* The amendment made by this section shall be applicable with respect to taxable years ending after December 31, 1949.

SEC. 331. STOCK OPTIONS [REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951].

(a) *Option subject to stockholder approval.* Section 130A (d) (relating to definition of restricted stock option) is hereby amended by striking out "As used in" and inserting "For the purposes of" and by adding at the end thereof the following:

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

(b) *Effective date.* The amendment made by subsection (a) shall be effective as if it had been enacted as part of section 218 of the Revenue Act of 1950.

§ 29.130a–1 *Meaning and use of certain terms.* For the purpose of section 130A—

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

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

(3) An arrangement between a corporation and an employee may involve more than one option. For example, if a corporation on June 1, 1951, grants to

an employee the right to purchase 1,000 shares of its stock on or after June 1, 1952, another 1,000 shares on or after June 1, 1953, and a further 1,000 shares on or after June 1, 1954, all shares to be purchased before June 1, 1955, provided the employee at the time of exercise of any of the purchase rights is employed by the corporation, such an arrangement will be construed as the grant to the employee on June 1, 1951, of three options, each for the purchase of 1,000 shares. Similarly, if a corporation grants to an employee on January 1, 1952, the right to purchase 1,000 shares of its stock at $85 per share during 1952, at $75 per share during 1953, and at $65 per share during 1954, such an arrangement will be construed as the grant to the employee on January 1, 1952, of three alternative options, one option for the purchase of 1,000 shares at $85 per share during 1952, an alternative option for the purchase of 1,000 shares at $75 per share during 1953, and a third alternative option for the purchase of 1,000 shares at $65 per share during 1954.

(b) *Time and date of granting of option.* (1) The words "the date of the granting of the option" and "the time such option is granted", and similar phrases, refer to the date or time when the corporation completes the corporate action constituting an offer of stock for sale to an individual under the terms and conditions of a restricted stock option. Ordinarily, if the corporate action contemplates an immediate offer of stock for sale to an individual or to a class including such individual, or contemplates a particular date on which such offer is to be made, the time or date of the granting of the option is the time or date of such corporate action if the offer is to be made immediately, or the date contemplated as the date of the offer, as the case may be. However, an unreasonable delay in the giving of notice of such offer to the individual or to the class will be taken into account as indicating that the corporation contemplated that the offer was to be made at the subsequent date on which such notice is given. If the terms of the offer do not specify the amount of the option price, the option will not be considered granted prior to the date on which the amount of the option price becomes fixed or determinable.

(2) If the corporation imposes conditions on the granting of an option (as distinguished from conditions governing the exercise of the option), such conditions shall be given effect in accordance with the intent of the corporation. A special rule is provided by section 130A (d)(5), as added by the Revenue Act of 1951, for options subject to stockholder approval. If the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval. A condition which does not require corporate action, such as the approval of some regulatory or governmental agency, for example, a stock exchange or the Securities and Exchange Commission, is ordinarily considered a condition upon the exercise of the option unless the corporate action clearly indicates that the option is not to be granted until such condition is satisfied. If an option is granted to an individual upon the condition that such individual will become an employee of the corporation granting the option or of its parent or subsidiary corporation, such option is not granted prior to the date the individual becomes such an employee.

(3) In general, conditions imposed upon the exercise of an option will not operate to make ineffective the granting of the option. For example, on June 1, 1951, the A Corporation grants to X, an employee, an option to purchase 5,000 shares of the corporation stock, exercisable by X on or after June 1, 1952, provided he is employed by the corporation on June 1, 1952. Such an option is granted to X on June 1, 1951.

(c) *Stock.* The term "stock" means capital stock of any class, including voting or nonvoting common or preferred stock. The term includes both treasury stock and stock of original issue. Special classes of stock authorized to be issued to and held by employees are within the scope of the term "stock" as used in section 130A, provided such stock otherwise possesses the rights and characteristics of capital stock.

(d) *Option price.* The term "option price" means the consideration in money or property which, pursuant to the terms of the option, is the price at which the stock subject to the option is purchased.

(e) *Exercise.* The term "exercise", when used in reference to an option, means the act of acceptance by the optionee of the offer to sell contained in the option. In general, the time of exercise is the time when there is a sale or a contract to sell between the corporation and the individual. An agreement or undertaking by the employee to make payments under a stock purchase plan does not constitute the exercise of an option so long as the payments made remain subject to withdrawal by the employee. If the terms of the offer do not specify the amount of the option price, the option will not be considered exercised prior to the date on which the amount of the option price becomes fixed or determinable.

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

§ 29.130a–2 *Restricted stock option—*(a) *In general.* (1) A "restricted stock option" is an option granted after February 26, 1945, to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any such corporations, but only if (i) at the time such option is granted the option price is at least 85 percent of the fair market value at such time of the stock subject to the option; and (ii) such option by its terms is not transferable by such individual otherwise than by will or by the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and (iii) such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock either of the employer corporation or of its parent or subsidiary corporation.

(2) At the time the option is granted, the relationship between the individual to whom an option is granted and the corporation granting the option (or a corporation which is a parent or subsidiary thereof) must be the legal and bona fide relationship of employer and employee. For rules applicable to the determination whether the employer-employee relationship exists, see §405.104 of Subchapter D (Regulations 116), relating to collection of income tax as source on wages. An option granted prior to employment or after termination of employment is not a restricted stock option. As to the granting of an option conditioned upon employment, see § 29.130a–1 (b). The option must be granted for a reason connected with the individual's employment by the corporation or by its parent or subsidiary corporation. An option may qualify as a restricted stock option only if, under the terms of the option, it is not transferable (other than by will or by the laws of descent and distribution) by the individual, to whom it is granted, and is exercisable, during the lifetime of such individual, only by him. Accordingly, an option which is transferable by the individual to whom it is granted during his lifetime, or is exercisable during such individual's lifetime by another person, is not a restricted stock option.

(b) *Ownership of 10 percent of stock.* In determining the amount of stock owned by an individual, for the purpose of applying the 10 percent test of section 130A (d) (1) (C), stock of the employer corporation or of its parent or subsidiary owned (directly or indirectly) by or for such individual's brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants shall be considered as owned by such individual. For the purpose of section 130A, if a corporation, partnership, estate, or trust owns (directly or indirecly) stock of the employer corporation or of its parent or subsidiary, such stock shall be considered as being owned proportionately by or for the shareholders, partners, or beneficiaries of the corporation, partnership, estate, or trust.

§ 29.130a–3 *Exercise of restricted stock option.* (a) The special rules of income tax treatment provided in subsections (a) and (b) of section 130A are applicable only if the following conditions exist with respect to the transfer of a share of stock to an individual:

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

(2) At the time the option is exercised by him, the individual is an employee of the corporation granting such option (or of a parent or subsidiary thereof) or was an employee of any such corporations within three months prior to the date the option is exercised.

(b) The special treatment provided in subsections (a) and (b) of section 130A shall apply only if the restricted stock option is exercised by the individual to whom it was granted. Such special treatment shall not be applicable with respect to stock transferred pursuant to the exercise of the option by the individual's executor, administrator, heir, or legatee. Under the provisions of section 130A (d) (1) (B), an option may qualify as a restricted stock option although it is transferable at death to the individual's executor, administrator, heir, or legatee. Thus, the fact that a restricted stock option may be exercised by an executor, administrator, heir, or legatee does not deprive the individual who exercises such option during his lifetime of the special treatment provided in section 130A.

(c) At the time of exercise of a restricted stock option, the status of the individual exercising such option must be that of a bona fide employee of the corporation granting the option or that of a bona fide employee of a parent or subsidiary of such corporation, or such individual must have been a bona fide employee of any such corporation within three months previous to the date of exercise.

(d) The determination whether an option ultimately exercised is a restricted stock option is made as of the date such option is granted. An option which is a restricted stock option when granted does not lose its character as such an option by reason of subsequent events, and an option which is not a restricted stock option when granted does not become such an option by reason of subsequent events. See, however, § 29.130a–4, relating to modification, extension, or renewal of an option. This rule is illustrated as follows:

Example 1. S–1 Corporation is a subsidiary of S Corporation which, in turn, is a subsidiary of P Corporation. On June 1, 1951, P grants to an employee of P a restricted stock option to purchase a share of stock of S–1. On January 1, 1952, S sells a portion of the S–1 stock which it owns to an unrelated corporation and, as of that date, S–1 ceases to be a subsidiary of S. On May 1, 1952, while still employed by P, the employee exercises his option to purchase a share of S–1 stock. The employee has exercised a restricted stock option.

Example 2. Assume P grants an option to an employee under the same facts as in example 1 above, except that on June 1, 1951, S–1 is not a subsidiary of either S or P. Such option is not a restricted stock option on June 1, 1951. On January 1, 1952, S purchases from an unrelated corporation a sufficient number of shares of S–1 stock to make S–1, as of that date, a subsidiary of S. On May 1, 1952, while still employed by P, the employee exercises his option to purchase a share of S–1 stock. The employee has not exercised a restricted stock option.

§ 29.130a–4 *Modification, extension, or renewal.* (a) Subsection (e) of section 130A provides rules for determining whether a share of stock transferred to an individual upon his exercise of an option, after the terms thereof have been modified, extended, or renewed, is transferred pursuant to the exercise of a restricted stock option. For the purpose of such determination, the statute provides that:

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

(2) The fair market value of the stock subject to the option at the time of the granting of such option shall be considered as the fair market value of such stock (i) on the date of the original granting of the option, (ii) on the date of the making of such modification, extension, or renewal, or (iii) at the time of the making of any intervening modification, extension, or renewal, whichever is the highest.

(b) The time or date when an option is modified, extended, or renewed shall be determined, insofar as applicable, in accordance with the rules governing determination of the time or date of granting an option provided in § 29.130a–1(b). A modification of an option includes any material change in the terms or conditions of the option. For example, a material change in the terms of the option with respect to the kind or price of the shares of stock subject to the option is a modification of the option. Likewise, a material change in the time of issuance of stock subject to the option, the terms of payment for such stock, or an acceleration or postponement of the exercise date is a modification of the option. However, a mere change in the terms of the option, with respect to the number or price of the shares of stock subject to the option, to reflect a stock dividend or stock split-up is not a modification of the option. Where an option is amended solely to increase the number of shares subject to the option, such increase shall not be considered as a modification of the option, but shall be treated as the grant of a new option for the additional shares. An extension of an option refers to the granting by the corporation to the optionee of an additional period of time within which to exercise the option beyond the time originally prescribed. A renewal of an option is the granting by the corporation of the same rights or privileges contained in the original option on the same terms and conditions. The foregoing rules apply as well to successive modifications, extensions, and renewals.

(c) A restricted stock option may, as a result of a modification, extension, or renewal, thereafter cease to be a restricted stock option, or an option may, by modification, extension, or renewal, thereafter become a restricted stock option. The rule stated in subsection (e) of section 130A is illustrated as follows:

Example 1. On June 1, 1950, the X Corporation grants to an employee an option to purchase 100 shares of the stock of X Corporation at $90 per share, such option to be exercised on or before June 1, 1952. At the time the option is granted, the fair market value of the X Corporation stock is $100 per share. On February 1, 1951, before the employee exercises the option, X Corporation modifies the option to provide that the price at which the employee may purchase the stock shall be $80 per share. On February 1, 1951, the fair market value of the X Corporation stock is $90 per share. Under section 130A (e), the X Corporation is deemed to have granted an option to the employee on February 1, 1951, to purchase at $80 per share 100 shares of stock having a fair market value of $100 per share, that is, the higher of the fair market value of the stock on June 1, 1950, and on February 1, 1951. The exercise of such option by the employee after February 1, 1951, is not the exercise of a restricted stock option.

Example 2. On June 1, 1950, the X Corporation grants to an employee a restricted stock option to purchase 100 shares of X Corporation stock at $90 per share, exercisable after December 31, 1951, and on or before June 1, 1952. On June 1, 1950, the fair market value of X Corporation's stock is $100 per share. On February 1, 1951, X Corporation modifies the option to provide that the option shall be exercisable on or after February 1, 1951, and on or before June 1, 1952. On February 1, 1951, the fair market value of X Corporation stock is $110 per share. Under section 130A (e), X Corporation is deemed to have granted an option to the employee on February 1, 1951, to purchase at $90 per share 100 shares of stock having a fair market value of $110 per share, that is, the higher of the fair market value of the stock on June 1, 1950, and on February 1, 1951. The exercise of such option by the employee is not the exercise of a restricted stock option.

Example 3. The facts are the same as in example 1, except that the employee exercised the option to the extent of 50 shares on January 15, 1951, prior to the date of the modification of the option. Any exercise of the option after February 1, 1951, the date of the modification, is not the exercise of a restricted stock option. See example 1, above. The exercise of the option on January 15, 1951, pursuant to which 50 shares were acquired, is the exercise of a restricted option.

Example 4. On June 1, 1950, the X Corporation grants to an employee an option to purchase 100 shares of the stock of X Corporation at $80 per share, such option to be exercised on or before June 1, 1952. At the time the option is granted the fair market value of the X Corporation stock is $100 per share. On February 1, 1951, before the employee exercises the option, the X Corporation modifies the option to provide that the number of shares of stock which the employee may purchase at $80 per share will be 250. On February 1, 1951, the fair market value of the X Corporation stock is $90 per share. Under these facts, the X Corporation has granted two options, one option (not a restricted stock option) with respect to 100 shares having been granted on June 1, 1950, and the other option (a restricted stock option) with respect to the additional 150 shares having been granted on February 1, 1951. In the absence of facts identifying which option is exercised first, the employee will be deemed to have exercised the options in the order in which they were granted.

§ 29.130a–5 *Operation of section 130A.* With respect to taxable years ending after December 31, 1949—

(a) *Rules applicable to all restricted stock options*—(1) *In general.* If a share of stock is transferred to an individual pursuant to his timely exercise of a restricted stock option and is not disposed of by him within two years from the date of the granting of the option nor within six months after the transfer of such share to him, then subsection (a) of section 130A provides that—

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

(ii) No deduction under section 23 (a) shall be allowable at any time to the employer corporation of such individual or its parent or subsidiary corporation with respect to the share so transferred; and

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

For the purpose of subparagraph (1) (i), (ii) and (iii), each share of stock transferred pursuant to a restricted stock option is treated separately. For example, if an individual, while employed by a corporation granting him a restricted stock option, exercises the option with respect to part of the stock covered by the option, and if such individual exercises the balance of the option more than three months after leaving such employment, the application of section 130A to the stock obtained upon the earlier exercise of the option is not affected by the fact that the income taxes of the employer and the individual with respect to the stock obtained upon the later exercise of the option are not determined under section 130A.

(2) *Holding period.* The special rules provided in section 130A (a) are not applicable if the individual disposes of the share of stock within two years from the date the option is granted or within six months after the transfer of such share to him. Section 130A is not made inapplicable by a transfer with the 2-year or 6-month period if such transfer is not a disposition of the stock as defined in subparagraph (3) of this paragraph, for example, a transfer from the decedent to his estate or a transfer by bequest or inheritance. Similarly, a disposition by the executor, administrator, heir, or legatee is not a disposition by the decedent.

(3) *Disposition of stock.* The term "disposition," for the purpose of section 130A, includes a sale, exchange, gift, or any transfer of legal title, but does not include a transfer from a decedent to his estate or a transfer by bequest or inheritance, an exchange which is within the provisions of section 112 (b) (2) or (3), or a mere pledge or hypothecation. However, a disposition of the stock pursuant to a pledge or hypothecation is a disposition by the individual, even though the making of the pledge or hypothecation is not such a disposition.

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

(4) *Examples.* The rules of subsection (a) of section 130A are illustrated as follows:

Example 1. On June 1, 1951, the X Corporation grants to E, an employee, a restricted stock option to purchase 100 shares of X Corporation stock at $95 per share. On that date, the fair market value of X Corporation stock is $100 per share. On June 1, 1952, while employed by X Corporation, E exercises the option in full and pays X Corporation $9,500, and on that day X Corporation transfers to E 100 shares of its stock having a fair market value of $12,000. Prior to June 1, 1953, E makes no disposition of the 100 shares so purchased. E realizes no income on June 1, 1952, with respect to the transfer to him of the 100 shares of X Corporation stock. X Corporation is not entitled to any deduction at any time with respect to its transfer to E of the stock. In computing its gain or loss, if any, upon such transfer, X Corporation is considered to have received no more than $9,500 for the stock so transferred. E's basis for such 100 shares is $9,500.

Example 2. Assume, in example 1, that on August 1, 1953, two years and one month after the granting of the option and one year and one month after the transfer of the shares to him, E sells the 100 shares of X Corporation stock for $13,000, which is the fair market value of the stock on that date. For the taxable year in which the sale occurs, E realizes a gain of $3,500 ($13,000 minus E's basis of $9,500), which is treated as long-term capital gain.

Example 3. Assume, in example 2, that on August 1, 1953, E makes a gift of the 100 shares of X Corporation stock to his son. Such disposition results in no realization of gain to E either for the taxable year in which the option is exercised or the taxable year in which the gift is made. E's basis of $9,500 becomes the donee's basis for determining gain or loss.

Example 4. Assume, in example 1, that on May 1, 1953, one year and eleven months after the granting of the option and eleven months after the transfer of the shares to him, E sells the 100 shares of X Corporation stock for $13,000. The special rules of section 130A (a) are not applicable to the transfer of the stock by X Corporation to E, because disposition of the stock was made by E within two years from the date the option was granted.

Example 5. Assume, in example 1, that E dies on September 1, 1952, owning the 100 shares of X Corporation stock acquired by him pursuant to his exercise on June 1, 1952, of the restricted stock option. On the date of death, the fair market value of the stock is $12,500. No income is realized by E by reason of the transfer of the 100 shares to his estate. If E's executor elects to value the stock as of the date of death, the basis of the 100 shares in the hands of the executor is $12,500.

(b) *Additional rules applicable where the option price is between 85 percent and 95 percent of the value of the stock*—(1) *In general.* (i) If all the conditions necessary for the application of subsection (a) of section 130A exist, subsection (b) of section 130A provides additional rules which are applicable in cases where, at the time the restricted stock option is granted, the option price per share is less than 95 percent (but not less than 85 percent) of the fair market value of such share. In such case, upon the disposition of such share by the individual after the expiration of the 2-year and the 6-month periods, or upon his death while owning such share (whether occurring before or after the expiration of such periods), there shall be included in the individual's gross income as compensation (and not as gain upon the sale or exchange of a capital asset) the amount, if any, by which the option price is exceeded by the lesser of the fair market value of the share at the time the option was granted or the fair market value of the share at the time of such disposition or death. The amount of such compensation shall be included in the individual's gross income for the taxable year in which the disposition occurs or for the taxable year closing with his death, whichever event results in the application of section 130A (b).

(ii) The application of the special rules provided in section 130A (b) shall not affect the rules provided in section 130A (a) with respect to the individual exercising the option, the employer corporation, or its parent or subsidiary corporation. Thus, notwithstanding the inclusion of an amount as compensation in the gross income of an individual, as provided in section 130A (b), no income results to the individual at the time the stock is transferred to him, and no deduction under section 23 (a) is allowable at any time to the employer corporation or its parent or subsidiary with respect to such amount. Likewise, for the purpose of determining gain or loss, if any, realized by any of such corporations by reason of the transfer of a share of stock with respect to which the rules of section 130A (b) apply, no amount other than the option price shall be considered as received by any of such corporations for the stock so transferred.

(iii) If the individual exercises a restricted stock option during his lifetime and dies before the stock is transferred to him purusant to his exercise of the option, the transfer of such stock to the individual's executor, administrator, heir, or legatee is deemed, for the purpose of section 130A, to be a transfer of the stock to the individual exercising the option and a further transfer by reason of death from such individual to his executor, administrator, heir, or legatee.

(2) *Basis.* If the special rules provided in subsection (b) of section 130A are applicable to the disposition of a share of stock by an individual, the basis of such share in the individual's hands at the time of such disposition, determined under section 113, shall be increased by an amount equal to the amount includible as compensation in his gross income under section 130A (b). If the special rules provided in section 130A (b) are applicable to a share of stock upon the death of an individual, the basis of such share in the hands of the estate or the person receiving the stock by bequest or inheritance shall be determined under section 113, and shall not be increased by reason of the inclusion upon the decedent's death of any amount in his gross income under section 130A (b). See example 8, below, with respect to the determination of basis of the share in the hands of a surviving joint owner.

(3) *Examples.* The operation of section 130A (b) may be illustrated as follows:

Example 1. On June 1, 1951, the X Corporation grants to E, an employee, a restricted stock option to purchase a share of X Corporation's stock for $85. The fair market value of the X Corporation stock on such date is $100 per share. On June 1, 1952, E exercises the restricted stock option and on that date the X Corporation transfers the share of stock to E. On January 1, 1954, E sells the share for $150, its fair market value on that date. E makes his income tax return on the basis of the calendar year. The income tax consequences to E and to X Corporation are as follows:

Compensation in the amount of $15 is includible in E's gross income for 1954, the year of the disposition of the share. The $15 represents the difference between the option price ($85) and the fair market value of the share on the date the option was granted ($100), since such value is less than the fair market value of the share on the date of disposition ($150). For the purpose of computing E's gain or loss on the sale of the share, E's cost basis of $85 is increased by $15, the amount includible in E's gross income as compensation. Thus, E's basis for the share is $100. Since the share was sold for $150, E realizes a gain of $50, which is treated as long-term capital gain.

The X Corporation is entitled to no deduction under section 23 (a) at any time with respect to the share transferred to E. For the purpose of computing gain or loss, if any, to the X Corporation on account of the transfer of the share to E, the X Corporation shall not be considered to have received any amount other than $85 for the share.

Example 2. Assume, in example 1 above, E sells the share of X Corporation stock on January 1, 1955, for $75, its fair market value on that date. Since $75 is less than the option price ($85), no amount in respect of the sale is includible as compensation in E's gross income for 1955. E's basis for determining gain or loss on the sale is $85. Since E sold the share for $75, E realized a loss of $10 on the sale, which loss is treated long-term capital loss.

Example 3. Assume, in example 1 above, that instead of selling the share on January 1, 1954, E makes a gift of the share on that day. In such case, $15 is includible as compensation in E's gross income for 1954. E's cost basis of $85 is increased by $15, the amount includible in E's gross income as compensation. Thus, E's basis for the share is $100, which becomes the donee's basis, as of the time of the gift, for determining gain or loss.

Example 4. Assume, in example 2 above, that instead of selling the share on January 1, 1955, E makes a gift of the share on that date. Since the fair market value of the share on that day ($75) is less than the option price ($85), no amount in respect of the disposition by way of gift is includible as compensation in E's gross income for 1955. E's basis for the share is $85, which becomes the donee's basis, as of the time of the gift, for the purpose of determining gain. The donee's basis for the purpose of determining loss, determined under section 113 (a) (2), is $75 (fair market value of the share at the date of gift).

Example 5. Assume, in example 1 above, that after acquiring the share of stock on June 1, 1952, E dies on August 1, 1953, at which time the share has a fair market value of $150. Compensation in the amount of $15 is includible in E's gross income for the taxable year closing with his death, such $15 being the difference between the option price ($85) and the fair market value of the share when the option was granted ($100), since such value is less than the fair market value at date of death ($150). The basis of the share in the hands of E's estate is determined under section 113 (a) (5) without regard to the $15 includible in the decedent's gross income.

Example 6. Assume, in example 5 above, that E dies on August 1, 1952, at which time the share has a fair market value of $150. Although E's death occurred within two years from the date of the granting of the option and within six months after the transfer of the share to him, the income tax consequences are the same as in example 5.

Example 7. Assume the same facts as in example 1 above, except that the share of stock was issued in the names of E and his wife jointly with right of survivorship, and except that E and his wife sold the share on June 15, 1953, for $150, its fair market value on that date. Compensation in the amount of $15 is includible in E's gross income for 1953, the year of the disposition of the share. The basis of the share in the hands of E and his wife for the purpose of determining gain or loss on the sale is $100, that is, the cost of $85 increased by the amount of $15 includible as compensation in E's gross income. The gain of $50 on the sale is treated as long-term capital gain, and is divided equally between E and his wife.

Example 8. Assume the same facts as in example 1 above, except that the share of stock was issued in the names of E and his wife jointly with right of survivorship, and except that E predeceased his wife on August 1, 1953, at which time the share had a fair market value of $150. Compensation in the amount of $15 is includible in E's gross income for the taxable year closing with his death. See example 5, above. The basis of the share in the hands of E's wife as survivor is, under sections 113 (a) and 130A (b), the cost of $85 increased by the $15 includible in the decedent's gross income, or $100.

Example 9. Assume in example 8 above that E's wife predeceased him on July 1, 1953. Section 130A (b) does not apply in respect of her death. Upon the subsequent death of E on August 1, 1953, the income tax consequences in respect of E's taxable year closing with the date of his death, and in respect of the basis of the share in the hands of his estate, are the same as in example 5 above. If E had sold the share on July 15, 1953 (after the death of his wife), for $150, its fair market value at that time, the income tax consequences would be the same as in example 1 above.

(c) *Acquisition of other stock or securities.* Section 130A (c) provides that the special rules stated in subsections (a) and (b) of section 130A, if applicable with respect to stock transferred to an individual upon his exercise of an option, shall likewise be applicable with respect to (1) stock or securities acquired by such individual in exchange for such stock, if the exchange is within the provisions of section 112 (b) (2) or (3), and (2) new stock, as described in section 113 (a) (19), acquired upon a distribution with respect to such stock. Such new stock and such stock or securities so acquired shall, for the purpose of section 130A, be considered as having been transferred to the individual upon his exercise of the option. A similar rule shall be applied in the case of a series of such exchanges or acquisitions.

For example, if new stock, as described in section 113 (a) (19), is acquired upon a distribution with respect to stock transferred to the individual upon the timely exercise of a restricted stock option, and if such new stock is disposed of within two years from the date the option was granted or within six months after the original stock was transferred to such individual, section 130A is not applicable with respect to such new stock. If the disposition occurs after the 2-year and 6-month periods, section 130A is applicable.

PAR. 2. Section 29.22 (a)–1, as amended by Treasury Decision 5600, approved February 2, 1948, is further amended as follows:

(A) By striking the first word of the third paragraph, and by inserting in lieu thereof the following: "Except as otherwise provided in section 130A, if"; and

(B) By adding at the end of paragraph (c) thereof the following sentence: "See section 130A and the regulations prescribed thereunder for special rules with respect to stock transferred from an employer to an employee pursuant to the timely exercise of a restricted stock option."

PAR. 3 Section 29.113 (a)–1, as amended by Treasury Decision 5402, approved September 5, 1944, is further amended by adding at the end thereof the following sentence: "For special rules for determining the basis for gain or loss in the case of the disposition of a share of stock acquired pursuant to the timely exercise of a restricted stock option where the option price was between 85 percent and 95 percent of the fair market value of the stock at the time the option was granted, see section 130A (b)."

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] JOHN B. DUNLAP,
Commissioner of Internal Revenue.

Approved: June 5, 1952.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 52-6357; Filed, June 9, 1952; 8:55 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter E—Organized Reserves

PART 564—ENLISTED RESERVE CORPS

INELIGIBILITY; LENGTH OF ENLISTMENT

Sections 564.3 (g) and 564.6 are amended to read as follows:

§ 564.3 *Ineligibility.* * * *

(g) Persons who have been convicted of a felony or who have criminal charges filed and pending against them alleging a violation of a State, Federal or Territorial statute. (For prior service personnel, only felonies committed subsequent to date of separation from last period of service are considered disqualifying.) Waivers in the case of any individual who has been convicted of a crime involving moral turpitude will be granted only by the Department of the Army.

* * * * *

§ 564.6 *Length of enlistment.* Enlistments and reenlistments in the Enlisted Reserve Corps will be for 3 years. However, a male enlistee who upon enlistment has not attained the twenty-sixth anniversary of the date of his birth and who has not completed a period of service entered upon under the provisions of section 4 (d) (1), (2) or (3), Universal Military Training and Service Act, as amended (Pub. Law 51, 82d

Cong.), incurs the 8-year service obligation imposed by section 4 (d) (3) of that act.

(39 Stat. 195, 41 Stat. 780, 44 Stat. 705; 10 U. S. C. 421, 423-427) [C4, SR 140-107-1, May 6, 1952]

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 52-6348; Filed, June 9, 1952; 8:53 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 5, Supplementary Regulation 1]

CPR 5—IRON AND STEEL SCRAP

SR 1—CEILING FEES FOR STORAGE OF IRON AND STEEL SCRAP IN SPECIAL EMERGENCY CIRCUMSTANCES

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 1 to Ceiling Price Regulation 5 is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation establishes a ceiling charge to be made for the service of unloading, storing and reloading iron or steel scrap when, because of a strike at a consumer's mill or in anticipation of such a strike, the consumer authorizes a person to perform such service. This regulation is an emergency measure only and permits such charges to be made only on shipments received after June 1, 1952 and not later than 24 hours after the termination of the strike at the mill for which the service is being performed.

It is customary in the iron and steel scrap industry for consumers in anticipation of and during a strike to have scrap which is in transit to them unloaded and stored at certain authorized locations because of their inability to handle the scrap at their mill. This action enables the consumers to stockpile vitally needed scrap and to minimize the demurrage charges which would otherwise accumulate.

In the opinion of the Director, the $1.50 per gross ton charge is reasonable for such services and is in line with charges otherwise authorized under CPR 5. While it may be noted that a $1.50 charge is allowed for merely loading scrap which is purchased "as is, where is," such loading is normally done without the aid of the efficient scrap handling equipment available in the average dealer or broker's yard where the material will be stored.

The charge for this service may be made only where the scrap originates at some point other than the yard at which the material is being stored.

Since the dealer preparing iron or steel scrap on an intransit preparation fee basis is already compensated for unloading and reloading the material, no additional charge for such services may be made by such person under this supplementary regulation.

In view of the nature of this supplementary regulation special circumstances have rendered consultation with industry representatives including trade association representatives impracticable.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Ceiling price.
3. Record-keeping requirements.
4. Incorporation of CPR 5 provisions.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong., 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, Pub. Law 96, 82d Cong., 50 U. S. C. App. Sup. 2101-2110; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This regulation establishes a flat ceiling fee of $1.50 per gross ton for the service of unloading, storing, weighing and reloading rail or vessel shipments of iron or steel scrap in anticipation of and for the duration of the steel strike within certain limitations set forth in section 2.

SEC. 2. *Ceiling price.* Any person may charge and any consumer may pay a fee not in excess of $1.50 per gross ton for the service of receiving, unloading, storing and reloading, inclusive, iron and steel scrap, provided that all of the following conditions are met:

(1) The person making such a charge has been requested in writing by the consumer to receive and unload rail or vessel shipments of iron and steel scrap at his yard or at some other location designated by the consumer for the duration of a strike affecting the consumer's mill;

(2) The rail or vessel shipment is unloaded for storing after June 1, 1952 and not later than 24 hours after the official termination of the strike at the mill for which the service is being performed;

(3) The iron and steel scrap for which the charge is being made originated neither in such person's yard nor at the location designated by the consumer for storing.

(b) In no case may a dealer charge a fee under this section for material for which he is also charging an intransit preparation fee under CPR 5.

(c) No additional charge may be made by such person for weighing the material so handled.

SEC. 3. *Record-keeping requirements.* Every person making a charge to a consumer under this supplementary regulation shall keep and maintain for inspection by the Office of Price Stabilization for a period of two years accurate records showing the charge made, the name and address of the consumer, the authorization from the consumer to store the scrap; the names and addresses of the shippers; the shipping points; the tonnage involved in each scrap shipment; the numbers of the railroad cars in which the scrap was received for unloading; the date when the scrap shipments were received for unloading and the date on which the scrap was reloaded and shipped to the consumer.

SEC. 4. *Incorporation of CPR 5 provisions.* Any person subject to this supplementary regulation is also subject to all provisions of Ceiling Price Regulation 5 not inconsistent with the provision of this regulation including but not limited to the enforcement and evasion provisions thereof. All terms used in this regulation shall have the same meaning as those used in Ceiling Price Regulation 5.

Effective date. This supplementary regulation to Ceiling Price Regulation 5 shall become effective June 6, 1952.

NOTE: All record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

JUNE 6, 1952.

[F. R. Doc. 52-6410; Filed, June 6, 1952; 4:38 p. m.]

[Ceiling Price Regulation 24, Interpretation 1]

CPR 24—CEILING PRICES OF BEEF SOLD AT WHOLESALE

INT. 1—SALES OF BEEF WITH FREEZERS OR REFRIGERATORS

Several inquiries have been received about the regulations covering beef sales in conjunction with sales of freezers or refrigerators. Numerous plans have been developed recently whereby purchasers of such appliances are offered a supply of beef at the time of, and as an inducement for, such purchases. While the plans vary in detail, they have raised several common questions regarding the application of various sections of Ceiling Price Regulation (CPR) 24 and CPR 25, Revised. This interpretation answers basic or common questions in this regard which have come to the attention of the Office of Price Stabilization.

1. *Sales must be separate.* Any arrangement, agreement, contract, understanding, or other device between any persons, which requires a buyer to purchase a freezer or other appliance in order to purchase any beef item at retail, is a violation of sections 13 (a) and 13 (b) (6) of CPR 25, Revised. Purchases of freezers or other appliances and purchases of beef at retail must be separate and clearly distinguishable transactions. There must be an independent offer and acceptance for each transaction, and purchasers of either commodity must have a free choice as to whether or not they will buy the other commodity.

2. *Offers may not be restrictive.* Not only the sale but also the offer to sell a beef item at retail upon condition of the purchase of any other commodity or service is a violation of sections 13 (a) and 13 (b) (6) of CPR 25, Revised. The offer to sell a beef item exclusively to buyers of appliances is equivalent to forcing would-be purchasers of beef items to buy the appliances. This practice is a restriction of the sale of beef items to the buyers of the appliances only, and is therefore prohibited. Anyone wishing to sell beef items to appliance buyers must offer such items to the general retail trade.

3. *Separate billing.* Section 8 (b) of CPR 25, Revised, provides that on every sale of 25 pounds, or more, of beef at retail made in connection with the sale of refrigeration equipment, or any other appliance, a document must be given to the purchaser, listing the names of all beef cuts sold, together with the cost per pound and all charges for each cut. These facts must be shown on that document in such a manner that the costs and charges for the beef cuts can be clearly distinguished from the costs and charges for other commodities, and can be identified as relating only to the sale of beef cuts.

4. *Overcharges to cover financing not permitted.* Section 13 (b) (10) of CPR 25, Revised, prohibits charging or receiving any consideration for any service (in connection with the sale of beef at retail) for which a ceiling price has not been provided in the regulation. Financing the purchase of beef at retail is a "service" in connection with a sale within the meaning of this section, and no ceiling price has been provided in the regulation for financing service. Therefore, the seller may not make any charge for any financing service in connection with the purchase of a beef item at retail, in the form of interest or otherwise, if the addition of this charge to the price charged for the beef item will cause the total charges to exceed the regulation's ceiling price for the beef item.

Such an excess charge is also a violation of the regulation if made by an affiliate, subsidiary, principal or agent of the seller of beef.

This interpretation does not prohibit the retail sale or purchase of beef items on credit. It prohibits only the taking of any consideration for providing such credit in excess of CPR 25, Revised, ceilings.

5. *Limitation on sale of wholesale cuts.* Many of the combination plans apparently include the sale to consumers of sides or quarters of beef. Attention is called to section 13 (b) (3) of CPR 25, Revised, which prohibits the sale of wholesale beef cuts for which retail prices have not been set in section 40 of the regulation, except as provided in section 13 (c). While this interpretation does not purport to summarize section 13 (b) (3), it is appropriate to state here that only the following wholesale beef cuts may be sold to consumers by retailers not covered by section 13 (c): Round, sirloin, short loin, trimmed loin, rib, flank, regular chuck, short plate, brisket and fore shank. All such cuts must conform to the cutting definitions of CPR 25, Revised. Carcasses, sides, hindquarters and forequarters may be sold at retail only by sellers qualifying under section 13 (c). It is also noted that any charge in connection with the permitted sale of wholesale cuts, which results in an overceiling price, is a violation of sections 13 (a) and 13 (b) (10) thereof, except as provided in section 13 (c). Among the charges prohibited thereby are wrapping, cutting, packaging, processing and similar charges.

6. *Sales of beef by appliance vendors.* Any vendor of appliances who sells beef items to a consumer, who bills a consumer for beef items on his own account, or who receives a consideration for a sale of beef items to a consumer, is a seller of beef at retail and is subject to the provisions of CPR 25, Revised. As such he must keep the records and make the reports required of such sellers by sections 11 and 12 of the regulation. For the purposes of this regulation he must determine his store group according to Article III. A store which sells only appliances and food is not a store selling general merchandise under this regulation, and its group may not be determined under section 32 (a).

7. *Sales of beef to appliance vendors.* A sale of a beef item to an appliance vendor by a retailer for resale is not a sale to a consumer, but a sale to another retailer for resale. Therefore in such a transaction both the seller and the buyer must comply with the provisions of section 23 of CPR 25, Revised. This section, among other things, prohibits the sale of wholesale cuts by one retailer to another.

Under section 3 (h) of CPR 24, prefabricated retail cuts may be sold to a retailer at wholesale only if the conditions stated in section 11 (b) of that regulation are complied with. The sale of fabricated cuts (cuts usually sold to eating places) to domestic retailers is prohibited by section 8 (b) (3) of that regulation.

Any transaction in which a retailer of beef (a) transfers title to a beef item to an appliance vendor, or (b) receives a consideration from an appliance vendor for the sale, transfer, or delivery of a beef item to any person, is a sale of a beef item by the retailer to the appliance vendor. However, where an appliance vendor acts as an agent for collection or payment only, in connection with a sale of beef at retail, the transaction between the retailer and the appliance vendor is not a sale of beef and is not subject to the provisions of CPR 25, Revised.

(Secs. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JUNE 9, 1952.

[F. R. Doc. 52-6435; Filed, June 9, 1952; 11:31 a. m.]

[Ceiling Price Regulation 25, Interpretation 3, Revised]

CPR 25—REVISED CEILING PRICES OF BEEF ITEMS SOLD AT RETAIL

INT. 3—SALES OF BEEF WITH FREEZERS OR REFRIGERATORS

Several inquiries have been received about the regulations covering beef sales in conjunction with sales of freezers or refrigerators. Numerous plans have been developed recently whereby purchasers of such appliances are offered a supply of beef at the time of, and as an inducement for, such purchases. While the plans vary in detail, they have raised several common questions regarding the application of various sections of Ceiling Price Regulation (CPR) 24 and CPR 25, Revised. This interpretation answers basic or common questions in this regard which have come to the attention of the Office of Price Stabilization.

1. *Sales must be separate.* Any arrangement, agreement, contract, understanding, or other device between any persons, which requires a buyer to purchase a freezer or other appliance in order to purchase any beef item at retail, is a violation of sections 13 (a) and 13 (b) (6) of CPR 25, Revised. Purchases of freezers or other appliances and purchases of beef at retail must be separate and clearly distinguishable transactions. There must be an independent offer and acceptance for each transaction, and purchasers of either commodity must have a free choice as to whether or not they will buy the other commodity.

2. *Offers may not be restrictive.* Not only the sale but also the offer to sell a beef item at retail upon condition of the purchase of any other commodity or service is a violation of sections 13 (a) and 13 (b) (6) of CPR 25, Revised. The offer to sell a beef item exclusively to buyers of appliances is equivalent to forcing would-be purchasers of beef items to buy the appliances. This practice is a restriction of the sale of beef items to the buyers of the appliances only, and is therefore prohibited. Anyone wishing to sell beef items to appliance buyers must offer such items to the general retail trade.

3. *Separate billing.* Section 8 (b) of CPR 25, Revised, provides that on every sale of 25 pounds, or more, of beef at retail made in connection with the sale of refrigeration equipment, or any other appliance, a document must be given to the purchaser, listing the names of all beef cuts sold, together with the cost per pound and all charges for each cut. These facts must be shown on that document in such a manner that the costs and charges for the beef cuts can be clearly distinguished from the costs and charges for other commodities, and can be identified as relating only to the sale of beef cuts.

4. *Overcharges to cover financing not permitted.* Section 13 (b) (10) of CPR 25, Revised, prohibits charging or receiving any consideration for any service (in connection with the sale of beef at retail) for which a ceiling price has not been provided in the regulation. Financing the purchase of beef at retail is a "service" in connection with a sale within the meaning of this section, and no ceiling price has been provided in the regulation for financing service. Therefore, the seller may not make any charge for any financing service in connection with the purchase of a beef item at retail, in the form of interest or otherwise, if the addition of this charge to the price charged for the beef item will cause the total charges to exceed the regulation's ceiling price for the beef item.

Such an excess charge is also a violation of the regulation if made by an affiliate, subsidiary, principal or agent of the seller of beef.

This interpretation does not prohibit the retail sale or purchase of beef items

on credit. It prohibits only the taking of any consideration for providing such credit in excess of CPR 25, Revised, ceilings.

5. *Limitation on sale of wholesale cuts.* Many of the combination plans apparently include the sale to consumers of sides or quarters of beef. Attention is called to section 13 (b) (3) of CPR 25, Revised, which prohibits the sale of wholesale beef cuts for which retail prices have not been set in section 40 of the regulation, except as provided in section 13 (c). While this interpretation does not purport to summarize section 13 (b) (3), it is appropriate to state here that only the following wholesale beef cuts may be sold to consumers by retailers not covered by section 13 (c): Round, sirloin, short loin, trimmed loin, rib, flank, regular chuck, short plate, brisket and fore shank. All such cuts must conform to the cutting definitions of CPR 25, Revised. Carcasses, sides, hindquarters and forequarters may be sold at retail only by sellers qualifying under section 13 (c). It is also noted that any charge in connection with the permitted sale of wholesale cuts, which results in an overceiling price, is a violation of sections 13 (a) and 13 (b) (10) thereof, except as provided in section 13 (c). Among the charges prohibited thereby are wrapping, cutting, packaging, processing and similar charges.

6. *Sales of beef by appliance vendors.* Any vendor of appliances who sells beef items to a consumer, who bills a consumer for beef items on his own account, or who receives a consideration for a sale of beef items to a consumer, is a seller of beef at retail and is subject to the provisions of CPR 25, Revised. As such he must keep the records and make the reports required of such sellers by Sections 11 and 12 of the regulation. For the purposes of this regulation he must determine his store group according to Article III. A store which sells only appliances and food is not a store selling general merchandise under this regulation, and its group may not be determined under section 32 (a).

7. *Sales of beef to appliance vendors.* A sale of a beef item to an appliance vendor by a retailer for resale is not a sale to a consumer, but a sale to another retailer for resale. Therefore in such a transaction both the seller and the buyer must comply with the provisions of section 23 of CPR 25, Revised. This section, among other things, prohibits the sale of wholesale cuts by one retailer to another.

Under section 3 (h) of CPR 24, prefabricated retail cuts may be sold to a retailer at wholesale only if the conditions stated in section 11 (b) of that regulation are complied with. The sale of fabricated cuts (cuts usually sold to eating places) to domestic retailers is prohibited by section 8 (b) (3) of that regulation.

Any transaction in which a retailer of beef (a) transfers title to a beef item to an appliance vendor, or (b) receives a consideration from an appliance vendor for the sale, transfer, or delivery of a beef item to any person, is a sale of a beef item by the retailer to the appliance vendor. However, where an appliance vendor acts as an agent for collection or payment only, in connection with a sale of beef at retail, the transaction between the retailer and the appliance vendor is not a sale of beef and is not subject to the provisions of CPR 25, Revised.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JUNE 9, 1952.

[F. R. Doc. 52-6436; Filed, June 9, 1952; 11:31 a. m.]

[General Ceiling Price Regulation, Interpretation 58]

GENERAL CEILING PRICE REGULATION

INT. 58—ROUNDING OF FRACTIONS IN THE SALE OF BUTTER AND MILK POWDER (SECTION 22)

Under section 22 of the General Ceiling Price Regulation, in the case of a sale of a single unit of a commodity, a fraction of a cent in the price is dropped if it is less than one-half cent, and increased to the next highest cent if it is one-half cent or more; while in the case of a sale of more than one unit, the unrounded fraction in the unit ceiling price is multiplied by the number of units being sold and any resulting fraction in the total quantity price is dropped if it is less than one-half cent and increased to the next highest cent if it is one-half cent or more.

The different treatment of fractions set forth in Supplementary Regulation 20 to the General Ceiling Price Regulation is adopted in recognition of the customary practice of the fluid milk industry to establish unit prices expressed in fractions of cents. This is limited to sales of milk, cream, and milk products for fluid consumption, the sales of which are covered by Supplementary Regulation 20, and has no application to sales of butter and milk powder, which are covered by the General Ceiling Price Regulation alone.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JUNE 9, 1952.

[F. R. Doc. 52-6438; Filed, June 9, 1952; 11:32 a. m.]

[GCPR, Supplementary Regulation 20, Interpretation 1]

GCPR, SR 20—MILK, CREAM AND MILK PRODUCTS FOR FLUID CONSUMPTION

INT. 1—ROUNDING OF FRACTIONS IN THE SALE OF BUTTER AND MILK POWDER (SECTION 22)

Under section 22 of the General Ceiling Price Regulation, in the case of a sale of a single unit of a commodity, a fraction of a cent in the price is dropped if it is less than one-half cent, and increased to the next highest cent if it is one-half cent or more; while in the case of a sale of more than one unit, the unrounded fraction in the unit ceiling price is multiplied by the number of units being sold and any resulting fraction in the total quantity price is dropped if it is less than one-half cent and increased to the next highest cent if it is one-half cent or more.

The different treatment of fractions set forth in Supplementary Regulation 20 to the General Ceiling Price Regulation is adopted in recognition of the customary practice of the fluid milk industry to establish unit prices expressed in fractions of cents. This is limited to sales of milk, cream, and milk products for fluid consumption, the sales of which are covered by Supplementary Regulation 20, and has no application to sales of butter and milk powder, which are covered by the General Ceiling Price Regulation alone.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JUNE 9, 1952.

[F. R. Doc. 52-6439; Filed, June 9, 1952; 11:32 a. m.]

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-2, Amendment 1 of June 6, 1952]

M-2—RUBBER

MISCELLANEOUS AMENDMENTS

This amendment is found necessary and appropriate to promote the national defense. It is issued pursuant to both the Defense Production Act of 1950, as amended, and the Rubber Act of 1948, as amended. In the formulation of this amendment, consultation with industry representatives has been impossible because of the need for immediate action.

NPA Order M-2, as last amended April 21, 1952, is further amended as follows:

1. Section 3 (j) is amended to eliminate number 3 pale latex crepe from the definition of "pale crepe". As so amended, section 3 (j) reads as follows:

(j) "Pale crepe" means dry natural rubber produced from the fresh coagula of natural liquid latex meeting the specifications of the Rubber Manufacturers Association for pale latex crepes, thick or thin, numbers IX, 1, or 2.

2. Section 6 is amended by increasing the percentage of GR-S which may be purchased in the form of cold rubber during the third calendar quarter. As amended section 6 reads as follows:

SEC. 6. *Limitation on purchase of cold GR-S.* No person may purchase for delivery during the second calendar quarter of 1952 a quantity of dry cold rubber in excess of 50 percent of all of the dry GR-S he purchases from the Reconstruction Finance Corporation for delivery during that calendar quarter. No person may purchase for delivery during the third calendar quarter of 1952,

or any subsequent calendar quarter, a quantity of dry cold rubber in excess of 70 percent of all of the dry GR–S he purchases from the Reconstruction Finance Corporation for delivery during that calendar quarter.

3. Section 8 (a) is amended by increasing from 120 to 130 the permitted percentage of base-period usage of high-tenacity rayon. As so amended, section 8 (a) reads as follows:

SEC. 8. *Limitation on high-tenacity rayon for rubber products.* (a) Commencing with the second calendar quarter of 1952, no person shall, in any calendar quarter, use a greater quantity by weight of high-tenacity rayon in the manufacture of rubber products (including those products required to fill any contracts of the Department of Defense, or any division thereof, or of the Atomic Energy Commission) than 130 percent of his use of high-tenacity rayon in such manufacture during the 3 months ending June 30, 1951.

(Sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This amendment shall take effect June 6, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

[F. R. Doc. 52-6398; Filed, June 6, 1952; 1:56 p. m.]

[CMP Regulation No. 1, Direction 13 of June 6, 1952]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 13—SPECIAL PREFERENCE STATUS OF CERTAIN AUTHORIZED CONTROLLED MATERIAL ORDERS

This direction under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

Sec.
1. What this direction does.
2. Status of certain ACM orders.
3. Relationship of inventory to special preference status.
4. Limitation on placement of orders.
5. Applicability of other regulations and orders.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong. 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161; Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp.; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789; 3 CFR, 1951 Supp.

SECTION 1. *What this direction does.* The purpose of this direction is to channel into defense programs, so far as practicable, the steel production of mills in which there are no work stoppages. This will be accomplished by temporarily according special preference status, at the mill level, to authorized controlled material orders placed in support of certain military, atomic energy, and machine tool programs. Such orders may be placed only by persons who are authorized to use designated program identifications, and whose inventory on the date of placement of the order does not exceed a 45-day supply.

SEC. 2. *Status of certain ACM orders.* (a) Within the limitation of the production directive which he has received from NPA, a steel controlled materials producer shall accept all authorized controlled material orders bearing a program identification listed in Schedule I of this direction, calling for delivery of an item of steel controlled material (other than castings) on or before September 15, 1952, even if such orders are tendered after the expiration of the lead time for that item specified in Schedule III to CMP Regulation No. 1. All such orders (including those previously placed which bear a program identification listed in Schedule I of this direction) shall have equal preferential status and must be accepted and filled by the producer in preference to all other orders previously or subsequently received, with the exception of orders placed pursuant to NPA directives.

(b) A steel controlled materials producer shall divert material in process to fill orders bearing a program identification listed in Schedule I of this direction, calling for delivery of steel controlled material (other than castings) on or before September 15, 1952, whenever it is possible to do so without interrupting his operations in a way which would cause a substantial loss of total production or a substantial delay in operations.

SEC. 3. *Relationship of inventory to special preference status.* Any person who is authorized to use a program identification listed in Schedule I of this direction may place an authorized controlled material order bearing such an identification with a steel controlled materials producer, calling for delivery of an item of steel controlled material (other than castings) on or before September 15, 1952, only if on the date of placement of such order, his inventory of that item of controlled material (as defined in CMP Regulation No. 2) is not in excess of the quantity of such item necessary to meet his deliveries, supply his services, or perform his operations, on the basis of his currently scheduled method and rate of operation during the succeeding 45 calendar day period.

SEC. 4. *Limitation on placement of orders.* No person who is authorized to use a program identification listed in Schedule I of this direction shall place an authorized controlled material order for steel controlled material unless the amount ordered is within the related allotment received by him, after deducting all allotments made by him and all orders for steel controlled material placed by him pursuant to the same allotment: *Provided, however,* That he may in addition place authorized controlled material orders for steel controlled material (other than castings), in a quantity equal to the quantity of orders previously placed by him pursuant to the same allotment with steel controlled materials producers whose operations have been interrupted by the current work stoppage.

SEC. 5. *Applicability of other regulations and orders.* The provisions of CMP Regulation No. 1, NPA Order M–1, including the directions and amendments thereto, and of any other NPA regulation and order heretofore issued are superseded to the extent to which they are inconsistent with the provisions of this direction, but in all other respects the provisions of such regulations and orders shall remain in full force and effect.

This direction shall take effect June 6, 1952.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
Recording Secretary.

SCHEDULE I OF DIRECTION 13 TO CMP REGULATION NO. 1

Program identifications

A–1	Aircraft, Department of Defense.
A–2	Guided missiles, Department of Defense.
A–3	Ships, Department of Defense.
A–4	Tank-automotive, Department of Defense.
A–5	Weapons, Department of Defense.
A–6	Ammunition, Department of Defense.
A–7	Electronic and communications equipment, Department of Defense.
C–3	MRO, Department of Defense.
E–1	Construction, Atomic Energy Commission.
E–2	Operations (including MRO), Atomic Energy Commission.
E–3	Privately-owned facilities, Atomic Energy Commission.
Z–2	Metalworking machinery and equipment, National Production Authority.

[F. R. Doc. 52-6414; Filed, June 6, 1952; 5:55 p. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

PART 165A—CERTIFICATES AND PERMITS

INTERPRETATIVE RULES RELATING TO MOTOR-CARRIER OPERATIONS INVOLVING TRAVERSAL STATES; EFFECTIVE DATE

The above entitled matter coming on for further consideration, and good cause appearing therefor:

It is ordered, That the effective date of the order entered herein April 14, 1952 (17 F. R. 3558), be, and it is hereby, further postponed to July 1, 1952.

(49 Stat. 546, as amended; 49 U. S. C. 304)

Dated at Washington, D. C., this 5th day of June A. D. 1952.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 52-6360; Filed, June 9, 1952; 8:56 a. m.]

[Ex Parte No. MC-39]

PART 167—BROKERS OF PROPERTY

PRACTICES OF PROPERTY BROKERS

In the matter of postponement of effective date of the order of December 27, 1951, as subsequently modified.

Upon further consideration of the record in the above-entitled proceeding; and good cause appearing therefor:

It is ordered, That the effective date of the order of December 27, 1951, in this proceeding, as subsequently modified, be and it is hereby, further postponed from June 4, 1952, to June 30, 1952.

(49 Stat. 546, as amended; 49 U. S. C. 304)

Dated at Washington, D. C., this 2d day of June A. D. 1952.

By the Commission.

[SEAL] W. P. BARTEL.
Secretary.

[F. R. Doc. 52-6361, Filed, June 9, 1952; 8:56 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR Part 199]

REMOVALS OF ALCOHOLIC LIQUORS, TOBACCO PRODUCTS AND OTHER ARTICLES OF DOMESTIC MANUFACTURE TO FOREIGN-TRADE ZONES

NOTICE OF PROPOSED RULE-MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue. Prior to the final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of thirty days from the date of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority of section 3 of the Act of June 18, 1934 (48 Stat. 998; 19 U. S. C. 81c), as amended by the Act of June 17, 1950 (Public Law 566, 81st Congress), and section 3176 of the Internal Revenue Code (53 Stat. 375; 26 U. S. C. 3176). Other statutory provisions interpreted or applied are cited to the text in parentheses.

These regulations are confined to the removal for transportation to and deposit in a foreign-trade zone of alcoholic liquors and other articles of domestic manufacture which are subject to the jurisdiction of the Bureau of Internal Revenue. Private interests concerned with the establishment and maintenance of foreign-trade zones and the administration and supervision exercised by Customs officials over merchandise deposited and stored in foreign-trade zones should also acquaint themselves with the regulations of the Foreign-Trade Zones Board (15 CFR Part 400) and the notice of proposed rule-making of the Bureau of Customs (19 CFR Parts 19, 30; 16 F. R. 10699).

[SEAL] JOHN B. DUNLAP,
Commissioner of Internal Revenue.

1. Public Law 566, 81st Congress which amended section 3 of the Act of June 18, 1934 (48 Stat. 998; 19 U. S. C. 81c), relating to foreign-trade zones, provides that articles which have been taken into a foreign-trade zone from customs (domestic) territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of (a) the draw-back, warehousing and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and (b) the statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder.

2. Pursuant to the foregoing provisions of law, the following regulations are hereby prescribed:

PART 199—REMOVALS OF ALCOHOLIC LIQUORS, TOBACCO PRODUCTS AND OTHER ARTICLES OF DOMESTIC MANUFACTURE TO FOREIGN-TRADE ZONES

SUBPART A—SCOPE OF REGULATIONS

SUBPART B—DEFINITIONS

SUBPART C—WITHDRAWAL OF ALCOHOL, SPECIALLY DENATURED ALCOHOL AND SPECIALLY DENATURED RUM FOR DEPOSIT IN AND SUBSEQUENT EXPORATATION FROM A FOREIGN-TRADE ZONE

UNDENATURED ETHYL ALCOHOL

SPECIALLY DENATURED ALCOHOL

SPECIALLY DENATURED RUM

SUBPART D—WITHDRAWAL OF DISTILLED SPIRITS FOR DEPOSIT IN AND SUBSEQUENT EXPORTATION FROM A FOREIGN-TRADE ZONE

LOSSES OF DISTILLED SPIRITS IN TRANSIT

SUBPART E—WITHDRAWAL OF WINES FOR DEPOSIT IN AND SUBSEQUENT EXPORTATION FROM A FOREIGN-TRADE ZONE

AUTHORITY: §§ 199.1 to 199.436 issued under sec. 3, 48 Stat. 998, as amended, 53 Stat. 375; 19 U. S. C. 81c, 26 U. S. C. 3176. Statutory provisions interpreted or applied are cited to the text in parentheses.

SUBPART A—SCOPE OF REGULATIONS

§ 199.1 *Removal of alcoholic liquors and other articles to foreign-trade zones.* Pursuant to the provisions of an act to amend section 3 of the Act of June 18, 1934, relating to the establishment of foreign-trade zones (Public Law 566—81st Congress), liquors and other articles of domestic manufacture may be removed to foreign-trade zones for exportation or storage pending exportation as provided in this part. In addition to the permit required by this part for the transportation of an article to a zone, Customs Regulations (19 CFR Part 30) requires the exporter to obtain from the proper collector of customs authorization on Zone Form D for the entry of articles so transferred into a zone.

§ 199.2 *Export status.* Liquors and other articles of domestic manufacture deposited in a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder. Export status is not acquired until application on Zone Form D and admission of the liquors or other articles into the zone has been approved by the collector of customs and he has certified on Form 550–F, 1582, 1582–A, 1610, 1629, 1690 or 1701, as the case may be, to the deposit of the articles in the zone.

SUBPART B—DEFINITIONS

§ 199.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 199.6 *Alcohol.* "Alcohol" shall mean spirits produced at industrial alcohol plants established and operated under sections 3100 to 3124 of the Internal Revenue Code (26 U. S. C.).

§ 199.7 *Articles.* "Articles" shall include liquors as defined in this subpart, flavoring extracts, medicinal or toilet preparations, made with alcohol, and stills, worms and condensers.

§ 199.8 *Collector of Customs.* "Collector of Customs" shall mean the Collector of Customs of the district in which the foreign-trade zone is located.

§ 199.9 *Collector of Internal Revenue.* "Collector of Internal Revenue" shall mean the collector of internal revenue of the collection district from which articles are shipped to a zone.

§ 199.10 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 199.11 *Distilled spirits or spirits.* "Distilled spirits" or "spirits" shall mean that substance produced by the distillation of fermented grain, molasses, fruit, or other materials, commonly known as spirits, whisky, brandy, rum, gin, etc., but shall not include alcohol.

§ 199.12 *District supervisor or supervisor.* "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol and Tobacco Tax Division of the Bureau of Internal Revenue.

§ 199.13 *Fermented liquor or beer.* "Fermented liquor" or "beer" shall mean all kinds and types of liquors produced by the fermentation of malt, wholly or in part, or from any substitute therefor.

§ 199.14 *Foreign-trade zone or zone.* "Foreign-trade zone" or "zone" shall mean a foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended by Public Law 566, 81st Congress.

(48 Stat. 998–1003, as amended; 19 U. S. C. 81a–81u)

§ 199.15 *Gallon.* "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

§ 199.16 *Including.* The word "including" shall not be deemed to exclude

things other than those enumerated which are in the same general class.

§ 199.17 *Inclusive language.* Words in the plural shall include the singular, and vice versa, and words in the masculine gender shall include females, associations, copartnerships and corporations.

§ 199.18 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 199.19 *Liquor.* "Liquor" shall mean alcohol, specially denatured alcohol or specially denatured rum, distilled spirits, fermented liquor, and wine: *Provided*, That for the purposes of bonds, Forms 1702 and 1703, "Liquor" shall mean alcohol, distilled spirits, fermented liquors and wines.

§ 199.20 *Persons, proprietor, or warehouseman.* "Person, "proprietor," or "warehouseman" shall include natural persons, associations, copartnerships, and corporations.

§ 199.21 *Proof.* "Proof" shall mean the ethyl alcohol content of a liquid at 60° Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

§ 199.22 *Proof gallon.* "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60° Fahrenheit, containing 50 percent of ethyl alcohol by volume.

§ 199.23 *Regulations.* "Regulations" shall mean the regulations issued by U. S. Treasury Department, Bureau of Internal Revenue, except as otherwise specified in this part.

§ 199.24 *Specially denatured alcohol.* "Specially denatured alcohol" is alcohol denatured in accordance with the formulas prescribed in the Appendix to Regulations 3 (26 CFR Part 182).

§ 199.25 *Specially denatured rum.* "Specially denatured rum" is rum denatured in accordance with the provisions of Regulations 16 (26 CFR Part 187).

§ 199.26 *U. S. C.* "U. S. C." shall mean the United States Code.

§ 199.27 *Wine.* "Wine" when used without qualification, includes all still wines, champagne and other sparkling wines, artifically carbonated wine, retsina wine, and vermouth or other aperitif wines produced on bonded winery premises.

§ 199.28 *Zone Operator.* "Zone Operator" shall mean the person to which the privilege of establishing, operating and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended by Public Law 566, 81st Congress.

(48 Stat. 998–1003, as amended; 19 U. S. C. 81a–81u)

Subpart C—Withdrawal of Alcohol, Specially Denatured Alcohol and Specially Denatured Rum for Deposit in and Subsequent Exportation From a Foreign-Trade Zone

Undenatured Ethyl Alcohol

NOTE: Sections 199.35 to 199.51 interpret or apply 53 Stat. 358; 26 U. S. C. 3105. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.35 *General.*—Alcohol may be withdrawn, without payment of tax, from an industrial alcohol plant or bonded warehouse established and operated under the provisions of Regulations 3 (26 CFR Part 182), for transportation to and deposit in a foreign-trade zone for exportation or for storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Such withdrawals may be made from industrial alcohol plants or bonded warehouses in drums or barrels of any desired capacity; in tin, glass, or similar containers, completely encased in wood, fiber board, or other approved material; in metal containers of not less than 24 gauge, or of similar strength, having a capacity of not more than 10 gallons; in railroad tank cars; and in tank trucks. Alcohol may also be withdrawn from bonded warehouses in bottles or cases of any desired size. The withdrawal, transportation to and deposit in the foreign-trade zone and the accounting for any losses in transit shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the packaging, bottling, casing, marking, stamping, and reporting of alcohol prior to withdrawal shall be in accordance with the applicable provisions of Regulations 3, governing the exportation of alcohol.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.36 *Application and entry.* Whenever an exporter desires to remove alcohol from an industrial alcohol plant or bonded warehouse for transportation to and deposit in a foreign-trade zone for exportation, he shall make application on Form 1701, in quintuplicate. Where the exporter is a person other than the proprietor of the premises from which the withdrawal is to be made, Form 1701 shall be delivered to such proprietor. Each application on Form 1701 will be given a serial number by the applicant, beginning with "1" for for the first day of January of each year and running consecutively thereafter to December 31, inclusive. All of the information called for by the headings of the various columns and lines on the form and the instructions printed thereon or issued in respect thereto, and as required by this part, shall be furnished. The method of conveyance and the name of the carrier or carriers shall be shown whenever possible. If the alcohol is shipped on a through bill of lading and all the carriers handling the alcohol while in transit are not known, the name of the carrier to whom the alcohol is to be delivered at the shipping plant or warehouse must be shown. Where Form 1701 is signed by an agent, proper power of attorney on Form 1534, authorizing the agent to execute the form for the exporter, must be filed in triplicate with the district supervisor.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.37 *Transportation bonds.* The exporter shall file a bond with the district supervisor to cover the transportation of the alcohol from the industrial alcohol plant or bonded warehouse to the foreign-trade zone. If a bond is given only for a specific lot of alcohol to be withdrawn, the bond shall be executed on Form 1702, in triplicate. The penal sum of such bond shall be not less than the tax at the distilled spirits rate on the quantity of alcohol to be withdrawn: *Provided*, That the maximum penal sum of such bond shall not exceed $200,000. If alcohol is to be withdrawn from time to time for transfer to a foreign-trade zone, a continuing bond on Form 1703 may be executed, in triplicate: *Provided*, That if the exporter has on file a bond on Form 1495 or Form 1496, as the case may be, he may file a consent of surety on Form 1533 extending the terms of such bond to cover the tax on all alcohol withdrawn for transportation to and deposit in a zone. The penal sum of the bond on Form 1703 or on the bond Form 1495 or 1496, as the case may be, on which the consent has been filed, shall be sufficient to cover the tax at the distilled spirits rate on the maximum quantity of alcohol to be withdrawn and that may remain unaccounted for at any time: *Provided*, That the penal sum of such bonds shall not exceed $200,000, but in no case shall be less than $1,000. Bonds and consents of surety shall be executed and approved in accordance with Subpart J and the instructions printed on the form.

(53 Stat. 336, 359; 26 U. S. C. 2885, 3108)

§ 199.38 *Gauging of alcohol.* The proprietor, after determining the exact quantity in each container to be transferred and deposited in the foreign-trade zone, shall prepare Form 1440, in quintuplicate. One copy of Form 1440 will be attached to each copy of Form 1701.

(53 Stat. 307; 26 U. S. C. 2808)

§ 199.39 *Approval of application and issuance of permit.* The proprietor of the industrial alcohol plant or bonded warehouse shall forward to the district supervisor all copies of Form 1701, with Form 1440 attached. If the bond, Form 1702 or Form 1703, has been approved

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[1] * * * *Provided further*, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of—

(a) The draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

(b) The statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of paragraph 1615 (f) of the Tariff Act of 1930, as amended: * * *. (Sec. 1, Pub. Law No. 566, 81st Cong.)

and is in a sufficient penal sum, or if a consent of surety, Form 1533, extending the terms of a bond in sufficient penal sum on Form 1495 or Form 1496 has been approved, and if the exporter has complied with the law and the regulations in this part in all respects, the district supervisor will issue permit on all copies of Form 1701 for removal and transportation of the alcohol to the zone and return Form 1701, with Form 1440 attached, to the proprietor: *Provided*, That if the exporter is not the proprietor, the district supervisor finds that he is entitled to a permit under section 3114, I. R. C., and the provisions of Regulations 3 (26 CFR Part 182).

(53 Stat. 336, 359, 373, as amended; 26 U. S. C. 2385, 3103, 3170)

§ 199.40 *Export stamps.* Every package of alcohol, including tank cars, tank trucks, and cases of bottled alcohol, intended for transfer to a foreign-trade zone must have an export stamp affixed thereto at the time of its removal from the industrial alcohol plant or bonded warehouse. Upon receipt of the district supervisor's permit for removal and transportation executed on Form 1701 with attached Form 1440, the proprietor will forward all copies together with remittance for the necessary number of export stamps to the collector of internal revenue. The collector will issue the export stamps, enter the kind and serial numbers of the stamps on all copies of Form 1440, retain one copy of each form and return the remaining four copies of each form with the export stamps to the proprietor. The proprietor will deliver the export stamps and Forms 1701, with the attached Forms 1440, to the storekeeper-gauger, who will verify the data on the stamps and affix his signature, or facsimile thereof, enter the serial numbers of the stamps on Forms 1701, and return the stamps to the proprietor.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.41 *Marking and stamping containers.* The containers will be marked and stamped in accordance with the provisions of Regulations 3 (26 CFR Part 182) for containers of alcohol withdrawn for exportation, except that the words, "For Export" will be followed by "via F. T. Z. No. ____", in lieu of the names of the ports and the export permit number.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.42 *Release of alcohol.* After the containers have been properly marked and stamped and, in the case of tank cars or tank trucks, sealed with Government cap seals, the storekeeper-gauger will, after the proprietor has noted the serial numbers of the cap seals, if any, on Form 1440, approve the proprietor's application on such form to withdraw the containers and will release the alcohol for shipment to the foreign-trade zone named in the application, Form 1701. Upon removal of the alcohol the storekeeper-gauger will execute the report of removal on Form 1701.

§ 199.43 *Delivery to zone.* Alcohol may be delivered directly to a zone by the exporter in vehicles owned or controlled by him, or to a carrier holding permit under Regulations 3 (26 CFR Part 182) to transport tax-free alcohol, for transportation to a zone. Where delivery is made to a carrier for transportation to a zone, the proprietor shall procure a copy of the bill of lading, if any, covering such transportation and deliver it to the storekeeper-gauger.

(53 Stat. 336; 360; 26 U. S. C. 2885, 3114)

§ 199.44 *Disposition of forms.* When the alcohol has been withdrawn, the storekeeper-gauger will forward immediately one copy of the Form 1701, with Form 1440 attached, and a copy of the bill of lading, if any, to the supervisor of the district where the plant or warehouse is located, two copies of the forms to the collector of customs of the district in which the foreign-trade zone is located, and deliver the remaining copies of the forms to the proprietor for filing.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.45 *Deposit in foreign-trade zone.* Upon receipt at the foreign-trade zone, the containers of alcohol shall be inspected by a customs officer for evidence of loss or tampering. Packages of alcohol, including metal cans enclosed in wooden packages, must be gauged and a report of the gauge made on Form 696, in duplicate. If seals on tank cars or tank trucks are intact and bear the serial numbers shown on Form 1440 to have been affixed at the time of removal, and if there is no evidence of loss or tampering, no gauge of the tank car or tank truck need be made. However, if the seals are not intact or if the original seals (listed on Form 1440) have been replaced, the officer will open the car or truck, gauge the spirits, and make report of his gauge on Form 696, in duplicate. Containers bearing evidence of loss may be deposited in the zone, unless the circumstances indicate fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, in which event the collector of customs will detain the alcohol and report the facts immediately to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. Where alcohol is so detained, it shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Forms 1701 and Zone Form D until the detained alcohol will have been released in accordance with § 199.51. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate of inspection on Form 1701, reporting thereon any discrepancy found, giving the serial numbers of the packages or cases or the tank car or tank truck number, as the case may be, the original contents in proof gallons, and the nature and extent of any losses or discrepancies. The officer shall cut out that portion of each of the export stamps extending from the top to the bottom and embracing the entire width between the borders thereof and attach them, together with a copy of Form 696, if any, to one copy of the form 1701. The collector of customs will execute his certificate of deposit on Form 1701 and forward one copy of the form with Forms 1440 and 696, if any, and the cut-out portions of the stamps to the district supervisor who approved the permit. The remaining copy of the Form 1701, with attachments, if any, will be retained by the collector of customs.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.46 *Loss of alcohol in transit.* The tax on alcohol lost by leakage, casualty, or unavoidable cause during shipment or transfer from an industrial alcohol plant or bonded warehouse to a foreign-trade zone may be remitted if satisfactory evidence establishes that such alcohol has not been diverted to any illegal use by the exporter or carrier or other person having legal custody or control thereof or with connivance, collusion, fraud, or negligence on the part of the exporter or carrier or such other person or the employees of any of them: *Provided*, That such allowance shall not be granted if the person claiming same is indemnified against such loss by a valid claim of insurance.

(53 Stat. 336, 360; 26 U. S. C. 2885, 3113)

§ 199.47 *Notice to exporter.* If, upon examination of Form 1701, and Form 696, if any, received from the collector of customs, the district supervisor is of the opinion that alcohol reported lost had been diverted to any illegal use, he will advise the exporter by letter (a) of the identity of the containers; (b) of the amount of the loss; (c) of the circumstances indicating diversion; and (d) that filing of proof of loss and claim for remission of tax is required.

(53 Stat. 336, 360; 26 U. S. C. 2885, 3113)

§ 199.48 *Filing of claims.* When the exporter has received a notice of loss from the district supervisor and that the filing of a claim is required, he shall, within 30 days from the date of the notification, submit a claim for remission of the tax on the alcohol lost. Such claim shall be made on letter-size paper, in duplicate, showing the name, address, and capacity of the claimant and setting forth, under oath, the following information:

(a) The serial numbers of the containers involved;

(b) The quantity of alcohol lost from each container and the total quantity of alcohol covered by the claim;

(c) The total amount of tax for which the claim is filed;

(d) The date, penal sum, and form number of the bond under which withdrawal and shipment were made;

(e) The name, registry number and location of the industrial alcohol plant or warehouse from which the alcohol was withdrawn;

(f) The date of the loss, if known, and the cause and nature thereof, together with all of the known facts related thereto;

(g) Whether the alleged loss occurred without any fraud or negligence on the part of the exporter, owner, carrier, or their agents or employees, and whether claim has been made or is contemplated

against such persons on account of such loss; and

(h) Whether the alcohol lost is covered by valid claim of insurance in excess of the market value thereof, exclusive of the tax.

If the alcohol is insured, the statement will show the market value of the alcohol per proof gallon, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the alcohol and, to the best of the affiant's knowledge, whether any other person or party is indemnified against the payment of the tax sought to be remitted. The district supervisor or the Commissioner may require such further evidence as is deemed necessary.

(53 Stat. 336. 360; 26 U. S. C. 2885, 3113)

§ 199.49 *Action by district supervisor.* Where large losses in transit are reported, the district supervisor will cause immediate investigation to be made. When a claim for remission of tax is received, the district supervisor will carefully examine it to see that the required information has been furnished and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon completion of the claim investigation, the district supervisor will forward one copy of the claim and related papers, to the Commissioner with his recommendation as to the merits of the claim. In the event the exporter does not file proof of loss and claim for remission of tax, as provided in this subpart, the district supervisor will report the tax for assessment in accordance with the prescribed procedure. District supervisors will keep an account with each bond in accordance with Subpart J.

(53 Stat. 336, 360, 360; 26 U. S. C. 2885, 3112, 3113)

§ 199.50 *Action by Commissioner.* If the Commissioner finds that there has been a diversion of alcohol to any illegal use by the exporter, the tax on the alcohol diverted will be assessed, and the remainder will be subject to seizure and forfeiture under section 3116, I. R. C. If he finds that there has been a diversion by the carrier, he shall instruct the district supervisor to collect the tax in accordance with the terms and conditions of the carrier's permit and bond.

(53 Stat. 336, 360, 360; 26 U. S. C. 2885, 3112, 3113)

§ 199.51 *Release of detained alcohol.* When alcohol has been detained at a foreign-trade zone pending investigation and determination of fraud in accordance with § 199.45, the collector of customs shall not release such alcohol for deposit until he is advised so to do by the district supervisor.

(53 Stat. 336; 26 U. S. C. 2885)

SPECIALLY DENATURED ALCOHOL

NOTE: Sections 199.52 to 199.62 interpret or apply 53 Stat. 359; 26 U. S. C. 3109. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.52 *General.* Specially denatured alcohol may be withdrawn, free of tax, from denaturing plants and premises of bonded dealers established and operated under the provisions of Regulations 3 (26 CFR Part 182) for transportation to and deposit in a foreign-trade zone for exportation or for storage therein pending exportation, in accordance with the fourth proviso to section 3 of the act of June 18, 1934, as amended.[1] Such withdrawals may be made in the containers specified in § 199.35. The withdrawal, transportation to and deposit in the foreign-trade zone, and the accounting for any losses, shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the packaging, marking and reporting of specially denatured alcohol prior to withdrawal, shall be in accordance with the applicable provisions of Regulations 3 governing the exportation of specially denatured alcohol.

§ 199.53 *Application and entry.* Whenever a denaturer or bonded dealer desires to withdraw specially denatured alcohol for transportation to and deposit in a foreign-trade zone for exportation, application will be filed on Form 1701 in accordance with the applicable provisions of § 199.36 covering the withdrawal of alcohol, except that an original and three copies will be prepared instead of an original and four copies.

§ 199.54 *Consent of surety.* The denaturer or bonded dealer must file a consent of surety, Form 1533, in triplicate, extending the terms of his bond, Form 1432–A or Form 1475, as the case may be, which consent shall contain the undertaking that—

The obligors agree to extend the terms of said bond to cover all liability that may be incurred by the principal on all specially denatured alcohol withdrawn by him for transportation to and deposit in a foreign-trade zone for which satisfactory evidence of deposit therein is not submitted to the district supervisor.

Consents of surety shall be executed and approved in accordance with Subpart J and the instructions printed on the form.

§ 199.55 *Approval of application and issuance of permit.* The denaturer or bonded dealer shall forward all copies of Form 1701 to the district supervisor. If the consent of surety, Form 1533, extending the terms of the bond, Form 1432–A or Form 1473, has been approved and the bond is in a sufficient penal sum, the district supervisor shall issue permit on Form 1701 for removal and transportation of the specially denatured alcohol to the zone, and shall return all copies of Form 1701 to the applicant.

§ 199.56 *Marking of containers.* The containers will be marked in accordance with the provisions of Regulations 3 (26 CFR Part 182) for containers of specially denatured alcohol withdrawn for exportation, except that the words "For Export" will be followed by "via F. T. Z. No. ____" in lieu of the names of the ports and the export permit number.

(53 Stat. 307; 26 U. S. C. 2808)

[1] See footnote on p. 5228.

§ 199.57 *Shipment from a denaturing plant.* After the containers have been properly marked and, in the case of tank cars or tank trucks, sealed with Government cap seals, the storekeeper-gauger will, after the proprietor has noted the serial numbers of the cap seals, if any, on Form 1701, release the specially denatured alcohol for shipment to the foreign-trade zone named in the application. Upon removal of the specially denatured alcohol, the storekeeper-gauger will execute the report of removal on Form 1701.

(53 Stat. 307; 26 U. S. C. 2803)

§ 199.58 *Shipment from a bonded dealer's premises.* Upon removal of specially denatured alcohol, the dealer, after marking the containers thereof and sealing openings in the case of tank cars or tank trucks, shall execute the report of removal on all copies of Form 1701. Railroad or other appropriate seals, dissimilar in marking from cap seals used by the Bureau of Internal Revenue, for securing openings in tank cars or tank trucks, shall be furnished and affixed by the carrier or the dealer. The serial numbers of seals so used shall be noted on Form 1701.

(53 Stat. 307; 26 U. S. C. 2808)

§ 199.59 *Delivery to zone.* Specially denatured alcohol may be delivered directly to a zone by the denaturer or bonded dealer in vehicles owned or controlled by him, or to a carrier, holding permit under Regulations 3 (26 CFR Part 182) to transport specially denatured alcohol, for transportation to a zone. When delivery is made to a carrier for transportation to a zone, a copy of the bill of lading, if any, covering such transportation shall be procured by the shipper for attachment to the copy of Form 1701 to be transmitted to the district supervisor.

(53 Stat. 360; 26 U. S. C. 3114)

§ 199.60 *Disposition of forms.* When the specially denatured alcohol has been withdrawn and a copy of the bill of lading, if any, has been furnished the storekeeper-gauger at the denaturing plant, or procured by the bonded dealer, as the case may be, the storekeeper-gauger or the bonded dealer will forward immediately one copy of the Form 1701, and the bill of lading, if any, to the supervisor of the district in which the denaturing plant or bonded dealer is located, and two copies of Form 1701 to the collector of customs of the district in which the foreign-trade zone is located. The denaturer or bonded dealer, as the case may be, will retain the remaining copy of Form 1701.

§ 199.61 *Deposit in foreign-trade zone.* Upon receipt at the zone, the specially denatured alcohol shall be inspected by a customs officer, who will determine if it agrees in all respects with the description thereof on Form 1701. The officer will carefully examine the contents of any containers which are broken or tampered with and will report on both copies of Form 1701 any shortage and the apparent cause thereof. If the inspection discloses evidence of fraud, as distinguished from losses by

leakage, minor pilferage or theft in transit, the collector of customs will detain the specially denatured alcohol and report the facts immediately to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. Where specially denatured alcohol is so detained, it shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Form 1701 and Zone Form D pertaining to such specially denatured alcohol, until the detained specialty denatured alcohol will have been released in accordance with the provisions of § 199.62. Where the inspection discloses no shortage, or where a shortage is disclosed but there is no evidence to indicate fraud, the customs officer will execute his certificate of inspection on Form 1701 and forward both copies thereof to the collector of customs, who will execute his certificate of deposit on Form 1701, retain one copy, and forward one copy to the district supervisor who approved the permit.

§ 199.62 *Loss of specially denatured alcohol in transit.* Losses of specially denatured alcohol by leakage, casualty, or unavoidable cause during shipment or transfer from a denaturing plant or premises of a bonded dealer to a foreign-trade zone may be allowed, if satisfactory evidence establishes that such specially denatured alcohol has not been diverted to any illegal use by the exporter or carrier or other person having legal custody or control thereof or with connivance, collusion, fraud, or negligence on the part of the exporter or carrier or such other person or the employees of any of them. The investigation of losses, notice to exporter, procedure for filing claims, action by the district supervisor, action by the Commissioner, and release of detained specially denatured alcohol shall be in accordance with the procedure prescribed in § 199.47 to 199.51, insofar as applicable, governing losses of alcohol.

(53 Stat. 358, 360; 26 U. S. C. 3111, 3113)

SPECIALLY DENATURED RUM

NOTE: Sections 199.63 to 199.72 interpret or apply 53 Stat. 355; 26 U. S. C. 3070. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.63 *General.* Specially denatured rum may be withdrawn, without payment of tax, from distillery denaturing bonded warehouses established and operated under the provisions of Regulations 16 (26 CFR Part 187) for deposit in foreign-trade zones for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Such withdrawals may be made in packages of any desired size, including tank cars. The withdrawal, transportation to and deposit in a foreign-trade zone, and the accounting for any losses, shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the packaging, marking, and reporting of specially denatured rum prior to withdrawal, shall be in accordance with the applicable provisions of Regulations 16 governing the exportation of specially denatured rum.

§ 199.64 *Application and entry.* Where the proprietor of a denaturing bonded warehouse desires to withdraw specially denatured rum for transportation to and deposit in a foreign-trade zone for exportation, application will be filed on Form 1701 in accordance with the applicable provisions of § 199.36 covering the withdrawal of alcohol, except that an original and three copies will be prepared instead of an original and four copies.

§ 199.65 *Consent of surety.* The proprietor of the denaturing bonded warehouse must file a consent of surety, Form 1533, in triplicate, extending the terms of his bond, Form 572, which consent shall contain the undertaking that—

The obligors hereby agree to extend the terms of said bond to cover all liability that may be incurred by the principal on all specially denatured rum withdrawn by him for transportation to and deposit in a foreign-trade zone for which satisfactory evidence of deposit therein is not submitted to the district supervisor.

Consents of surety shall be executed and approved in accordance with Subpart J and the instructions printed on the form.

§ 199.66 *Approval of application and issuance of permit.* The proprietor shall forward all copies of Form 1701 to the district supervisor. If the consent of surety, Form 1533, extending the terms of the bond, Form 572, has been approved and the bond is in a sufficient penal sum, the district supervisor shall issue permit on Form 1701 for removal and transportation of the specially denatured rum to the zone, and shall return all copies of Form 1701 to the applicant.

§ 199.67 *Marking of containers.* The containers will be marked in accordance with the provisions of Regulations 16 (26 CFR Part 187) for containers of specially denatured rum withdrawn for exportation, except that the words, "For Export" will be followed by "via F. T. Z. No. _____."

(53 Stat. 307; 26 U. S. C. 2808)

§ 199.68. *Release of specially denatured rum.* The openings of tank cars used for the transportation of specially denatured rum shall be sealed by the storekeeper-gauger with Government cap seals as soon as such cars are filled. The storekeeper-gauger also shall note the serial numbers of the seals so used on Form 1701. After the containers have been properly marked, and sealed in the case of tank cars, the storekeeper-gauger will release the specially denatured rum for shipment to the foreign-trade zone named in the application. Upon removal of the specially denatured rum, the storekeeper-gauger will execute the report of removal on Form 1701.

(53 Stat. 307; 26 U. S. C. 2808)

§ 199.69 *Delivery to zone.* Specially denatured rum may be delivered directly to a zone by the proprietor in vehicles owned or controlled by him, or to a carrier holding permit under Regulations 3 (26 CFR Part 182) to transport specially denatured or tax-free alcohol, for transportation to a zone. Where delivery is made to a carrier for transportation to a zone, he shall procure a copy of the bill of lading, if any, covering such transportation.

§ 199.70 *Disposition of forms.* When the specially denatured rum has been withdrawn and a copy of the bill of lading, if any, has been furnished to the storekeeper-gauger at the denaturing bonded warehouse, the storekeeper-gauger will forward immediately one copy of the Form 1701 and bill of lading, if any, to the supervisor of the district in which the premises are located, and two copies of Form 1701 to the collector of customs of the district in which the foreign-trade zone is located. The proprietor will retain the remaining copy of Form 1701 for filing.

§ 199.71 *Deposit in foreign-trade zone.* Upon receipt at the zone, the specially denatured rum shall be inspected by a customs officer who will determine whether it agrees in all respects with the description thereof on Form 1701. The officer will carefully examine the contents of any containers which are broken or tampered with and will report on both copies of Form 1701 any shortage and the apparent cause thereof. If the inspection discloses evidence of fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, the collector of customs will detain the specially denatured rum and report the facts immediately to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. Where specially denatured rum is so detained, it shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Form 1701 and Zone Form D pertaining to such specially denatured rum, until the detained denatured rum will have been released in accordance with the provisions of § 199.72. Where the inspection discloses no shortage, or where a shortage is disclosed but there is no evidence to indicate fraud, the customs officer will execute his certificate of inspection on Form 1701 and forward both copies thereof to the collector of customs who will execute his certificate of deposit on Form 1701, retain one copy, and forward one copy to the district supervisor who approved the permit.

§ 199.72 *Loss of specially denatured rum in transit.* Losses of specially denatured rum by leakage, casualty, or unavoidable cause during shipment or transfer from a denaturing bonded warehouse to a foreign-trade zone may be allowed, if satisfactory evidence establishes that such specially denatured rum has not been diverted to any illegal use by the exporter or carrier or other person having legal custody or control thereof or with connivance, collusion, fraud, or negligence on the part of the exporter or carrier or such other person or the employees of any of them. The investigation of losses, notice to exporter, procedure for filing claims, action by district supervisor, action by Commissioner, and release of detained specially denatured rum shall be in accordance with

[1] See footnote on p. 5228.

the procedure prescribed in §§ 199.47 to 199.51, insofar as applicable, governing losses of alcohol.

(53 Stat. 359, 369; 26 U. S. C. 3111, 3113)

SUBPART D—WITHDRAWAL OF DISTILLED SPIRITS FOR DEPOSIT IN AND SUBSEQUENT EXPORTATION FROM A FOREIGN-TRADE ZONE

§ 199.100 *General.* Distilled spirits may be withdrawn, without payment of tax, from an internal revenue bonded warehouse, registered distillery or fruit distillery established and operated under the provisions of Regulations 10 (26 CFR Part 185), Regulations 4 (26 CFR Part 183) or Regulations 5 (26 CFR Part 184), respectively, for transportation to and deposit in a foreign-trade zone for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Distilled spirits may be removed in:

(a) Distiller's original packages including those the contents of which have been reduced in proof to not less than 80°;

(b) New packages filled from distiller's original packages;

(c) Cases containing spirits bottled in bond for export;

(d) Wooden packages each containing two or more metallic cans of a capacity of not less than five gallons each;

(e) Tank cars in the case of spirits of not less than 180° of proof; and

(f) Packages containing brandies blended under the provisions of Regulations 10.

The withdrawal, transportation to and deposit in the foreign-trade zone, and the accounting for any losses in transit shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the gauging, packaging, bottling, casing, marking, stamping, and reporting of distilled spirits prior to withdrawal shall be in accordance with the applicable provisions of Regulations 4, 5, and 10 governing the exportation of distilled spirits.

(53 Stat. 333, 336, 339, 344; 26 U. S. C. 2878, 2885, 2888, 2905)

§ 199.101 *Application and entry.* Whenever an exporter desires to remove distilled spirits from an internal revenue bonded warehouse, registered distillery, or fruit distillery for transportation to and deposit in a foreign-trade zone for exportation, application will be filed on Form 1701 in accordance with the requirements of § 199.36 covering withdrawal of alcohol, except that an original and five copies will be prepared instead of an original and four copies.

(53 Stat. 333, 336, 339, 344; 26 U. S. C. 2878, 2885, 2888, 2905)

§ 199.102 *Transportation bonds.* The exporter shall file a bond with the district supervisor to cover the transportation of the distilled spirits from the registered distillery, fruit distillery, or internal revenue bonded warehouse, as the case may be, to the foreign-trade zone. If a bond is given only for a specific lot of distilled spirits to be withdrawn, the bond shall be executed on Form 1702, in triplicate. The penal sum of such bond shall be not less than the tax at the distilled spirits rate on the quantity of spirits to be withdrawn, and in no case shall be less than $1,000. If distilled spirits are to be withdrawn from time to time for transfer to a foreign-trade zone, a continuing bond on Form 1703 shall be executed, in triplicate: *Provided*, That if the exporter has on file a bond on Form 657 or Form 658, he may file a consent of surety on Form 1533 extending the terms of such bond to cover the tax on all distilled spirits withdrawn for transportation to and deposit in a zone. The penal sum of the bond on Form 1703, or of the bond on Form 657 or Form 658 on which the consent has been filed, shall be sufficient to cover the tax at the distilled spirits rate on the maximum quantity of spirits to be withdrawn and that may remain unaccounted for at any one time, and in no case shall be less than $1,000. Bonds and consents of surety shall be executed and approved in accordance with Subpart J and the instructions printed on the form.

(53 Stat. 336, 339, 344; 26 U. S. C. 2885, 2888, 2905)

§ 199.103 *Tank cars of distilled spirits of not less than 180 degrees proof.* Except as otherwise provided in this subpart, where it is desired to withdraw distilled spirits of not less than 180 degrees proof in tank cars for deposit in a foreign-trade zone, the filling, sealing, marking, and stamping of such tank cars shall be in accordance with the provisions of Regulations 4 (26 CFR Part 183), 5 (26 CFR Part 184), or 10 (26 CFR Part 185) governing the removal of spirits in tank cars for exportation. The storekeeper-gauger shall prepare an original and five copies of the Form 1520 covering the gauge and removal of the spirits. After the tank cars have been filled, the storekeeper-gauger shall execute his report of gauge on all copies of the Form 1701, attach a copy of the Form 1520 to each copy of the Form 1701, deliver the original and four copies to the proprietor, and retain the remaining copy of each form.

(53 Stat. 339; 26 U. S. 2888)

§ 199.104 *Distiller's original packages and packages filled from distiller's original packages.* Except as otherwise provided in this subpart, where it is desired to withdraw distilled spirits in distiller's original packages and packages filled from distiller's original packages, the gauging, reduction in proof, recasking, and the marking of packages shall be in accordance with the provisions of Regulations 10 (26 CFR Part 185) governing the exportation of distilled spirits. The proprietor shall prepare an original and five copies of Form 1520, in the manner provided in Regulations 10, covering the packages listed in the application, execute his request for gauge on Form 1701, and deliver all copies of the Forms 1520 and 1701 to the storekeeper-gauger at the warehouse. If the spirits are to be reduced to not less than 90 degrees proof, or if the spirits are to be transferred from distiller's original packages to new packages, the proprietor shall make request so to do at the time he executes his request for gauge. If spirits in original packages are reduced in proof or are transferred to new packages, the storekeeper-gauger will prepare an original and five copies of Form 1520, covering the gauge after reduction or the gauge of the new packages, as the case may be. The storekeeper-gauger shall then execute his report of gauge on Form 1701 and attach to each copy of the form a copy of the Form 1520 covering the first gauge of the spirits, and a copy of the Form 1520 covering the reduction in proof or the transfer to new packages, retain one copy of Form 1701 with Forms 1520 attached, and deliver the remaining five copies of each form to the proprietor of the warehouse.

(53 Stat. 336; 26 U. S. C. 2885)

§ 199.105 *Wooden packages containing metallic cans.* Except as otherwise provided in this subpart, where it is desired to withdraw distilled spirits in wooden packages containing metallic cans, the marking, stamping, and removal of such wooden packages shall be in accordance with the provisions of Regulations 10 (26 CFR Part 185) governing the exportation of wooden packages containing metallic cans. The procedure prescribed in this subpart for the withdrawal of distiller's original packages shall be followed, insofar as applicable, expect that the request for gauge shall not be executed.

(53 Stat. 333; 26 U. S. C. 2878)

§ 199.106 *Bottled spirits.* Except as otherwise provided in this subpart, where it is desired to withdraw distilled spirits bottled in bond for export for transportation to and deposit in a foreign-trade zone, the bottling, casing, marking and removal of such distilled spirits shall be in accordance with the provisions of Regulations 10 (26 CFR Part 185) governing the exportation of distilled spirits bottled in bond.

(53 Stat. 344; 26 U. S. C. 2905)

§ 199.107 *Approval of application and issuance of permit.* The proprietor of the distillery or bonded warehouse shall forward to the district supervisor all copies of the Form 1701, with Forms 1520, if any, attached. If the bond, Form 1702 or Form 1703, has been approved and is in a sufficient penal sum, or if a consent of surety, Form 1533, extending the terms of a bond on Form 657 or Form 658, has been approved and the bond is in a sufficient penal sum, the district supervisor shall issue permit on Form 1701 for transportation and deposit of spirits in the zone, and shall return all copies of the Form 1701, with Forms 1520, if any, attached, to the proprietor.

(53 Stat. 336, 339, 344; 26 U. S. C. 2885, 2888, 2905)

§ 199.108 *Export stamps.* Every container of distilled spirits, except cases of bottled spirits, intended for transfer to a foreign-trade zone must have an export stamp affixed thereto at the time of its removal from the distillery or warehouse. Upon receipt of the district supervisor's permit for removal and transportation executed on Form 1701

[1] See footnote on p. 5228.

with attached Form 1520, the proprietor will forward all copies together with the remittance for the necessary number of export stamps to the collector of internal revenue. The collector will issue the export stamps, enter the kind and serial numbers of the stamps on all copies of Form 1520, retain one copy of each form, and return the remaining four copies of each form, with the export stamps, to the proprietor. The proprietor will deliver the export stamps and Form 1701 with the attached Forms 1520 to the storekeeper-gauger, who will verify the data on the stamps and affix his signature, or facsimile thereof, enter the serial numbers of the stamps on Form 1701 and his retained copy of Form 1520, and return the stamps to the proprietor.

(53 Stat. 333, 336, 339; 26 U. S. C. 2878, 2885, 2888)

§ 199.109 *Marking and stamping containers.* The containers, except cases of bottled spirits, will be marked and stamped in accordance with the provisions of Regulations 10 (26 CFR Part 185) for containers of distilled spirits withdrawn for exportation, except that the words "For Export via F. T. Z. No. ____" will be shown in lieu of the names of ports. Cases of bottled spirits will be marked in accordance with the provisions of Regulations 10 for cases of bottled spirits withdrawn for exportation, except that the words "For Export" will be followed by "via F. T. Z. No. ____," in lieu of the words "From U. S. A." and the names of the ports.

(53 Stat. 333, 336, 339, 344; 26 U. S. C. 2878, 2885, 2888, 2905)

§ 199.110 *Release of spirits.* After the containers have been properly marked, and except in the case of bottled spirits, stamped, the storekeeper-gauger will release the spirits for shipment to the foreign-trade zone named in the application, Form 1701. Upon removal of the spirits from the premises, the storekeeper-gauger will execute the report of removal on Form 1701.

(53 Stat. 333, 336, 339, 344; 26 U. S. C. 2878, 2885, 2888, 2905)

§ 199.111 *Delivery to zone.* Distilled spirits may be delivered directly to a zone by the exporter or to a carrier for transportation to a zone. Where delivery is made to a carrier for transportation to a zone, the proprietor shall procure a copy of the bill of lading, if any, covering such transportation and deliver it to the storekeeper-gauger.

(53 Stat. 336, 339, 344; 26 U. S. C. 2885, 2888, 2905)

§ 199.112 *Disposition of forms.* When the distilled spirits have been withdrawn, the storekeeper-gauger will forward immediately one copy of the Form 1701, with Form 1520, if any, attached, and a copy of the bill of lading, if any, to the supervisor of the district in which the distillery or warehouse is located, two copies of the forms to the collector of customs of the district in which the foreign-trade zone is located, deliver one copy of the forms to the proprietor, and retain the remaining copy of the forms.

(53 Stat. 336, 339, 344; 26 U. S. C. 2885, 2888, 2905)

§ 199.113 *Deposit in foreign-trade zone.* Upon receipt at the zone, the containers of distilled spirits shall be inspected by a customs officer for evidence of loss or tampering. Packages of distilled spirits, including metal cans enclosed in wooden packages, must be gauged and a report of the gauge made on Form 696, in duplicate. If seals on tank cars are intact and bear the serial numbers shown on Form 1520 to have been affixed at the time of removal, and if there is no evidence of loss or tampering, no gauge of such tank cars need be made. However, if the seals are not intact or if the original seals (listed on Form 1520) have been replaced, the officer will open the car, gauge the spirits, and make a report of his gauge on Form 696, in duplicate. Containers bearing evidence of loss may be deposited in the zone, unless the circumstances indicate fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, in which event the collector of customs will detain the distilled spirits and report the facts immediately to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. When distilled spirits are so detained, they shall be deemed not to have been deposited in the zone and customs officers will hold in abeyance the processing of Forms 1701 and Zone Form D until the detained distilled spirits will have been released in accordance with § 199.120. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate of inspection on Form 1701, reporting thereon any discrepancy found, giving the serial numbers of the packages or cases or the tank car number, the original contents in proof gallons, and the nature and extent of any losses or discrepancies. The officer shall cut out that portion of each of the export stamps, if any, extending from the top to the bottom and embracing the entire width between the borders thereof, and attach them, together with a copy of Form 696, if any, to one copy of the Form 1701. The officer shall attach the remaining copy of Form 696, if any, to the remaining copy of Form 1701 and shall then forward both copies of Form 1701 with attachments to the collector of customs. The collector of customs will execute his certificate on Form 1701 and forward one copy of the form with Forms 1520 and 696, if any, and the cut-out portions of the stamps, if any, to the district supervisor who approved the permit. The remaining copy of the Form 1701, with attachments, if any, will be retained by the collector of customs.

(53 Stat. 336, 339, 344; 26 U. S. C. 2885, 2888, 2905)

LOSSES OF DISTILLED SPIRITS IN TRANSIT

§ 199.114 *Taxable losses.* The law provides that no tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected:

(a) *Theft.* In the case of loss by theft unless the Commissioner shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them; and

(b) *Voluntary destruction.* In the case of voluntary destruction unless the distilled spirits were unfit for use for beverage purposes and the warehouseman, or other person responsible for the tax, obtained the written permission of the district supervisor for such destruction in each case.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.115 *Insurance coverage.* The remission of the tax on distilled spirits lost by theft while in bond may be allowed only to the extent that the claimant is not indemnified against or recompensed for such tax.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.116. *Notice to exporter.* If, upon examination of Form 1701, and Form 696, if any, received from the collector of customs, the district supervisor is of the opinion that a reported loss resulted from theft, or unauthorized voluntary destruction, he will advise the principal on the bond by letter (a) of the identity of the containers; (b) of the amount of the loss; (c) of the circumstances indicating loss by theft or unauthorized voluntary destruction; and (d) that filing of proof of loss and claim for remission of tax is required.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.117 *Filing of claims.* When the exporter has received a notice of loss and a request from the district supervisor, for the filing of a claim, he shall, within 30 days from the date of notification, submit a claim for remission of the tax on the spirits lost. Such claims shall be made on letter-size paper, in duplicate, showing the name, address, and capacity of the claimant and setting forth, under oath, the following information:

(a) The name of the distiller who produced the spirits, and the registry number and location of the distillery;

(b) The serial numbers of the packages or cases from which the spirits were lost. In the case of tank cars, the car numbers will be stated;

(c) The quantity of spirits lost from each package or other container, and the total quantity of spirits covered by the claim;

(d) The total amount of tax for which the claim is filed;

(e) The date of the loss, or, if such date is not known, the date on which the loss was discovered and the cause and nature thereof, together with all the facts surrounding the loss;

(f) The name of the carrier, if any;

(g) If lost by theft, the facts establishing whether the loss occurred as the result of any negligence, connivance, collusion, or fraud on the part of the distiller, owner, warehouseman, consignor, consignee, bailee, or carrier, or the employees of any of them;

(h) If lost by theft, whether the claimant is indemnified or recompensed

for the loss, and, if so, the amount and nature of such indemnity or recompense. The actual value of the spirits, less the tax, must be stated explicitly and, where required, certified copies of all policies of insurance or other documents of indemnity covering the spirits must be furnished.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.118 *Action by district supervisor.* Where large losses in transit are reported, the district supervisor will cause immediate investigation to be made. When a claim for remission of tax is received, the district supervisor will carefully examine it to see that the required information has been furnished and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon completion of the claim investigation, the district supervisor will forward one copy of the claim and related papers, to the Commissioner with his recommendation as to the merits of the claim. In the event the exporter does not file proof of loss and claim for remission of tax as provided in this subpart, the district supervisor will report the tax for assessment in accordance with the prescribed procedure. The district supervisor will keep an account with each bond in accordance with Subpart J.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.119 *Action by Commissioner.* If the Commissioner finds that a loss of distilled spirits from a container resulted (a) from unauthorized voluntary destruction, or (b) from theft and the proprietor or other person responsible for the tax fails to establish that the theft did not occur as a result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them, the tax will be assessed.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 199.120 *Release of detained spirits.* When spirits have been detained at a foreign-trade zone pending the district supervisor's investigation and determination of fraud in accordance with § 199.113, the collector of customs shall not release the spirits for deposit until he is advised so to do by the district supervisor.

Subpart E—Withdrawal of Wines for Deposit in and Subsequent Exportation From a Foreign-Trade Zone

Note: Sections 199.150 to 199.158 interpret or apply 53 Stat. 353; 26 U. S. C. 3037. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.150 *General.* Wines may be withdrawn, free of tax, from bonded wineries and bonded storerooms established and operated under the provisions of Regulations 7 (26 CFR Part 178), for transportation to and deposit in foreign-trade zones for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Such withdrawals may be made in casks, barrels, kegs, tanks, tank cars, tank trucks and in bottles encased in wood, fiberboard or other suitable material. The withdrawal, transportation to and deposit in the foreign-trade zone and the accounting for any losses shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the packaging, bottling, casing, marking, and reporting of wines prior to withdrawal shall be in accordance with the applicable provisions of Regulations 7 governing the exportation of wine.

§ 199.151 *Application and entry.* Whenever an exporter desires to remove wines from a bonded winery or storeroom for transportation to and deposit in a foreign-trade zone, application will be filed on Form 1701 in accordance with the requirements of § 199.36 covering withdrawal of alcohol, except that an original and three copies will be prepared instead of an original and four copies.

§ 199.152 *Transportation bonds.* The exporter shall file a bond with the district supervisor to cover the transportation of the wine from the bonded winery or storeroom to the foreign-trade zone. If a bond is given only for a specific lot of wine to be withdrawn, the bond shall be executed on Form 1702, in triplicate. The penal sum of such bond shall be not less than the tax on the quantity to be withdrawn, and in no case shall be less than $500. If wines are to be withdrawn from time to time for transfer to a foreign-trade zone, a continuing bond on Form 1703 shall be executed in triplicate: *Provided,* That if the exporter has on file a bond on Form 186, he may file a consent of surety on Form 1533 extending the terms of such bond to cover the tax on all wines withdrawn for transportation to and deposit in a zone. The penal sum of the bond on Form 1703, or of the bond on Form 186 on which the consent has been filed, shall be sufficient to cover the tax on the maximum quantity of any wines to be withdrawn and that may remain unaccounted for at any one time, and in no case shall be less than $500. Bonds and consents of surety shall be executed and approved in accordance with subpart J and the instructions printed on the form.

§ 199.153 *Approval of application and issuance of permit.* The proprietor of the bonded winery or storeroom shall forward to the district supervisor all copies of the Form 1701. If the bond, Form 1702 or Form 1703, has been approved and is in a sufficient penal sum, or if a consent of surety, Form 1533, extending the terms of a bond on Form 186, has been approved and such bond is in a sufficient penal sum, the district supervisor shall issue permit on Form 1701 for removal and transportation of the wines to the zone, and shall return all copies of the Form 1701 to the proprietor.

§ 199.154 *Marking containers.* The containers will be marked in accordance with the provisions of Regulations 7 (26 CFR Part 178) for containers of wine withdrawn for exportation, except that the words "For Export" will be followed by "via F. T. Z. No. _____."

(53 Stat. 354; 26 U. S. C. 3040)

§ 199.155 *Delivery to zone.* Wine may be delivered directly to a zone by the exporter or to a carrier for transportation to a zone. Where delivery is made to a carrier for transportation to a zone, the proprietor shall procure a copy of the bill of lading, if any, covering such transportation. When the wine is withdrawn from the bonded winery or storeroom, the proprietor shall execute his report of removal on Form 1701, forward the original and one copy to the collector of customs of the district in which the zone is located, one copy, to which shall be attached the copy of the bill of lading, if any, to the supervisor, and retain the remaining copy.

§ 199.156 *Deposit in foreign-trade zone.* Upon receipt at the zone, the wine shall be inspected by a customs officer, who will determine whether it agrees in all respects with the description thereof on Form 1701. The officer will carefully examine the contents of any containers which are found broken or tampered with and will report on both copies of Form 1701 any shortage and the apparent cause thereof. If the inspection discloses evidence of fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, the collector of customs will detain the wines and report the facts immediately to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. Where wines are so detained, they shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Forms 1701 and Zone Form D pertaining to such wines, until the detained wines will have been released in accordance with the provisions of § 199.158. Where the inspection discloses no shortage, or where a shortage is disclosed but there is no evidence to indicate fraud, the customs officer will execute his certificate of inspection on Form 1701 and forward both copies thereof to the collector of customs, who will execute his certificate of deposit on Form 1701, retain one copy, and forward one copy to the district supervisor who approved the permit.

§ 199.157 *Action by district supervisor.* No provision is made in the law for remission of tax on wines lost in transit to foreign-trade zones. Where large losses in transit are reported, the district supervisor will cause immediate investigation to be made. If the investigation does not disclose evidence of fraud, the district supervisor will notify the exporter in writing of his liability under his bond for the tax upon such losses of wine and request that the tax thereon be tendered in the proper form immediately. In the case of fraud the tax on the wine diverted will be assessed, and the remainder will be subject to seizure and forfeiture under section 3116, I. R. C.

(53 Stat. 347, as amended; 26 U. S. C. 3030)

§ 199.158 *Release of detained wines.* When wine has been detained at a foreign-trade zone pending the district supervisor's investigation and determination of fraud in accordance with § 199.156, the collector of customs shall not release the wine for deposit until he

is advised so to do by the district supervisor.

(53 Stat. 347, as amended; 26 U. S. C. 3030)

SUBPART F—REMOVAL OF FERMENTED LIQUOR FOR DEPOSIT IN AND SUBSEQUENT EXPORTATION FROM A FOREIGN-TRADE ZONE

NOTE: Sections 199.175 to 199.183 interpret or apply 53 Stat. 367, as amended; 26 U. S. C. 3153. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.175 *General.* Fermented liquor may be removed, without payment of tax, from the place of manufacture or storage established and operated under the provisions of Regulations 18 (26 CFR Part 192), for transportation to and deposit in foreign-trade zones for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Such removals may be made in kegs, barrels, bottles or cans. The removal, transportation to and deposit in the foreign-trade zone and the accounting for any losses in transit shall be in accordance with this subpart and Subpart J. Except as otherwise provided in this subpart, the packaging, bottling, casing, marking, and reporting of fermented liquor prior to removal shall be in accordance with the applicable provisions of Regulations 18.

§ 199.176 *Application and entry.* Whenever an exporter desires to remove fermented liquor for transportation to and deposit in a foreign-trade zone, application will be filed on Form 1701 in accordance with the requirements of § 199.36 covering the withdrawal of alcohol, except that an original and three copies will be prepared instead of an original and four.

§ 199.177 *Transportation bonds.* The exporter shall file a bond with the district supervisor to cover the transportation of the fermented liquor from the place of manufacture or storage, as the case may be, to the foreign-trade zone. If the bond is given only for a specific lot of fermented liquor to be removed, the bond shall be executed on Form 1702, in triplicate. The penal sum of such bond shall be not less than the tax on the quantity to be removed, but shall not exceed $25,000 nor be less than $1,000. If fermented liquor is to be removed from time to time for transfer to a foreign-trade zone, a continuing bond on Form 1703 shall be executed in triplicate: *Provided,* That if the brewer has on file a bond on Form 263, he may file a consent of surety on Form 1533 extending the terms of such bond to cover the tax on all fermented liquor removed for transportation to and deposit in a zone. The penal sum of the bond on Form 1703, or of the bond on Form 263 on which consent has been filed, shall be sufficient to cover the tax on the maximum quantity of any fermented liquor to be withdrawn and that may remain unaccounted for at any time. *Provided,* That the penal sum of any such bond shall not exceed $25,000 nor be less than $1,000. Bonds and consents of surety shall be executed and approved in accordance with subpart J and the instructions printed on the form.

§ 199.178 *Approval of application and issuance of permit.* The brewer shall forward to the district supervisor all copies of Form 1701. If the bond, Form 1702 or 1703, has been approved and is in a sufficient penal sum, or if the consent of surety, Form 1533, extending the terms of the bond on Form 263 has been approved and such bond is in a sufficient penal sum, the district supervisor shall issue a permit on Form 1701 for removal and transportation of the fermented liquor to the zone, and shall return all copies of Form 1701 to the brewer.

§ 199.179 *Marking containers.* The containers will be marked in accordance with the provisions of Regulations 18 (26 CFR Part 192) for containers removed for exportation, except that the words "Fermented Liquor for Export via F. T. Z. No. ____, Lot No. ____" will be shown in lieu of "Fermented Liquor for Export, Lot No. ____".

§ 199.180 *Delivery to zone.* Fermented liquor may be delivered directly to a zone by the brewer or to a carrier for transportation to a zone. Where delivery is made to a carrier for transportation to a zone, the brewer shall procure a copy of the bill of lading, if any, covering such transportation. When the fermented liquor is removed, the brewer shall execute his report of removal on Form 1701, forward the original and one copy to the collector of customs of the district in which the zone is located, one copy, to which shall be attached one copy of the bill of lading, if any, to the supervisor of the district in which the brewery or place of storage is located, and retain the remaining copy.

§ 199.181 *Deposit in foreign-trade zone.* Upon receipt at the zone, the fermented liquor shall be inspected by a customs officer who will determine whether the fermented liquor agrees in all respects with the description thereof on Form 1701. The officer will carefully examine the contents of any containers which are broken or tampered with and will report on both copies of Form 1701 any shortage and the apparent cause thereof. If the inspection discloses the shipment not to be as described on Form 1701 and there is evidence indicative of fraud, as distinguished from losses by leakage, minor pilferage or theft in transit, the collector of customs will detain the fermented liquor and report the facts to the supervisor of the district in which the zone is located, who will cause immediate investigation to be made and will take such action as the facts may warrant. Where fermented liquor is so detained, it shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Forms 1701 and Zone Form D pertaining to such fermented liquor until the detained liquor will have been released in accordance with the provisions of § 199.183. Where the inspection discloses no shortage, or where shortage is disclosed but there is no evidence to indicate fraud, the customs officer will execute his certificate of inspection on Form 1701 and forward both copies thereof to the collector of customs, who will execute his certificate of deposit on Form 1701, retain one copy, and forward one copy to the district supervisor who approved the permit.

§ 199.182 *Losses in transit.* Where large losses in transit are reported, the district supervisor will cause immediate investigation to be made. If it is found that losses in transit have occurred by casualty, leakage, or spillage, the losses will be allowed as provided in § 199.319. Unless immediate detention or seizure of the fermented liquor is deemed necessary in the event the investigation discloses evidence indicating that the losses resulted from fraud, the district supervisor will afford the exporter opportunity to submit written explanation with respect to the causes of such losses before the matter is reported to the Commissioner.

(53 Stat. 365, as amended; 26 U. S. C. 3150)

§ 199.183 *Release of detained fermented liquor.* When fermented liquor has been detained at a foreign-trade zone pending the district supervisor's investigation and determination of fraud in accordance with § 199.181, the collector of customs shall not release the liquor for deposit until he is advised so to do by the district supervisor.

SUBPART G—WITHDRAWAL OF LIQUORS AND ARTICLES WITH BENEFIT OF DRAWBACK FOR DEPOSIT IN AND SUBSEQUENT EXPORTATION FROM A FOREIGN-TRADE ZONE

ARTICLES MANUFACTURED IN PART FROM TAX-PAID DOMESTIC ALCOHOL

§ 199.200 *General.* The deposit for exportation in a foreign-trade zone of flavoring extracts and medicinal or toilet preparations (including perfumery), manufactured or produced in the United States in part from domestic tax-paid alcohol, shall be considered an exportation of such articles for the purpose of drawback of the internal revenue tax on the alcohol contained in such articles.

(46 Stat. 691, as amended; 19 U. S. C. 1311)

§ 199.201 *Regulations made applicable.* The provisions of Regulations 23 (26 CFR Part 176) relating to drawback on the alcohol contained in such articles, when exported, shall apply to the same extent to such articles when deposited for exportation in a foreign-trade zone. In lieu of stating the port of destination and the date of clearance of such articles on customs Form 4539, as specified in Regulations 23, the collector of customs shall, prior to transmittal of the form to the Commissioner of Internal Revenue, state on such form the number and location of the foreign-trade zone.

BOTTLED OR PACKAGED DISTILLED SPIRITS AND WINES

NOTE: Sections 199.202 to 199.207 interpret or apply 46 Stat. 690, as amended, 53 Stat. 377, as amended; 19 U. S. C. 1309, 26 U. S. C. 3179. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.202 *General.* Tax-paid distilled spirits and wines, bottled or packaged especially for export with benefit of drawback, may be removed from ex-

[1] See footnote p. 5228.

port storage rooms established under the provisions of Regulations 10, 11, or 15 (26 CFR Parts 185, 189, 190), and deposited with benefit of drawback of the internal revenue tax paid thereon, in foreign-trade zones for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Such removals may be made in packages (casks, barrels, drums or other approved containers) containing 5 gallons or more, or in bottles containing less than 5 gallons. The removal and the deposit in the foreign-trade zone shall be in accordance with this subpart. Except as otherwise provided in this subpart, the provisions of Regulations 28 (26 CFR Part 176), relating to the drawback on distilled spirits and wines bottled or packaged especially for export, shall apply, to the extent applicable, to the rectification, if any, bottling and packaging, casing of bottles, marking of cases and packages, the transfer and storage pending transfer of such liquors to a zone, and transfer to a zone: *Provided*, That no bond will be required respecting such removals.

§ 199.203 *Claim and entry.* Whenever an exporter desires to remove distilled spirits or wines, bottled or packaged especially for export with benefit of drawback, for transportation to and deposit in a foreign-trade zone for exportation, he shall file with the district supervisor an application, in quadruplicate, on Form 1582 for distilled spirits, or on Form 1582–A for wines, to remove such spirits or wines and to obtain drawback thereon. All of the information called for by the headings of the various columns and lines on the forms and the instructions printed thereon, or issued in respect thereto, and as required by this subpart shall be furnished: *Provided*, That the exporter shall modify the claim and entry on Form 1582 or Form 1582–A to the extent necessary to indicate that the distilled spirits or wines are to be deposited in a foreign-trade zone for exportation or storage therein pending exportation. The number and location of the foreign-trade zone shall be stated in lieu of the foreign port. Form 1582 and Form 1582–A must be verified under oath by the exporter or his authorized agent: *Provided*, That if the forms officially prescribed for such use contain therein a provision for verification by a written declaration that such claims are made under penalties of perjury, such claims shall be verified by the execution of such declaration, and such declaration so executed shall be in lieu of the oath required herein for verification. Where Form 1582 or Form 1582–A is signed by an agent, proper power of attorney on Form 1534 authorizing the agent to execute the form for the exporter must be filed in triplicate with the district supervisor.

(63 Stat. 667; 26 U. S. C. 3809)

§ 199.204 *Marking of containers.* Each case or package shall be marked in accordance with the provisions of Regulations 28 (26 CFR Part 176) for containers withdrawn for export, except that the words "via F. T. Z. No. ____" will be shown in addition to and immediately following the words "For Export from U. S. A."

§ 199.205 *Approval of application and release of liquors.* The exporter shall forward all copies of Form 1582 or Form 1582–A to the supervisor of the district in which the export storage room (in which the distilled spirits or wines are stored) is located. If the district supervisor finds that the claim and entry are properly executed and that the spirits or wines described in the entry have, according to the records of his office, been bottled or packaged especially for export with benefit of drawback, he shall execute his order on Form 1582 or Form 1582–A, as the case may be, to the storekeeper-gauger to release the liquors for shipment and return all copies of the form to such storekeeper-gauger. After the containers have been marked by the exporter, the storekeeper-gauger will inspect the containers and release the spirits for delivery to the zone. After the spirits have been released, the storekeeper-gauger shall execute his report on Form 1582 or Form 1582–A, as the case may be, and will forward one copy of the form to the district supervisor and deliver the original and two copies to the exporter, who will transmit such copies to the collector of customs at the foreign-trade zone.

§ 199.206 *Deposit in zone.* Upon receipt at the zone, the customs officer shall follow the procedure prescribed in Regulations 28 (26 CFR Part 176) governing the inspection and gauge, and the detention in the case of evidence of fraud, of the spirits and wines. Where the distilled spirits or wines are detained, they shall be deemed not to have been deposited in the zone, and customs officers will hold in abeyance the processing of Forms 1701 and Zone Form D pertaining to such liquors, until the district supervisor has advised the collector of customs that the liquors may be released and deposited in the zone. The customs officer shall modify his certificate on Form 1582 or Form 1582–A to indicate that it is a certificate of inspection and receipt and to show that the liquors were received under his supervision in the zone named by the exporter. Upon execution of his certificate, the customs officer will forward all copies of Form 1582 or Form 1582–A with attachments, if any, to the collector of customs. The collector of customs will execute his certificate on Form 1582 or Form 1582–A, which shall be properly modified to show deposit of the liquors in the zone specified in the entry, forward the original and one copy, together with attachments, if any, to the district supervisor who authorized the shipment, and retain the remaining copy.

§ 199.207 *Action on claim.* The district supervisor and the Commissioner of Internal Revenue will complete and dispose of the claim in the manner prescribed by Regulations 28 (26 CFR Part 176). If the claim is disallowed, the Commissioner will so notify the claimant and state the reasons therefor.

DISTILLERS' ORIGINAL PACKAGES

NOTE: Sections 199.208 to 199.211 interpret or apply 53 Stat. 338, as amended; 26 U. S. C. 2887. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 199.208 *General.* Tax-paid distilled spirits in distillers' original packages to which tax-paid stamps are affixed, containing not less than 20 wine gallons each, may be deposited, with the privilege of drawback of the internal revenue tax, in a foreign-trade zone for exportation or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Except as otherwise provided in this subpart, the provisions of Regulations 28 (26 CFR Part 178) relating to drawback on distilled spirits contained in distillers' original packages, upon exportation thereof, shall apply, to the extent applicable, to such distilled spirits when deposited for exportation in a foreign-trade zone: *Provided*, That bond, Form 1628, will not be required respecting such deposits.

§ 199.209 *Application and entry.* Whenever an exporter desires to deposit distilled spirits in distillers' original packages in a foreign-trade zone for exportation or for storage therein pending exportation, with privilege of drawback, he shall execute his application on Form 1629, in triplicate, and deliver it to the collector of customs. All of the information called for by the headings of the various columns and lines on the form and the instructions printed thereon, or issued in respect thereto, and as required by this subpart, shall be furnished: *Provided*, That the application shall be modified to the extent necessary to indicate that the spirits are to be deposited in a foreign-trade zone for exportation or storage therein pending exportation. The number and location of the foreign-trade zone shall be shown in lieu of the foreign port. Upon certification by the customs officer that the spirits have been received in the zone, the collector of customs shall return Form 1629 to the exporter for execution of his entry for internal revenue drawback on spirits in distillers' original packages, which entry shall be modified to the extent necessary to show that the spirits have been deposited in the foreign-trade zone named in the application. The exporter shall return all copies of Form 1629 to the collector of customs. The entry on Form 1629 must be verified under oath by the exporter or his authorized agent: *Provided*, That if the forms officially prescribed for such use contain therein a provision for verification by a written declaration that such entry is made under penalties of perjury, such entry shall be verified by the execution of such declaration, and such declaration so executed shall be in lieu of the oath required herein for verification. Where Form 1629 is signed by an agent, proper power of attorney on Form 1534 authorizing the agent to execute the form for the exporter must be filed in triplicate with the Commissioner of Internal Revenue.

(63 Stat. 667; 26 U. S. C. 3809)

§ 199.210 *Deposit in zone.* Upon receipt at the zone, the spirits will be inspected, gauged, and marked by a customs officer in accordance with the pro-

[1] See footnote on p. 5228

visions of Regulations 28 (26 CFR Part 176), except that the words "via F. T. Z. No. ----" will be shown in addition to and immediately following the words "For Export from U. S. A." on the packages of such spirits. The officer performing the inspection and gauge shall modify his certificate on Form 1629 to the extent necessary to show that the spirits have been received in the foreign-trade zone named in the application. Upon execution of his certificate, the customs officer shall deliver all copies of Form 1629 to the collector of customs. The order and certificate of inspection and shipment on Form 1629 need not be executed by customs officers. After the exporter's execution of the entry for internal revenue drawback on spirits in distillers' original packages, as provided in § 199.209, the collector of customs shall execute his certificate on all copies of Form 1629, which shall be modified to the extent necessary to show that the spirits have been deposited in the foreign-trade zone specified in the application. Form 1629 shall be disposed of in accordance with the provisions of Regulations 28 and the instructions printed on the form.

§ 199.211 *Action on claim.* The Commissioner of Internal Revenue will, upon receipt of the claim and entry, Form 1629, complete and dispose of the claim in accordance with the provisions of Regulations 28 (26 CFR Part 176). If the claim is disallowed, the Commissioner will so notify the claimant and state the reasons therefor.

SUBPART H—VOLUNTARY DESTRUCTION OF UNTAX-PAID DISTILLED SPIRITS, WINES OR FERMENTED MALT LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

§ 199.225 *General.* Domestic distilled spirits (including alcohol), wines, and fermented malt liquors may not be taken into a foreign-trade zone for destruction. However, untax-paid liquors, which have become spoiled or unfit for beverage purposes subsequent to withdrawal for transportation to and deposit in a foreign-trade zone for exportation or for storage pending exportation, may be destroyed under the supervision of the collector of customs, where it is shown to the satisfaction of the Commissioner that the liquors became spoiled or unfit due to natural causes and in the absence of any intent, act, fault, or negligence upon the part of the exporter, carrier, zone operator, or any of their agents or employees.

§ 199.226 *Application.* Application, addressed to the Commissioner and filed as hereinafter provided, for authority to destroy domestic distilled spirits (including alcohol), wines, or fermented malt liquors on storage in a foreign-trade zone shall be made by the exporter on letter-size paper, in triplicate, showing the name, address and capacity of the claimant and setting forth, under oath the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the trade zone in which the liquor is stored;

(b) The name and address of the producer of the liquor, and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors was withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date of spoilage or unfitness of the liquor, if known, and the cause and nature thereof, together with all of the known facts relating thereto;

(d) Whether the alleged spoilage or unfitness of the liquor occurred without intent, act, fault, or negligence on the part of the exporter, carrier, zone operator or their agents or employees and whether claim has been made or is contemplated against such persons on account of such spoilage or unfitness;

(e) Whether the spoiled or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application will show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor and, to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction. The district supervisor or the Commissioner may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the collector of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR Part 30).

§ 199.227 *Procurement of samples.* Upon receipt of the application, the collector of customs will determine the correctness thereof and procure a representative sample, or samples, of the liquor for analysis to determine whether it is spoiled or unfit for beverage purposes. Each sample will consist of not less than one pint, or of not less than one quart in the case of barrels and tanks. The samples will be labeled in such a manner as will readily identify the liquor and will be forwarded at the applicant's expense to the district supervisor for the district in which the foreign-trade zone is located. The collector of customs will endorse upon the application, or append thereto, a statement that he has procured and forwarded representative samples of the liquor described in the application to the district supervisor, and shall report any facts relating to the condition of the liquor, or the cause thereof, of which he may have knowledge. The original and one copy of the application will be forwarded to the district supervisor for the district in which the foreign-trade zone is located and the collector shall retain the remaining copy for his files. The collector will retain all copies of Zone Form E pending notification by the Commissioner as to his decision with respect to the alleged spoiled or unfit liquor.

§ 199.228 *Analysis of samples.* The district chemist will analyze the samples of the liquor and furnish a report of such analysis to the district supervisor. The analysis will be for the purpose of determining whether the product is spoiled or otherwise unfit for beverage purposes, and the cause therefor if spoilage or unfitness is determined.

§ 199.229 *Action by district supervisor.* The district supervisor will carefully examine the application to see that all of the required information has been furnished and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon the completion of his examination and investigation, if any, the district supervisor will forward the original copy of the application and accompanying papers, together with any pertinent reports and documentary evidence, to the Commissioner with his recommendation in respect to the merits of the application. The district supervisor will retain a copy of the application for his files.

§ 199.230 *Action by Commissioner.* If the Commissioner finds that the domestic distilled spirits (including alcohol), wines, or fermented malt liquors were withdrawn for transportation to and deposit in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that such liquors subsequently spoiled or became unfit for beverage use through no act, intent, fault, or negligence on the part of the exporter, carrier, or zone operator, or the agents or employees of any of them, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the collector of customs. Upon his approval or disapproval of the application, the Commissioner will advise the collector of customs of his action. The Commissioner will furnish a copy of his letter to the district supervisor for the completion of his files.

§ 199.231 *Action by collector of customs.* Upon receipt of the Commissioner's authorization for destruction, of the liquor, or his disapproval of the application for destruction, the collector of customs will act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR Part 30). Where the Commissioner has authorized the destruction of the liquor, such destruction shall be accomplished under the immediate supervision of an officer assigned for the purpose at the collector's convenience.

SUBPART I—REMOVAL OF STILLS OR DISTILLING APPARATUS FOR DEPOSIT IN A FOREIGN-TRADE ZONE FOR EXPORTATION, DESTRUCTION, OR STORAGE PENDING EXPORTATION

REMOVALS FREE OF TAX

§ 199.250 *General.* Stills and worms or condensers, to be used for purposes other than distilling as defined by § 199.251, may be withdrawn from the premises of the manufacturer or vender, free of tax, for deposit in a foreign-trade zone for exportation, destruction, or

storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1]

§ 199.251 *"Distilling" defined.* The term "distilling" used in § 199.250 shall mean the distillation of spirits or alcohol as defined by sections 2809 [2] and 3124,[3] I. R. C. Such distillation shall include: (a) The original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits within the provisions of section 3254 (g), I. R. C.;[4] (d) the distillation, redistillation, or recovery of ethyl alcohol or of completely or specially denatured alcohol, or of articles containing ethyl alcohol or completely or specially denatured alcohol; and (e) the redistillation or recovery of tax-free alcohol.

§ 199.252. *Application and entry.* When it is desired to remove stills, worms or condensers, free of tax, for deposit in a foreign-trade zone, for exportation, destruction, or storage therein pending exportation, the exporter will file with the collector of internal revenue an application and entry on Form 1690, in quadruplicate, properly modified to show deposit in a foreign-trade zone pending exportation. Each application, Form 1690, must be numbered serially commencing with number "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. A statement by the person who intends to use the distilling apparatus must be filed by the exporter in support of the application when the still is to be exported or stored pending exportation. The statement must show the purchaser's name and address, the purpose for which the distilling apparatus will be used, the manufacturer's name and address and serial number of the apparatus. The serial number and the manufacturer's name and address may be entered on the statement by the exporter. If all required information has been furnished by the exporter and the collector of internal revenue finds the purpose for which the distilling apparatus will be used is other than distilling spirits or alcohol, as defined in § 199.251, or if the still is to be deposited in the zone for destruction, the collector will approve each copy of the application and entry, retain the original and return the remaining three copies to the exporter. The purchaser's statement will be retained by the collector. Upon receipt of the approved copies of the application and entry, the exporter may remove the distilling apparatus described therein for deposit in the zone. If evidence of deposit of the distilling apparatus in a zone is not received by the collector of internal revenue in due course, an appropriate inquiry will be made.

§ 199.253 *Marking of stills, worms or condensers.* Stills, worms or condensers intended for deposit in a foreign-trade zone pending exportation shall have branded or stamped thereon, in a conspicuous place, the words "For Export," followed by the serial number of the article and the manufacturer's name. Where such articles are manufactured from metal plates, the words "For Export," with the serial number of the article and the manufacturer's name directly thereunder, will be stamped (in letters and figures which must, in no case, be less than one-half inch in height) thereon with a suitable die, or otherwise permanently affixed to each article. Where the article is constructed of wood, the words "For Export," the serial number of the article and the manufacturer's name will be branded thereon. If the article is to be exported in a shipping container, the foregoing marks must also be shown on such container in a manner which will enable ready identification by customs officers.

§ 199.254 *Delivery to and deposit in zone.* The exporter, upon receipt of the approved copies of the application and entry, will execute his request for customs inspection on such form. The exporter will then deliver the still, worm or condenser either to the carrier or directly for customs inspection. Two copies of the Form 1690 will be transmitted to the collector of customs. Upon receipt at the zone, the distilling apparatus will be inspected by a customs officer, and he will, if he finds it to be otherwise than described, make a special report on the Form 1690. In the event the distilling apparatus is to be destroyed after its deposit in the zone, the exporter must file application for such destruction on Zone Form E with the collector of customs in accordance with the provisions of Customs Regulations (19 CFR Part 30). After the distilling apparatus has been inspected, and destroyed if deposited in the zone for that purpose, the customs officer will modify and sign his certificate on Form 1690 indicating receipt, and, where applicable, the destruction under his supervision, of the apparatus.

§ 199.255 *Disposition of Form 1690.* After executing his certificate, the customs officer will forward the forms to the collector of customs who will modify and sign his certificate, showing deposit, and where applicable the destruction, of the distilling apparatus in the foreign-trade zone, on each copy of the entry, Form 1690. The collector of customs will retain one copy for his entry record and transmit the remaining copy of the Form 1690 to the collector of internal revenue who approved the form.

REMOVALS WITH BENEFIT OF DRAWBACK

§ 199.256 *General.* Stills manufactured especially for export, upon which the excise (commodity) tax has been paid, may be removed with benefit of drawback from the premises of the manufacturer for deposit in a foreign-trade zone for exportation, destruction, or storage therein pending exportation, in accordance with the fourth proviso to section 3 of the Act of June 18, 1934, as amended.[1] Under the law, the allowance of drawback is restricted to the tax paid on stills manufactured for export. No drawback can be allowed on worms or condensers.

(53 Stat. 388, as amended; 26 U. S. C. 3250)

§ 199.257 *Regulations made applicable.* The provisions of Regulations 23 (26 CFR Part 181) relating to exportation of stills with benefit of drawback shall apply, to the extent applicable, to the removal of such stills for deposit, with benefit of drawback, in foreign-trade zones for exportation, destruction, or storage therein pending exportation. Form 1610 prescribed by Regulations 23 shall be modified to the extent necessary to indicate that the stills are to be removed for deposit in a foreign-trade zone and that they have been so deposited. In the event the distilling apparatus is to be destroyed after its deposit in the zone, the exporter must file application for such destruction on Zone Form E with the collector of customs in accordance with the provisions of Customs Regulations (19 CFR Part 30). After the distilling apparatus has been inspected, and destroyed if deposited in the zone for that purpose, the customs officer will modify and sign his certificate on Form 1610 indicating receipt, and where applicable the destruction under his supervision, of the apparatus. In lieu of showing the port of exportation and the date of clearance there shall be shown the number and location of the foreign-trade zone and the date of deposit, and where applicable the destruction, of the still.

SUBPART J—BOND AND CONSENTS OF SURETY

§ 199.300 *General.* Every person required by Subparts C through I of this part to file a bond or consent of surety shall prepare and execute it on the prescribed form, in triplicate. Bonds shall be given with surety or collateral security. Surety may be individual or corporate. A surety may not have any interest, either direct or indirect, in the business of the principal on the bond. District supervisors are authorized to approve or disapprove all bonds and con-

[1] See footnote on p. 5228.

[2] Distilled spirits, spirits, alcohol, and alcoholic spirits, within the true intent and meaning of this chapter, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance. • • •. (53 Stat. 307; 26 U. S. C. 2809.)

[3] The term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced. • • •. (53 Stat. 364; 26 U. S. C. 3124.)

[4] Every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes, until the manufacture thereof is complete, and every wholesale or retail liquor dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying: • • •. (53 Stat. 391; 26 U. S. C. 3254.)

sents of surety required by Subparts C through I of this part.

§ 199.301 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356, Commissioner of Accounts, Section of Surety Bonds, which is issued semiannually, and subject to such amendatory circulars as may be issued from time to time. A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided,* That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

§ 199.302 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts and Deposits, Section of Surety Bonds, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, district supervisors. Powers of attorney or other evidence of appointment of agents and officers to execute bonds on behalf of the principal, must be filed on Form 1534, in triplicate, with the district supervisor.

§ 199.303 *Individual sureties.* Bonds may be given with individual sureties of which there must be not less than two, each of whom must qualify by executing Form 33 (ATU), in triplicate. Individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.

§ 199.304 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. Such real property must be located within the State where the business of the principal is to be conducted. The real property must be described in the surety's affidavit, Form 33 (ATU), with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.

§ 199.305 *Execution of Form 33.* The surety's affidavit on Form 33 (ATU) shall contain all of the information required by this subpart and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.

§ 199.306 *Certificate of title.* There must be submitted with the surety's affidavit, Form 33 (ATU), a certificate of title, in triplicate, showing that the surety has a fee simple title free of encumbrances to the realty described in the form: *Provided,* That where recognized by the laws of the State in which the realty is located, there may be submitted, in lieu of a certificate of title, a document of comparable validity, such as a certified copy of a title insurance policy or a certificate of search and finding executed by an authorized attorney.

§ 199.307 *Appraisal.* There will also be submitted with Form 33 (ATU) an appraisal, in triplicate, by two or more competent persons, designated by the district supervisor for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.

§ 199.308 *Investigation.* The district supervisor must cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 (ATU) and supporting documents, and shall forward one copy of the report of such investigation to the Commissioner with the bond and accompanying Form 33.

§ 199.309 *Requalification.* The Commissioner or district supervisor may at any time, in his discretion, require the requalification of individual sureties on Form 33 (ATU).

§ 199.310 *Deposit of collateral.* Except as provided in this section, bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties. District supervisors on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities as required by Department Circular No. 154, revised (31 CFR Part 225). United States Savings, Defense Savings, and War Savings Bonds issued under the authority of section 22 of the Second Liberty Bond Act, as amended, and other bonds and notes of the United States, which are nontransferable or the hypothecation of which will not be recognized by the Treasury Department, may not be pledge and deposited as security in lieu of corporate or individual sureties.

(Sec. 1126, 44 Stat. 122, as amended, sec. 7, 49 Stat. 22; 6 U. S. C. 15)

§ 199.311 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533, in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate district supervisor, or the consent may be executed by the home office officials of such corporate surety; except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, order its execution. A copy of such specific direction should be attached to each copy of such consent.

§ 199.312 *Approval required.* No person intending to withdraw liquors or other articles under the provisions of Subparts C through I of this part for transportation to and deposit in a foreign-trade zone shall make any such withdrawal until all bonds required by law and Subparts C through I of this part have been approved by the district supervisor.

§ 199.313 *Additional or strengthening bonds.* In all cases where the penal sum of a bond on file and in effect is not sufficient, computed as prescribed by law and Subparts C through I of this part, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, shall not be construed in any sense to be substitute bonds, and the district supervisor will refuse to approve any additional or strengthening bond where any notation is made thereon which may be construed as a release of any former bond or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."

§ 199.314 *New or superseding bonds.* The principal on any bond filed pursuant to Subparts C through I of this part may, at any time, substitute a new bond therefor. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Commissioner or district supervisor, the interests of the Government demand it or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. A new bond shall be required immediately in case of death, removal from the State, or insolvency of an individual surety, or the insolvency of a corporate surety. Where a bond is found to be not acceptable or for any reason becomes invalid or of no effect, the principal shall be re-

quired to file immediately a new and satisfactory bond, or discontinue operations thereunder forthwith. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by the obligors at the time of execution, "Superseding Bond." Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, the superseded bond shall be released as to transactions occurring wholly subsequent to the effective date of the superseding bond and notice of termination of the superseded bond may be issued as provided in § 199.324.

DISTRICT SUPERVISOR'S ACCOUNTS WITH BONDS

§ 199.315 *Alcohol and specially denatured rum.* The district supervisor will keep an account with each bond, Form 1702 and Form 1703. Where a consent of surety, Form 1533, is filed, specifically extending the terms of the exporter's continuing direct export bond (Form 1495), or continuing transportation for export bond (Form 1496), or the distiller's denaturing warehouse bond (Form 572), to cover withdrawals for deposit in a foreign-trade zone, the account shall be kept with such bond. Only one account covering all transactions under each bond need be kept. The principal will be charged with the internal revenue tax, or an amount equal thereto, on each lot of alcohol or specially denatured rum withdrawn under a bond for transfer to a foreign-trade zone. Alcohol or specially denatured rum so withdrawn shall remain unaccounted for until proof of deposit in a foreign-trade zone is filed with the district supervisor, or, where a loss is reported (a) until satisfactory evidence establishes that the alcohol or specially denatured rum has not been diverted to any illegal use by the exporter or carrier or other person having legal custody or control thereof, and that such loss occurred without connivance, collusion, fraud, or negligence on the part of the exporter or carrier or other such person, or the employees of any of them, or (b) until the tax on the loss has been paid or remitted.

(53 Stat. 336, 355, 358; 26 U. S. C. 2835, 3105, 3070)

§ 199.316 *Specially denatured alcohol.* The district supervisor will keep an account with each bond covering transportation to foreign-trade zones of specially denatured alcohol in accordance with the procedure prescribed in § 199.315 for keeping accounts with bonds covering transportation of alcohol and specially denatured rum: *Provided*, That the principal will be charged with an amount equal to the internal revenue tax at double the distilled spirits rate of tax on each wine gallon of specially denatured alcohol withdrawn under an outstanding bond for transportation to a zone.

(53 Stat. 358, 359, 359, 360, 364; 26 U. S. C. 3105, 3109, 3111, 3112, 3124)

§ 199.317 *Distilled spirits.* The district supervisor will keep an account with each bond, Form 1702 and Form 1703. Where a consent of surety, Form 1533, is filed, specifically extending the terms of the exporter's continuing direct export bond (Form 657), or continuing transportation for export bond (Form 658), to cover withdrawals for deposit in a foreign-trade zone, the account shall be kept with such bond. Only one account covering all transactions under each bond need be kept. The principal will be charged with the internal revenue tax on each lot of distilled spirits withdrawn under a bond for transfer to a foreign-trade zone. Spirits so withdrawn shall remain unaccounted for until proof of deposit in a foreign-trade zone is filed with the district supervisor, or, where a loss is reported (a) until satisfactory evidence establishes that the loss did not result from unauthorized voluntary destruction or, if from theft, that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them, or (b) until the tax on the loss has been paid or remitted.

(53 Stat. 336, 339, 344; 26 U. S. 2885, 2888, 2905)

§ 199.318 *Wines.* The district supervisor will keep an account with each bond covering transportation of wines to foreign-trade zones. Where an approved consent of surety, Form 1533, which specifically extends the terms of the exporter's continuing export bond (Form 186) to cover withdrawals for deposit in a foreign-trade zone is on file, only one account covering all transactions under such bond need be kept. The principal will be charged with the internal revenue tax on each lot of wine removed under an outstanding bond for deposit in a foreign-trade zone and will be given credit for the tax on each lot concerning which satisfactory proof of deposit in the zone is received. In case a shortage is reported from any shipment, credit will be entered for the actual quantity deposited in the zone. Credit will not be entered for the loss until the tax has been paid thereon. Wine withdrawn for deposit in a zone will be carried as unaccounted for until the certificate of the collector of customs showing the deposit of the wine in the zone has been received, and until the tax has been paid on any wine lost in transit to the zone.

(53 Stat. 347 as amended, 353; 26 U. S. C. 3030, 3037)

§ 199.319 *Fermented liquors.* The district supervisor will keep an account with each bond governing transportation of fermented liquors to foreign-trade zones. Where an approved consent of surety, Form 1533, which specifically extends the terms of the brewer's continuing export bond (Form 263) to cover withdrawals for deposit in a foreign-trade zone is on file, only one account covering all transactions under such bond need be kept. The principal will be charged with the internal revenue tax at the rate imposed on fermented malt liquors on each lot of fermented liquors removed under an outstanding bond for transportation to a zone. Credit will be given on fermented liquors for which proof of deposit in a foreign-trade zone is filed with the district supervisor and for losses of fermented liquors in transit where there is no evidence that such losses resulted from theft or pilferage or from fraud by the exporter.

(53 Stat. 365 as amended, 367; 26 U. S. C. 3150, 3153)

TERMINATION OF TRANSPORTATION BONDS

§ 199.320 *General.* Bonds on Form 1702, covering a specific lot of liquors withdrawn for deposit in a zone, will be terminated by the district supervisor immediately upon receipt from the collector of customs of a certification that the liquors had been deposited in the zone to which consigned: *Provided*, That where there is a deficiency reported by the collector of customs, the bond will not be terminated by the district supervisor until liability for the deficiency has been cleared. Upon termination, the district supervisor will mark the bond "Cancelled" followed by the date of cancellation, and will issue a notice of release, Form 1491, as provided in § 199.324. Continuing bonds on Form 1703 will be terminated by the district supervisor as to liability for liquors consigned to a foreign-trade zone after a specified future date (a) pursuant to a notice by the surety, as provided in § 199.321, (b) following approval of a superseding bond, as provided in § 199.314, or (c) following notification by the principal of the discontinuance of the business covered by the bond. Upon termination, the district supervisor will mark the bond "Cancelled" followed by the date of cancellation, and will issue a notice of termination, Form 1490, or a notice of release, Form 1491, as provided in § 199.324.

§ 199.321 *Application of surety for release from bond.* A surety on any bond required by Subparts C through I of this part may at any time, in writing, notify the district supervisor in whose office the bond is on file, and the principal, that he desires to be relieved of liability under the bond at a date not less than 60 days after the date of the notification. One copy of the notice must be delivered to the principal and two copies shall be delivered to the district supervisor. If the notice is given by an agent of the surety it must be accompanied by a power of attorney authorizing the agent to give such notice, or by a verified statement that such power of attorney is on file with the Treasury Department. The surety must also file with the district supervisor an acknowledgment or other proof of service of such notice on the principal.

§ 199.322 *Extent of release of surety from liability under bond.* If the notice required by § 199.321 is not withdrawn thereafter in writing, the rights of the principal as supported by the said bond shall be terminated on the date named in the notice, and the surety will be relieved from liability for liquors withdrawn wholly subsequent to the date named. Liability under a bond on Form 1703 for liquors removed prior to the date named in the surety's notice will continue until such liquors are properly accounted for according to law and this part. Where the principal files a valid superseding

bond, the surety on the bond superseded will be relieved from liability for liquors withdrawn wholly subsequent to the effective date of the superseding bond.

§ 199.323 *Action by district supervisor.* When an application by the surety for release as to future liability from a transportation bond required by Subparts C through I of this part is filed with the district supervisor, or when a superseding bond has been approved, or when the principal has discontinued business, the district supervisor will make a complete examination of records to determine whether there is any liability then due and payable outstanding against the bond. He shall also ascertain from the collector of internal revenue whether there are any outstanding unpaid assessments against the principal on liquors removed under the bond. If it is found that violations of law and regulations occurred during the period covered by the bond or that liabilities chargeable against the bond have not been paid or otherwise settled, no further action will be taken until all such liabilities have been settled. If the district supervisor finds that the bond may be properly terminated, he will issue notice of termination in accordance with the provisions of § 199.324.

§ 199.324 *Notice of termination.* Upon determining that a transportation bond filed pursuant to Subparts C through I of this part may be terminated, the district supervisor will execute a notice of termination, Form 1490, where a superseding bond has been approved, or a notice of release, Form 1491, where the principal has discontinued the business covered by the bond, or where the surety has made application for release from bond as provided in § 199.321. The notice of termination or the notice of release shall be prepared in quadruplicate where there is but one surety, and in quintuplicate where there are two sureties. The district supervisor will forward the original of the notice to the Commissioner, together with a copy of the surety's application, if any, furnish one copy to each obligor, and retain one copy of the notice and the surety's application, if any, on file with the bond to which it relates.

§ 199.325 *Release of collateral.* The release of collateral pledged and deposited to support bonds required by Subparts C through I of this part will be in accordance with the provisions of Department Circular No. 154, revised (31 CFR Part 225), subject to the conditions governing issuance of notices on Forms 1490 and 1491 of the termination of such bonds. When the district supervisor determines that there is no outstanding liability against the bond, and has satisfied himself that the interests of the Government will not be jeopardized, the security may be released and returned to the principal.

(44 Stat. 122 as amended; 6 U. S. C. 15)

SUBPART K—INSTRUMENTS AND PAPERS

§ 199.350 *Part of regulations.* The terms, conditions, and instructions contained in instruments and papers required to be furnished by law or this part are hereby made a part of these regulations as fully and to the same extent as if incorporated herein.

SUBPART L—TOBACCO PRODUCTS

§ 199.375 *General.* The following regulations in this subpart shall govern the withdrawal of tobacco products, including chewing and smoking tobacco, snuff, cigars and cigarettes, without payment of tax, from bonded domestic internal revenue factories and from bonded internal revenue tobacco export and sea stores warehouses for delivery to foreign-trade zones.

§ 199.376 *Withdrawals of tobacco products to be covered by bond.* No additional or special bonds will be required to cover withdrawals of nontaxpaid tobacco products from domestic internal revenue factories where produced, or withdrawals of such articles from internal revenue tobacco export and sea stores warehouses, for delivery to foreign-trade zones under these regulations. Liability to tax on such withdrawals shall be charged against the bonds under which the factories and tobacco export or sea stores warehouses are operated. However, a tobacco products manufacturer, or proprietor of a bonded internal revenue tobacco export or sea stores warehouse, who desires to make withdrawals of nontaxpaid tobacco products from his factory or warehouse for delivery to foreign-trade zones must furnish to the District Supervisor, Alcohol and Tobacco Tax Division, of the district in which his factory or warehouse is located, consent of the surety on his factory or warehouse bond to cover such withdrawals.

§ 199.377 *Requirements as to packing, marking or branding.* Tobacco, snuff, cigars and cigarettes may be put up in packages of any desired size or description for delivery to a foreign-trade zone. Any label, seal or closure appearing on a package of tobacco products which is shipped to a foreign-trade zone must be readily distinguishable from an internal revenue stamp.

§ 199.378 *Shipping containers.* Each shipping case, crate, or other package, containing nontaxpaid tobacco products, to be delivered to a foreign-trade zone under these regulations must be numbered.

§ 199.379 *Application for withdrawal.* For each intended withdrawal of nontaxpaid tobacco products from his factory, or withdrawal of nontaxpaid tobacco products from his bonded internal revenue tobacco export warehouse under these regulations, the manufacturer or warehouse proprietor shall file with the district supervisor of the district in which the factory or warehouse is located an application for withdrawal, Form 550–F, in triplicate, while for each intended withdrawal of such articles from a bonded internal revenue sea stores warehouse under the regulations in this part, the proprietor shall file with his district supervisor an application, Form 550–F, in quadruplicate. The front or face of each copy of the application, Form 550–F, shall be completely and legibly filled in and be given a serial number by the manufacturer or warehouse proprietor. All of the copies of the application shall show the same information, including the serial number. Upon receipt of the properly executed application, the district supervisor will sign each copy indicating his approval of the withdrawal of the shipment described on the application. If the shipment is to be withdrawn from a domestic factory, or from a bonded internal revenue tobacco export warehouse, inspection by an internal revenue officer prior to withdrawal will not be necessary or required. However, if the shipment is to be withdrawn from a bonded internal revenue sea stores warehouse, inspection by the officer in charge of the warehouse prior to withdrawal is required.

§ 199.380 *Disposition of copies of Form 550–F.* After the district supervisor has signed each copy of the application, Form 550–F, indicating his approval of the withdrawal of the shipment described on the form, he shall retain one copy for immediate transmittal to the Commissioner. If the shipment is to be withdrawn from a domestic factory or bonded internal revenue tobacco export warehouse, the district supervisor must return the other two approved copies of the Form 550–F to the manufacturer or warehouse proprietor concerned. If the shipment is to be withdrawn from a bonded internal revenue tobacco sea stores warehouse, the district supervisor must forward the other three approved copies of the Form 550–F to the officer in charge of the warehouse who shall permit withdrawal of the shipment described on the form. When the shipment has been removed from the factory or tobacco export warehouse, the manufacturer or warehouse proprietor shall execute the appropriate certificate on the back of both copies of the Form 550–F and forward these two copies to the customs officer in charge of the foreign-trade zone to which the shipment described on the form will be delivered. When the shipment from the tobacco sea stores warehouse has been withdrawn under the supervision of the officer in charge, that officer should execute the proper certificate on the back of each of the copies of the Form 550–F, retain one copy to be submitted with his report at the close of the month on Form 550–D to the district supervisor for the district in which the sea stores warehouse is located, and forward the other two copies of the Form 550–F to the customs officer in charge of the foreign-trade zone involved.

§ 199.381 *Receipt of shipment into foreign-trade zone.* When a shipment of nontaxpaid tobacco products is received at the foreign-trade zone, the customs officers at the zone shall inspect the shipment to satisfy themselves that it agrees with that described on the copies of the related Form 550–F received from the manufacturer, proprietor of the tobacco export warehouse, or officer in charge of the tobacco sea stores warehouse from which the shipment originated. The customs officers at the foreign-trade zone should not permit receipt into the zone of tobacco products other than those described on the related Form 550–F. After

permitting receipt of the shipment into the zone, the officer in charge shall properly execute the certificate of receipt on the back of each of the two copies of the related Form 550–F, retain one copy for the records of his office, and transmit the other completed copy of the form to the Commissioner of Internal Revenue.

§ 199.382 *Delay in removal; cancellation of shipment.* In case the shipment of tobacco products is not removed from the factory, or internal revenue tobacco export or sea stores warehouse, within ten days after the date of approval of the related Form 550–F by the district supervisor, the manufacturer or warehouse proprietor must advise the supervisor as to the probable date of removal. If the order for the shipment has been canceled, the manufacturer or warehouse proprietor should so state request permission to cancel his application and retain the merchandise in stock in his factory or warehouse.

§ 199.383 *Return of shipment to factory or warehouse.* If, after removal from his factory, or internal revenue warehouse, and prior to delivery to and receipt in a foreign-trade zone, the manufactuer, or the proprietor of the internal revenue tobacco export or sea stores warehouse, desires to return a shipment of tobacco products to the premises of his factory, or into his warehouse, he must make application to the Commissioner of Internal Revenue for permission so to do. The manufacturer or warehouse proprietor must identify the shipment set forth in such application, where it has been since it left his factory or warehouse, where it is held and in whose custody it is at the time of making application, and the reason for its return. Permission and appropriate instructions must be received by the manufacturer or warehouse proprietor from the Commissioner before the merchandise is returned to the premises of the factory or warehouse.

§ 199.384 *Tax liability.* Responsibility for the proper delivery of nontaxpaid tobacco products withdrawn from the factory, or tobacco export or sea stores warehouse, under the regulations in this part shall rest upon the manufacturer or warehouse proprietor making the withdrawal and he will be liable for the internal revenue tax on such articles shipped or delivered otherwise than in accordance with the regulations in this part, or for such articles shipped for this purpose where satisfactory evidence of delivery is not received by the Commissioner.

§ 199.385 *Credit for shipment.* Upon receipt by the Commissioner of Internal Revenue of a copy of the application, Form 550–F, on which the officer in charge of the foreign-trade zone has executed the certificate of receipt, or other satisfactory evidence, credit will be allowed the shipper for the merchandise actually received into the foreign-trade zone as indicated by the officer in charge of the zone. In case a shortage is reported, the shipper will be required to pay the amount of tax due on the shortage.

§ 199.386 *Penalties.* Sections 2160 and 2173 of the Internal Revenue Code impose severe penalties for the illegal possession, use or dealing in, within the United States (including the Territories of Alaska and Hawaii), of manufactured tobacco, snuff, cigars and cigarettes upon which the tax has not been paid. These provisions of law apply to tobacco products removed without payment of tax under these regulations from a factory or internal revenue tobacco export or sea stores warehouse and, accordingly, any person possessing, using or dealing in such products otherwise than as authorized by these regulations may be subject to the penalties prescribed in such provisions of law.

SUBPART M—PLAYING CARDS

§ 199.425 *General.* The regulations in this subpart shall govern the withdrawal of playing cards, without payment of tax, from factories, for delivery to foreign-trade zones.

§ 199.426 *Bond for withdrawals of playing cards.* A manufacturer intending to withdraw playing cards, without the payment of tax, for transportation to and deposit in a foreign-trade zone shall, either before, or at the time of, filing his first application for withdrawal for delivery to foreign-trade zone on Form 550–F, furnish to the collector of internal revenue of the district in which the place of manufacture is located, an export bond, in duplicate, on Form 549, with surety satisfactory to the collector. If an export bond on Form 549 has already been furnished by the manufacturer, it will not be necessary that a new bond be filed, since liability to tax on such a withdrawal will be charged against the existing export bond, Form 549; however, in such case if a playing card manufacturer makes a withdrawal of tax-free playing cards from his factory for delivery to a foreign-trade zone he must furnish to the collector of the district in which the factory is located consent of the surety on the export bond to cover such withdrawal.

§ 199.427 *Requirements as to packing, marking or branding.* Playing cards must be put up in packs the same as for domestic use. Any label used to seal a package of playing cards which is shipped to a foreign-trade zone must be readily distinguishable from an internal revenue stamp.

§ 199.428 *Shipping containers.* Each shipping case, crate, or other package, containing nontaxpaid playing cards, to be delivered to a foreign-trade zone under the regulations in this part must be numbered.

§ 199.429 *Application for withdrawal.* For each intended withdrawal of nontaxpaid playing cards from his factory under the regulations in this part, the manufacturer shall file with the collector of internal revenue of the district in which the factory is located an application for withdrawal, Form 550–F, in triplicate. The front or face of each copy of the application, for 550–F, shall be completely and legibly filled in and be given a serial number by the manufacture. All of the copies of the application shall show the same information, including the serial number. Upon receipt of the properly executed application, the collector will sign his permit on each copy indicating his approval of the withdrawal of the shipment described on the application. Inspection of the shipment by an internal revenue officer prior to withdrawal from the factory will not be necessary or required.

§ 199.430 *Disposition of copies of Form 550–F.* After the collector has signed his permit on each copy of the application, Form 550–F, indicating his approval of the withdrawal of the shipment described on the form, he should retain one copy for transmittal to the Commissioner in accordance with the provisions of A&C Mimeograph Coll. No. 6280, dated June 29, 1948. The collector should return the other two approved copies of the Form 550–F to the manufacturer concerned. When the shipment has been removed from the factory the manufacturer shall execute the appropriate certificate on the back of each copy of the Form 550–F and forward both copies to the customs officer in charge of the foreign-trade zone to which the shipment described on the form will be delivered.

§ 199.431 *Receipt of shipment into foreign-trade zone.* When a shipment of playing cards is received at the foreign-trade zone, the customs officers at the zone shall inspect the shipment to satisfy themselves that it agrees with that described on the copies of the related Form 550–F received from the manufacturer. The customs officers at the foreign-trade zone should not permit receipt into the zone of playing cards other than those described on the related Form 550–F. After permitting receipt of the shipment into the zone, the officer in charge shall properly execute the certificate of receipt on the back of each of the two copies of the related Form 550–F, retain one copy for the records of his office, and transmit the other completed copy of the form to the Commissioner of Internal Revenue.

§ 199.432 *Delay in removal; cancellation of shipment.* In case a shipment is not removed from the factory within ten days after the date of approval of the related Form 550–F by the collector of internal revenue, the manufacturer must advise the collector as to the probable date of removal. If the order for the shipment has been canceled, the manufacturer must so state and request permission to cancel his application and retain the merchandise in stock in his factory.

§ 199.433 *Return of shipment to factory.* If, after removal from his factory, and prior to delivery to and receipt in a foreign-trade zone, the manufacturer desires to return a shipment of playing cards to the premises of his factory, he must make application to the Commissioner of Internal Revenue for permission so to do. The manufacturer must identify the shipment set forth in such application, where it has been since it left his factory, where it is held and in

whose custody it is at the time of making application, and the reason for its return. Permission and appropriate instructions must be received by the manufacturer from the Commissioner before the merchandise is returned to the premises of the factory.

§ 199.434 *Tax liability.* Responsibility for the proper delivery of nontax-paid playing cards withdrawn from his factory under the regulations in this part shall rest upon the manufacturer making the withdrawal and he will be liable for the internal revenue tax on such articles shipped or delivered otherwise than in accordance with the regulations in this part, or for such articles shipped for this purpose where satisfactory evidence of delivery is not received by the Commissioner.

§ 199.435 *Credit for shipment.* Upon receipt by the Commissioner of Internal Revenue of a copy of the application, Form 550–F, on which the officer in charge of the foreign-trade zone has executed the certificate of receipt, or other satisfactory evidence, credit will be allowed the shipper for the playing cards actually received into the foreign-trade zone as indicated by the officer in charge of the zone. In case a shortage is reported, the shipper will be required to pay the amount of tax due on the shortage.

§ 199.436 *Penalties.* Sections 1820 (b) and 3320(a) of the Internal Revenue Code impose severe penalties for dealing in, within the United States, playing cards upon which the tax properly due has not been paid, or for possessing playing cards with design to avoid payment of the tax thereon. These sections apply to playing cards removed without payment of tax under the regulations in this part, and accordingly, any person possessing, using, or dealing in, such playing cards otherwise than as authorized by these regulations may be subject to penalities prescribed therein.

3. These regulations will be effective on the 31st day after the date of their publication in the FEDERAL REGISTER.

[F. R. Doc. 52-6358; Filed, June 9, 1952; 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Bureau of Animal Industry

[9 CFR Part 17]

MEAT INSPECTION REGULATIONS; LABELING

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given in accordance with section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) that the Secretary of Agriculture, pursuant to the authority vested in him by the Meat Inspection Act, as amended (21 U. S. C. 71–91) is considering amending Part 17 of the meat inspection regulations (9 CFR, Chapter I, and Subchapter A, Part 17) relating to labeling by adding to paragraph 17.8 (c) the following subparagraph:

(52) The application of curing solution to beef briskets shall not result in an increase in the weight of the finished cured product of more than 20 percent over the weight of the fresh uncured briskets. The application of curing solution to other beef cuts, such as navels, clods, middle ribs, rumps and the like, which are intended for bulk corned beef shall not result in an increase in the weight of the finished cured product of more than 10 percent over the weight of the fresh uncured meat.

The purpose of the foregoing proposed amendment is to control the composition of certain meat food products along lines which have been thoroughly investigated by the Meat Inspection Division of the Department of Agriculture and to bring into the regulations, orders and instructions that have been given to the field operating force of the Meat Inspection Division and inspected establishments during the past year.

Any person who wishes to submit written data, views or arguments concerning the proposed amendment may do so by filing them with the Chief of the Meat Inspection Division, Bureau of Animal Industry, United States Department of Agriculture, Washington 25, D. C., within 15 days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 5th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-6337; Filed, June 9, 1952; 8:49 a. m.]

Production and Marketing Administration

[7 CFR Part 942]

[Docket No. AO 103-A12]

HANDLING OF MILK IN NEW ORLEANS, LA., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGEEMENT AND PROPOSED ORDER AMENDING ORDER NOW IN EFFECT

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 proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at New Orleans, Louisiana, on March 11–13, 1952, pursuant to notice thereof which was issued February 21, 1952 (17 F. R. 1625).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on May 1, 1952 filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on May 6, 1952 (17 F. R. 4171; F. R. Doc. 52–5071).

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

The material issues of record are concerned with the following:

1. Revision of the terms "producer," "country plant," "city plant," "handler," "delivery period" and "other source milk" and the addition of definitions for "fluid milk plant" and "producer milk";

2. Incorporation of revised indexes of wholesale prices and New Orleans department store sales in the Class I pricing formula;

3. Revision of the Class I supply-demand arrangement and other Class I pricing provisions;

4. An increase of the Class III price;

5. Revision of the classification and transfer provisions;

6. A change in the method of determining monthly bases for individual producers and a change in the months included in the base forming and base operating periods;

7. Reissuance of Order 42 in accordance with regulations of the Division of Federal Register issued October 12, 1948.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

1. The terms "producer," "country plant," "city plant," "handler," "delivery period," and "other source milk" should be redefined and a definition of "producer milk" should be added.

At present, the designation of a dairy farmer as a producer under the order is dependent upon the receipt of such farmer's milk at a country or city plant. The definition of a country plant likewise is dependent upon receipt of milk from a producer. The difficulty caused by the interdependence of these definitions can be eliminated by redefining several terms. The wording in other order provisions also may be simplified by combining the definitions for country plant and city plant into a new definition "fluid milk plant."

Under the prevailing health ordinances, the New Orleans Health Department issues permits to milk plants located in the city of New Orleans. The approval of farms and the issuance of permits to suppliers of milk for New Orleans are handled by the state health departments of Louisiana and Mississippi. Producers and plants supplying milk for Louisiana areas outside of the city of New Orleans are issued permits by the health departments of the respective parishes in which the plants and farms are located. These health departments are local agencies of the Louisiana State Health Department. It is not possible, therefore, to readily distinguish between New Orleans marketing area milk plants and producers and other

plants and dairy farmers on the basis of health department approval.

It is quite possible that under the present definitions of terms, dairy farmers who deliver milk to a milk plant located in either state would come within the scope of the current definition of a producer. If such plant transferred milk of any quantity to a plant distributing milk in the New Orleans marketing area, such plant would now be classified as a country plant and the operator of that plant would be a handler subject to the order. It is intended, however, that the order apply to milk supplied by dairy farmers and to operators of milk plants primarily engaged in serving the New Orleans marketing area. The order should not apply to so-called emergency shipments nor to reserve milk which might be transferred from a nearby market to a regulated handler during the flush production season. In order to preclude such possibilities, a basis is needed to distinguish between plants and producers who are considered as regular sources of supply for the marketing area and those who are not regularly associated with this area. This may be accomplished by defining a fluid milk plant as a milk plant (1) where milk is processed and packaged and from which Class I milk is disposed of on retail or wholesale outlets in the marketing area, or (2) from which milk or cream is transferred to a plant described in (1); and providing for the exclusion from this definition, plants transferring Class I–A, Class II or Class III milk only, or plants which may furnish emergency supplies during the short production season or infrequent shipments during other seasons. This may be accomplished by specifically excluding these plants which furnish milk for less than 20 days during each of the months of September through December or less than 5 days during other months. These qualifications have been changed on the basis of exceptions filed to the recommended decision. These qualifications are more appropriate than those set forth in the recommended decision for meeting the previously mentioned problem of distinguishing between regular and emergency or nonregular suppliers of milk under the individual handler pooling arrangement for the New Orleans marketing area. Fluid milk plant status will be determined on the basis of performance during the current delivery period rather than during the immediately preceding period of September through November. Milk received from dairy farmers delivering to plants qualifying as fluid milk plants in any given delivery period, therefore, will be subject to the minimum pricing provisions of the order in such month. The definition decided upon also will tend to preclude the possibility of certain handlers gaining a short run price advantage in procuring milk for Class I uses. Under the previously proposed definitions, this might have been achieved during the flush production season by dropping regular producers and procuring seasonal reserve milk from plants not previously qualified as fluid milk plants. The dropping of producers and procurement of other source milk would nullify the ends sought through the pricing and pooling provisions of the order. Such a loss of regular producers would tend to disrupt the orderly marketing of milk in this area. The revised definition, however, provides for importation of milk from outside sources to meet specified seasonal and emergency shortages without bringing the suppliers of such milk under the order. The intent of the present definition and the status of existing plants will remain unchanged.

A producer may then be defined as a person, other than a producer-handler, who produces milk for consumption as milk in the marketing area and which is received at a fluid milk plant. The testimony showed that milk received by a handler from a producer-handler should not be subject to the pricing and payment provisions of the order. As discussed below, transfers of milk from producer-handlers to handlers under the order will be considered as other-source milk. At the time the current definition of a producer was formulated, producer-handlers supplied a substantial amount of milk to the market but the number has declined from more than 400 to less than 10 at the present time.

The term "handler" should be defined to mean any person operating a fluid milk plant. In case a handler operates other milk plants, this definition is not intended to include such person in his capacity as an operator of such nonfluid milk plants.

The term "delivery period" should be defined as a calendar month, or the portion thereof during which the marketing order is in effect. The term is thus defined for facility in developing the other provisions of the order and in the event the order is suspended, it clarifies the fact that the various order provisions would be applicable only to that portion of the month during which the order was effective.

The term "other source milk" should be defined to include all skim milk and butterfat received in any form from a source other than producers or other handlers, except any non-fluid product received and disposed of in the same form. Milk produced by producer-handlers is not available for regular purchases by handlers, particularly during the short production season. Producer-handlers normally distribute nearly all of their production in the form of Class I products during most of the year. During the flush months, they may dispose of seasonal reserve milk to handlers in the market but such milk is not needed in addition to regular producer receipts at this time of year. This milk should not be pooled and thereby credited with Class I utilization normally supplied by regular producers. The pooling of this reserve milk would result in producer-handlers realizing higher average returns for milk than regular producers. It is concluded, therefore, that such receipts from producer-handlers should be handled as other source milk and thus allocated to the lowest priced available utilization in the receiving handler's plant. Nonfluid milk products received and disposed of in the same form such as butter and other packaged manufactured products should be excluded as other source milk. Reporting by handlers of such products as other source milk is not necessary to carry out the classification, allocation and pricing functions of the order.

The term "producer milk" should be defined to mean any skim milk or butterfat contained in milk received directly from producers by a handler or from other handlers. Transfers of milk between handlers will be considered as producer milk in applying the transfer and allocation provisions of the order thus providing for the allocation of milk received from producers to the highest priced class utilization available in both handlers' plants. The use of this term will facilitate the construction of order language in various other provisions.

2. The Class I pricing provisions should be amended to incorporate revised indexes of wholesale prices and New Orleans department store sales.

Under the present order, the Class I price is determined from a base price by applying a composite index (1925–29 = 100) consisting of the index of wholesale prices in the United States, the index of department store sales in New Orleans, and an index of local feed-labor prices. In accordance with a general governmental policy, the indexes of wholesale prices and department store sales recently have been revised and are now published on a post-war base with 1947–49 equaling 100. It is therefore necessary to change the Class I pricing formula to incorporate these revised indexes.

The testimony indicates that the relative influence of the indexes comprising the component index, may be improved and a desired degree of stability may be achieved by applying a more recent base in computing the composite index rather than the 1925–29 base now used. For these reasons and also to permit the direct use of the two revised indexes as published without adjustment, it is concluded that the 1947–49 base period should be adopted for the composite index. The factors used in converting wage rates and feed prices to an index must be changed to reflect their respective 1947–49 averages as follows: Prices paid by Louisiana farmers for mixed feed, $4.34 per hundredweight; daily farm wages without room or board—Louisiana, $3.18 and Mississippi, $3.21. The testimony supports the incorporation of the new indexes so as to provide approximately the same relative level of Class I prices as have resulted from the present formula, during 1951 and the early months of 1952 for which prices were available at the time of the hearing. During this 15-month period, the average price resulting from the present Class I formula was $6.32 per hundredweight. The revised composite index for this same period averaged 110.8. Thus, in order for the revised formula to yield an average price of $6.32 during this period, a base price of $5.70 must be used in place of the present formula base price of $2.59. It is concluded, therefore, that a base price of $5.70 should be incorporated in the revised Class I pricing formula.

3. The supply-demand provisions of the Class I pricing arrangement should be changed.

The supply-demand adjustment is a device which accomplishes adjustments in the Class I price when supplies of milk get out of line with sales. With this type of adjustment prices are automatically raised when the indicated level of supplies are short, relative to sales, and are lowered when supplies are excessive. The Class I price along with other provisions of the order is intended to assure the market of an adequate supply of milk. The economic type formula has been adopted to assist in achieving this goal by keeping milk prices adjusted to general economic conditions. A supply-demand adjustment adds a further self-adjusting element in the pricing formula to reflect local and other influences on production and sales that may not be fully expressed by the economic formula.

At the time this formula was adopted in 1949, a supply-demand provision was incorporated in the order. That provision calls for an increase in the Class I price of 22 cents per hundredweight if the total volume of producer milk received by handlers during the preceding 5-month period of October through February is less than 110 percent of Class I sales; conversely, the Class I price is decreased by the same amount if producer receipts exceed 115 percent of total Class I sales. This type of a supply-demand arrangement for adjusting prices during the following 12 months has not been satisfactory for the New Orleans market. Suspension action was necessary, effective March 1, 1951. This experience indicates that there is a need to change the supply-demand arrangement to provide a method for adjustment of prices as soon as possible after an oversupply or shortage of milk is indicated. This may be accomplished, as proposed by producers, by adjustments in the Class I price each month. To apply a monthly adjustment in price, in view of the seasonal variation in receipts of milk from producers and in Class I sales, it is necessary to establish a representative or desired monthly relationship of receipts and sales to which the current relationship may be compared. An analysis of changes in receipts and sales shows that the relationship prevailing during the two most recent months for which data are available to the market administrator preceding the announcement of the Class I price, offers the most reliable basis for predicting conditions and making the necessary adjustment in such price.

A consideration of the market data for the past several years, indicates that the average relationship of receipts to Class I utilization during the two-year period, October 1949 through September 1951, will provide the most reasonable benchmark for developing a seasonal supply-demand index. During this period, producer receipts in relation to Class I utilization were lowest for the two months October and November and averaged 109 percent (Table 1). During the "short" production months of this 1949–1951 period, between one and two percent of the total Class I utilization in the market was derived from other source milk. In order to compensate for this imported milk and allow for some further improvement in the seasonal pattern of production, it is concluded that the supply-demand index derived from data for the months of September, October, and November should be increased 2 points and the index derived from data for the months of March, April, and May should be decreased 2 points. Although the effect of this adjustment is incidental to the principal objective, a minute degree of seasonal variation in the Class I price may result. Substantial changes in the seasonal pattern of production or in Class I sales over a period of time, of course, may necessitate a revision of the representative seasonal index. A change of approximately 2 cents per point deviation between the current index and the representative index offers a reasonable basis for adjusting the Class I price.

TABLE I—SUPPLY-DEMAND INDEX BASED ON TWO MONTH MOVING AVERAGE RATIOS OF PRODUCER MILK RECEIPTS TO GROSS CLASS I SALES, OCTOBER 1950 THROUGH SEPTEMBER 1951

Period used for determination	Actual average relationship (1950–51)	Adjusted "standard" or representative index	Month applicable
Months	*Percent*	*Percent*	
October–November	109	111	January.
November–December	112	114	February.
December–January	119	119	March.
January–February	126	126	April.
February–March	134	132	May.
March–April	144	142	June.
April–May	149	147	July.
May–June	143	141	August.
June–July	140	140	September.
July–August	132	132	October.
August–September	116	118	November.
September–October	112	114	December.

An adjustment based on the supply-utilization ratio for as short a period as 2 months may reflect minor random changes in this ratio which are not indicative of actual trends. It is necessary, therefore, to provide for some method of stabilizing this adjustment and of limiting it as to total magnitude. This has been accomplished by grouping the percentage deviations and setting limits on the amount of the adjustment (see § 942.50 (e) (1) (iii) of the order set forth below). The percentage groups are in such intervals that no adjustment occurs until the current ratio is 3 or 4 percentage points above or below the representative index. The next percentage group applies to deviations of 6 or 7 percentage points. In case a deviation falls between groups, the adjustment amount is determined by the adjacent group which is the same as or nearest to the percentage group used in the previous month. For example, a deviation of 5 percentage points would require the use of the group which includes 3 or 4 percent if the adjustment during the previous month had been determined by that group or a lower one. On the other hand, a 5 point difference would provide for an adjustment based on the 6 or 7 percent group if the adjustment during the previous month had been determined by the latter or a higher group. In the first month in which the amending order providing this adjustment is effective, if the applicable deviation percentage falls between groups, the adjustment amount shall be determined by the group nearest to a deviation percentage calculated without rounding to the nearest whole number.

The application of 1950 and 1951 data in this proposed supply-demand arrangement and the revised Class I price formula proposed above, results in an average Class I price for 1950 of $5.79 as compared with $5.87 under the present order. In 1951 the Class I price would have been $6.29 as compared with $6.21 actually received by producers. Because receipts of milk from producers decreased relative to Class I sales during the latter part of 1951 and the first few months of 1952, the Class I price for the first 3 months of 1952 would have been increased an average of 17 cents per hundredweight. Handlers paid premiums averaging approximately 6 cents per hundredweight during this period and thus, the actual difference is 11 cents per hundredweight. As long as receipts of producer milk in relation to Class I utilization are less than the corresponding indexes proposed herein, the Class I price differential should be increased in order to assure this market of an adequate supply of milk. A corresponding reduction in the Class I price will result if receipts of milk from producers in relation to Class I utilization exceeds the representative schedule figure. Under such circumstances, this supply-demand adjustment coupled with the formula method of establishing Class I prices will assure Class I prices which will reflect, in a large measure, local supply and demand conditions.

Other provisions of the Class I pricing section discussed at the hearing relate to: the determination of equivalent prices or index numbers, the basis for determining the mileage (zone price adjustments) applicable to Class I milk received at plants located outside the marketing area, and the bracketing of Class I price changes.

In case a price or prices for milk or any milk products specified by the present pricing provisions of the order are not reported or published in the manner described therein, the Secretary is required to determine a price, equivalent or comparable to the price specified. In view of the fact that prices of other commodities and index numbers are now used in the Class I price formula, § 942.5 (e) should be broadened to include such other prices and indexes.

Handlers proposed that the language of the order be modified to specifically state that the market administrator use the "practical" highway mileage in determining the zone location of country plants. This proposal was supported on the basis that one of the leading highways now used is a military highway which might be closed to commercial traffic in case of an emergency. Under the present order, the zone is determined by the market administrator on the basis of rail or "highway mileage distance." The present language would not preclude the application of the distance based on the shortest highway distance available to commercial traffic. There is no need for a revision of the present language.

Handlers operating more than one country plant raised some objection to the application of the Class I location adjustment first to milk received nearest to the marketing area. Handlers argue that this does not always conform to practical operations and that the quantity of milk to which location adjustments are applicable should be prorated among all country plants operated by the handler. The present provision should not be changed because it conforms to good marketing practice and tends to encourage the most economical use of marketing facilities and development of the milkshed in that, it encourages the use of nearby milk for fluid purposes and the milk located at greater distances for manufacture.

It was also requested that the pricing provisions provide Class I price changes in intervals of 20 to 22 cents per hundredweight. Under the proposed formula, the Class I price will change in intervals of 5.7 cents for each point change in the composite index and the supply-demand arrangement provides for adjustments in 6 or 7 cent intervals. Handlers favored a 22 cent bracket system in order to provide Class I price changes equivalent to one-half cent per quart. They argued that this would facilitate retail price changes and conform with the general price ceiling regulations which permit minimum ceiling price changes of one-half cent per quart. The testimony indicates that over a period of time, there will be little, if any, difference in the returns to producers (or handlers' costs of Class I milk) under the present or the bracket system of pricing. Experience has shown a 22 cent supply-demand arrangement to be unsatisfactory in this market because of its application in bracketed amounts of this size and consequence. It is concluded that it would be generally unsatisfactory to refrain from applying appropriate adjustments in the Class I price until the adjustment had reached the 22 cent level.

4. The Class III milk pricing formula should not be changed.

Producers proposed that the Class III price (applicable to milk for manufacturing uses, except cheese other than cheddar and ice cream) be increased approximately 25 cents per hundredweight by changing the formula for determining the butterfat value. The price for skim milk utilized in Class III milk would not be changed. The present method for determining the hundredweight butterfat price for Class III usage is to multiply by 100 the average daily wholesale price per pound of 92-score butter in the Chicago market during the delivery period. Under producers' proposal, 7 cents would be deducted from such butter price and the result multiplied by 120.

In support of their proposal, producers showed that the Class III price for 4 percent milk during the past several years has been less than the average price paid by certain Mississippi milk manufacturing plants. They contended that Class III prices should be increased more nearly in accordance with the prices paid by these plants.

It is generally recognized that reserve milk from a fluid market used in manufactured products should return to producers at least the competitive price for manufacturing milk in the area. This basis of pricing is difficult to apply in the New Orleans market because of the small amount of milk produced for manufacturing purposes in or near the milkshed. There are exceptionally limited manufacturing facilities located in the marketing area for processing reserve milk. There is but one milk manufacturing plant located in the entire milkshed. This plant, partially owned by a handler, has facilities for the conversion of limited quantities of whole milk to cream chiefly for use in ice cream (Class II milk), and nonfat dry milk solids. Since butterfat used for ice cream is classified and priced in Class II milk, the proposal would not affect the returns to producers for reserve milk utilized at this plant.

The next closest manufacturing outlet for reserve milk is located in Mississippi, approximately 150 miles from New Orleans and 35 miles outside the periphery of the supply area. This plant, a subsidiary of a handler, utilizes transferred producer milk primarily in butter-powder operations. Facilities also are available for the production of condensed milk and ice cream mix.

The two aforementioned plants do not have sufficient facilities to handle all of the seasonal reserve milk from the New Orleans market. Aside from very limited manufacturing facilities at Baton Rouge, the only other outlet for reserve milk is 180 miles beyond the northern limit of the milkshed and 300 miles from New Orleans. This plant engages in the production of evaporated milk. A substantial portion of the seasonal reserve from the New Orleans market has been transferred to this outlet. Because of the distance involved, reserve milk cannot be diverted directly from the farm to this manufacturing outlet. Such milk must be received at handlers' plants, refrigerated and accumulated in sufficient quantities to warrant tank truck deliveries.

It is generally accepted that competition in the open market has established lower paying prices for milk used in butter-powder operations than for milk used in the production of evaporated milk. Inasmuch as the former type operation is the only nearby manufacturing outlet available, and because of the long distance involved in transferring milk to Mississippi evaporating plants, it appears that a Class III price of somewhat less than prices paid by these plants is appropriate for this market. The prices resulting from the present Class III formula in conjunction with the individual-handler pooling arrangement have not encouraged handlers to expand Class III manufacturing operations.

For these reasons, it is concluded that no change should be made in the Class III pricing formula at this time.

5. The classification provisions of the order should be revised.

Producers proposed that the definition of Class I milk be revised to include concentrated milk and yogurt. Concentrated milk is fluid milk from which a portion of the water is removed by the means of heat in the presence of a vacuum. It may be distributed in either liquid or frozen form. To date, concentrated milk has not been sold in the New Orleans market; however, it is now being distributed in a number of fluid milk markets throughout the country. Yogurt and concentrated milk for disposition in the marketing area are required by the applicable health ordinances to be made from Grade A milk. They are disposed of in fluid form to the same retail and wholesale outlets as bottled fluid milk and other products now classified as Class I milk. Although the present class definitions have been construed to include these products as Class I milk, it appears desirable to clarify these definitions. The order language would be improved by specifically listing these products along with fluid milk and other fluid milk products in the Class I definition. Under the present classification scheme, Class I milk is defined as all skim milk and butterfat, the utilization of which is not established as Class II milk and Class III milk. Class II milk includes skim milk and butterfat used in ice cream and cheese, other than cheddar. Class III milk is defined as all skim milk and butterfat disposed of other than in certain specific products including those listed in Class II milk. These definitions would be clarified by direct and more specific definitions for each class. Class I milk should be defined, therefore, to include all skim milk and butterfat (a) disposed of as milk, skim milk, cream, or any mixture (except ice cream and frozen mixes) of milk or skim milk and cream, buttermilk, yogurt, flavored milk drinks (including eggnog), (b) used to produce concentrated milk, and (c) not specifically accounted for as Class I–A, Class II and Class III milk. Conforming changes should be made in the Class III definition.

A handler proposed that skim milk and butterfat disposed of as sterilized milk for export be classified as Class II milk. Sterilized milk is fluid milk that is hermetically sealed in cans and sterilized. It differs from evaporated, condensed, and other canned milk products in that it is not concentrated. This product is relatively stable and may be stored for a considerable period of time without refrigeration. It may be manufactured, therefore, during the flush production season from market reserves and stored for delivery during the short production season. At the present time, this product is being produced on an experimental basis in conjunction with a handler's regular fluid milk operations. In the immediate future, this handler expects to dispose of sterilized milk solely in export channels for military and foreign consumption. The testimony indicates that he desires to use local producer milk at times when reserve milk is available in the market. At the present time, ungraded milk may be used to produce sterilized milk for military and other export outlets.

Under the present order, skim milk and butterfat used for sterilized milk is classified and priced as Class I milk. The proponent testified that, in order to use producer milk for this product and

be able to compete in the export market, such milk must be priced lower than the Class I price. No specific pricing plan was proposed at the hearing but the handler testified that milk used in this product should return to local producers something more than the Class II price. The testimony indicated that the price should bear an appropriate relationship to the competitive price for good quality manufacturing milk. According to the record, this would be the manufacturing price in the more dense midwestern manufacturing milk production area plus transportation to New Orleans.

In view of the fact that sterilized milk may be made from ungraded milk and it may offer an outlet for some seasonal reserve milk from the New Orleans market, it appears appropriate to price milk used for this purpose, during the months when seasonal reserves are available, below the Class I price but somewhat higher than the Class II price. The utilization of such reserve milk at prices slightly higher than the Class II price would increase the return to local producers for milk.

The so-called 18 condensery price is considered as representative of the previously mentioned midwestern manufacturing prices for 3.5 percent butterfat content milk. Proponents indicated that a 3.5 percent sterilized milk would be produced. Using the prices prevailing during the months of March through August 1950 and 1951, and adding a transportation allowance from midwestern areas to New Orleans of $1.25 per hundredweight, the resulting average price was approximately 80 percent of the Class I price under Order 42 for 3.5 percent milk.

As shown above, the proposal submitted for hearing and the testimony of proponents was concerned primarily with the pricing of milk used for sterilized milk during the flush production season and for disposition in export channels. It was concluded in the recommended decision, therefore, that a special pricing arrangement applicable only during the flush production season and to milk intended for export would meet the immediate future needs of the market. Proponents in their brief had argued for a special price applicable to all milk used for sterilized milk for export regardless of the season of the year produced.

Further consideration of this classification and pricing problem indicates that it would be more logical to apply the same pricing scheme to such milk used for either domestic or export disposition. It is concluded that a new class, Class I-A milk, should be established for sterilized milk. Milk used in this product, therefore, would not enter into the calculation of the Class I supply-demand index. Skim milk and butterfat used in sterilized milk during the months of March through August should be priced at 80 percent of the Class I prices as provided in § 942.50 of the order for the 60–71 mile zone. These are the months when reserves of milk in the market are more than adequate to meet variations in Class I milk requirements. Producer milk utilized in sterilized milk in other months of the year should be priced at the regular Class I price. The record shows no reason why local Grade A producer milk should be utlized for sterilized milk during the same period of the year that the market is relatively short of milk in relation to its fluid requirements and particularly at prices lower than are now needed to attract a sufficient supply to meet these requirements.

A proposal was made to amend the transfer provisions of the order to provide for the classification of fluid cream transferred during September through February to a person, other than a handler who distributes fluid milk or cream, in the same manner that transfers of both fluid milk and cream are now classified during March through August. Under this proposal, any skim milk or butterfat in cream transferred to a nonhandler at any time would be allocated to the highest price classification remaining in such non-handler's plant after first subtracting receipts of milk directly from dairy farmers at such plant from the highest price classification available. Under the present order, such transfers of milk or cream during October through February are classified as Class I milk. The order also provides for the classification of milk transferred to unregulated plants, not engaged in fluid distribution, according to the class in which the market administrator determines it was used. Obviously, the market administrator must apply some method of allocation to carry out this provision. The order should specifically set forth the method to be followed. The entire transfer section of the order should be redrafted to provide a uniform method of classifying all milk transferred to nonfluid milk plants and to simplify and eliminate obsolete order language.

Under the classification provisions, if a handler receives milk from outside sources, local producer milk is allocated to the highest price class available in such handler's plants. In case New Orleans producer milk is transferred to a nonregulated plant, it is reasonable that credit for Class I and Class II utilization in such plant likewise should be allocated first to local dairy farmers customarily supplying such plant. Milk transferred from the New Orleans market would then take any remaining Class I and Class II utilization. This method of classification is appropriate for both transfers of milk to non-regulated plants engaged in fluid disposition and to those not so engaged. If the transferee plant has no Class I or Class II utilization and the requirements for reports, records and verification are complied with, such transfers would then be classified as Class III milk. The recommended change not only eliminates the necessity for different methods of classification during certain months or a separate provision, as proposed, applicable to cream only, but it also greatly simplifies the transfer provisions. The provisions of the current order should be retained which provide that such transfers of milk shall be Class I milk unless the transferee plant maintains and makes available for verification, if requested, books and records showing the utilization of receipts at such plant.

Handlers also suggested that the allocation provisions be modified to provide for the proration of other source milk during specified "short-season" periods instead of allocating such milk first to the lowest priced available utilization. The testimony fails to show that the present method of allocation is unreasonable in providing a necessary safeguard to the classification plan. The proration of other source milk would tend to reduce returns to producers under supply conditions that would indicate a need for increased rather than decreased returns. No change should be made in the allocation provisions. Other provisions of the classification section have been rewritten to incorporate revised terms and eliminate unnecessary and obsolete language. No change is intended in the context of those provisions not otherwise discussed herein.

6. The base and excess plan should be changed by substituting March for September in the base operating period.

Producers proposed that the present base plan be amended to provide for the adjustment of all bases to equal Class I sales during the period producers are paid base and excess prices. Another proposal by handlers would substitute September for March in the period for establishing bases and March for September in the period the base and excess method of producer payments is applied.

Under the present plan (and under producers' proposal), the base for each producer is equal to his average daily deliveries of milk during the base forming period (October through March). The monthly base applied for each producer during the base operating period (April through September) is equal to his average daily base multiplied by the number of days he delivers milk in each month. For deliveries of milk up to his monthly base quantity, the producer receives a base blend price and for deliveries over base, the excess price. When Class I sales are less than base milk deliveries, the excess price is the Class III price. The base blend price for each handler is his total obligations to producers less the total value of excess milk divided by his total receipts of base milk. Because base milk delivered monthly by all producers usually exceeds total Class I utilization, the total value of base milk includes the value derived from some milk utilized and priced in a lower classification. Handlers' base blend prices, therefore, are less than the Class I price.

Under producers' proposal, the base established by each producer would be adjusted (reduced) in each month of the base operating period by applying the percentage that the Class I utilization of the handler, receiving the producers' milk, is of his total receipts of base milk. In case Class I utilization were equal to or greater than receipts of base milk, no adjustment would be made. The proposed plan would result in a base price equal to the Class I price (paid by handlers for Class I utilization) and an excess price equal to the Class III price. The application of adjusted bases would not change the total value of milk delivered to a particular handler or the amount due all producers; however, it

would change the total amount of money paid out by a handler to individual producers in any given month as well as the relative returns received by different producers.

It would not be administratively feasible to determine adjusted bases and announce base and excess prices which will provide an exact balance between each handler's obligations and the total of payments due individual producers in the current month. This is because some producers may deliver less than their adjusted base quantity and because a quantity of milk in excess of total adjusted bases is utilized and priced to handlers in Class II milk, while the Class III price would be used for determining the amount paid producers for such excess for the current delivery period. Producers proposed that this problem be met by carrying over such difference to the next month and including such sum in the handlers' obligation on a "base-equivalent" basis.

Those producers delivering no more than their adjusted base quantity would receive a higher average price for milk than under the present plan. Under 1951 conditions, approximately one-fourth of the producers would have realized increased gross money returns and three-fourths of the producers lower returns. During April through September 1951, the base blend price averaged 28 cents per hundredweight less than the Class I price.

Although proponents claimed that producers prefer to know the base price in advance of delivery, their proposal appears to give producers in general no greater certainty of a given income in advance of delivery than the present plan. The plan would provide a known base price in advance of each delivery period but the producers' base quantity would not be known until after the end of the delivery period. Adjusted bases would vary in accordance with changes in the handler's Class I utilization and the amount of the "carry-over." Some producers may object to handlers holding over money due them from one month to the next. The proposed change also would complicate the base plan. In addition to the monthly "carry-over" for each handler and the necessity of computing its "base-equivalent," individual producer adjusted bases would have to be calculated each month. These difficulties argue against the plan from the standpoint of administrative feasibility.

One objection to the present plan was made on the grounds that a base blend price is confusing to producers, particularly in view of the fact that in several other Louisiana markets, the base price is equal to the Class I price. A base blend price is no different in principle than the blend price applied in paying producers during other months of the year. Furthermore, the class prices are provided in the order primarily to determine the amount of each handler's obligation to his producers on the basis of the class utilization of his milk. The base plan, on the other hand, is a method of distributing among individual producers the total obligations of the handler. Under the proposed plan and under the present plan, the excess price as well as the base price, enters into the determination of the amount of money payable to most producers during the base operating period.

The principal argument against the present plan was that producers who deliver less or no more than their "adjusted" bases (considered by proponents as the individual producers' share of the Class I sales) receive a blend base price which is lower than the Class I price. The base blend price reflects the lower utilization value of an amount of reserve milk equal to the difference between total delivered base milk and total Class I utilization of the handler. The testimony indicates that a monthly operating reserve of 10 to 15 percent of Class I sales is necessary to compensate for daily and weekly fluctuations in receipts and sales. The maintenance of this reserve is a desirable phenomenon and, in fact, its maintenance is one of the chief reasons for instituting a Federal order to stabilize marketing and price conditions. All producers should contribute to the maintenance of this reserve. The proposed plan, however, would tend to work against the maintenance of a necessary reserve. Under the proposed plan those producers who deliver only enough milk to cover Class I requirements during the period when bases apply (and who therefore do not contribute to the necessary reserve) would receive the highest prices. Those producers who produce enough milk for Class I use plus an amount for the necessary reserve would be penalized under the plan. At the present time, during the period of flush production, there appears to be no immediate danger that the necessary reserve would be eliminated by the application of the plan. The tendency, however, would be in that direction because those producers who produce during the period when bases apply in a manner consistent with the needs of the market would be penalized while those producers who are not so producing would be placed at an advantage. Actually the plan appears to be based on a misunderstanding of the ends to be gained by the base plan. The purpose of the base plan is not primarily one of allocating Class I sales among producers; rather, the purpose is to allocate the proceeds from the sale of milk among all producers in such a way as to obtain a reasonably even production of milk throughout the year.

The proposed change, as contended by producers, undoubtedly would offer greater incentive for lower receipts of milk during the summer months. In fact, the plan offers the greatest possible gross returns to those producers who establish a production pattern inverse to the present seasonal pattern of the market. It is quite possible, however, that many producers, who produce relatively more milk in the summer months but who contribute to the market supply during the fall months when additional milk is needed, may be forced to discontinue production as a result of decreased returns or of increased costs involved in achieving a more uniform or even an inverse pattern of production. Thus, a more stringent application of the base plan as proposed could very well result in a loss of producers and a serious shortage of milk under the same relative Class I price level as now prevails or the consequent necessity for a higher Class I price level than under the present plan. Even though all of these basic considerations cannot be fully appraised by the record evidence, they nevertheless raise further doubts as to justification of the proposed plan.

The testimony indicates that the chief difficulty with the present plan, as far as proponent producers are concerned, results from the fact that the total base quantity established by producers is higher in relation to Class I sales than they believe it should be. This may result in part from a high general level of production in relation to Class I sales during the base forming period (an indication that Class I prices may be higher than necessary) or the failure to apply the most appropriate base forming period. For the period of October 1951 through February 1952, receipts of milk from producers were 103 percent of Class I utilization and in November only 99 percent. These relationships indicate that the market has not been over supplied with producer milk. The corresponding relationship during this five month period of 1950–51 was 115 percent. This indicates that producers may find the present plan more satisfactory during the present base operating season than a year ago. March data are not included in these comparisons (March 1952 data were not available at the time of the hearing). In March 1951, producer receipts were 139 percent of the Class I utilization, an increase of 16 percentage points over the February relationship and 24 points greater than the average for the previous five months (October through February). In view of this substantial increase in this relationship from February to March, a closer relationship of Class I utilization and established bases would obtain by omitting March as a base forming month.

A handler proposed that March be excluded from the base forming period and included in the base operating period and September be excluded as a base operating month and included as a base forming month. Producers objected to the inclusion of September as a base forming month because of the difficulty of bringing cows into production during the usually hot weather preceding September and for the 1952–1953 season, particularly, because producers should have more advance notice of such a change. Market-wide data indicate that since the adoption of the base plan, production in March has increased substantially and September production has decreased in relation to other months. It is concluded, therefore, that the present plan could be improved and the objectives of all parties concerned could be attained in part by substituting March for September in the base operating period. The present plan may be improved also by omitting September from both the base operating and base forming periods. September, therefore, will be neither a base forming nor a base operating month. Producers will receive the blend price in September determined in

the same manner as at present for October through February.

The exclusion of September from the base operating period will provide a transitional period for producers to make adjustments in production immediately prior to establishing bases. This will remove the conflicting tendencies of the present plan to encourage a producer to curtail production through September to no higher than his previously established base and on October 1 to increase production in order to establish a desirable new base. New producers will be able to enter the market prior to the base forming period, the season more milk is needed, without being required to receive the excess price during the first month. The testimony does not show a need for further changes in the plan at this time. The recommended change will achieve in part the objectives sought by producers' and handlers' proposals and will provide a method for equitably apportioning the total value of milk purchased by handlers among individual producers.

In view of the fact that producers established present bases on the expectation that September 1952 would be included as a base operating month, it is concluded that the present plan should continue through September 1952 and the recommended changes be made effective thereafter.

7. The entire order should be recodified in accordance with Revised Regulations of the Division of the Federal Register issued October 12, 1948. In so doing, several changes should be made in the organization of the order provisions. In accordance with the testimoney presented at the hearing and as discussed above, several of the definitions have been revised. The sections setting forth the powers and duties of the market administrator and those relating to reports and their verification have been rewritten and reorganized to conform more closely with the language and organization in other orders. The provisions relating to pricing, classification, allocation, and transfers of milk have been rewritten to incorporate changes recommended above. Other sections of the order have been rewritten to incorporate revised terms and make necessary conforming changes.

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

(b) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in the marketing agreement upon which a hearing has been held; and

(c) 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 said marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

ORDER DIRECTING THE CONDUCT OF A REFERENDUM, DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order, as amended, regulating the handling of milk in the New Orleans, Louisiana, marketing area) who during the month of April, 1952, which month is hereby determined to be the representative period for such referendum, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, as amended, to determine whether such producers favor the issuance of this order amending the order, as amended, which is a part of this decision.

M. M. Truxillo is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 20th day from the date this decision is issued.

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

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 5th day of June 1952.

CHARLES F. BRANNAN,
Secretary of Agriculture.

DEFINITIONS

§ 942.1 *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.).

§ 942.2 *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 and to perform the duties of the Secretary of Agriculture.

§ 942.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

§ 942.4 *New Orleans, Louisiana, marketing area.* "New Orleans, Louisiana, marketing area," hereinafter called the "marketing area" means the cities, towns, and villages of New Orleans in Orleans Parish: Gretna, Westwego, Marrero, Harvey, Metairie, and Belle Chasse in Jefferson Parish; Poydras, St. Bernard, Violet, Meraux, Chalmette, and Arabi in St. Bernard Parish; all in the State of Louisiana.

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

§ 942.6 *Producer.* "Producer" means a person other than a producer-handler, who produces milk for consumption as milk in the marketing area and which is received at a fluid milk plant.

§ 942.7 *Handler.* "Handler" means a person who operates a fluid milk plant.

§ 942.8 *Producer handler.* "Producer handler" means a person who produces milk and who processes milk from his own production and distributes all or a portion of such milk in the marketing area as Class I milk but who receives no milk from dairy farmers or other producer handlers in bulk.

§ 942.9 *Fluid milk plant.* "Fluid milk plant" means a milk plant (a) where milk is processed and packaged and from which Class I milk as defined in § 942.41 (a) is disposed of to retail or wholesale outlets (including plant stores) in the marketing area or (b) from which milk or cream is transferred to a plant described in paragraph (a) of this section: *Provided,* That any such transferring plant shall not be included in this definition during any month in which there is shipped from such plant only Class I–A, Class II or Class III milk as defined in § 942.41 (b), (c) and (d) respectively, or during any of the months of September, October, November, and December in which shipments of fluid whole milk or fluid skim milk from such plant are made to a plant described in paragraph (a) of this section on less than 20 days or during any other month in which such shipments are made on less than 5 days.

§ 942.10 *Producer milk.* "Producer milk" means any skim milk or butterfat contained in milk received by a handler either directly from producers or from other handlers.

§ 942.11 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form from a source other than producers or other handlers, except any non-fluid product

received and disposed of in the same form.

§ 942.12 *Delivery period.* "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

§ 942.13 *Market administrator.* "Market administrator" means the agency which is described in § 942.20 for the administration of this part.

§ 942.14 *Cooperative association.* "Cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in sale of milk of its members.

MARKET ADMINISTRATOR

§ 942.20 *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.

§ 942.21 *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.

§ 942.22 *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 45 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 § 942.84, (1) the cost of his bond and of the bonds of his employees; (2) his own compensation; and (3) all other expenses, 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 herein, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such acts has not made (1) reports pursuant to § 942.30 or (2) payments pursuant to §§ 942.80 and 942.84.

(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) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this part;

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

(j) Weigh, sample and test for butterfat content milk and milk products;

(k) From time to time, as conditions in the market warrant, publicly announce the name of each handler whose receipts of skim milk and/or butterfat in milk received from producers are more than 105 percent and less than 95 percent, respectively, of his total utilization of skim milk and butterfat, respectively, in Class I milk.

(l) Publicly announce and notify each handler in writing the prices and butterfat differentials for each delivery period as follows:

(1) On or before the 6th day after the end of each delivery period, the Class II and Class III prices of skim milk and butterfat for such delivery period;

(2) On or before the 1st day of each delivery period the Class I price of skim milk and butterfat for such delivery period.

(3) On or before the 10th day after the end of each of the delivery periods of September through February such handler's uniform price per hundredweight of skim milk, butterfat, and milk containing 4.0 percent butterfat for such delivery period, and the butterfat differential applicable to such milk; and

(4) On or before the 10th day after the end of each of the delivery periods of March through August and September, 1952, such handler's uniform price per hundredweight for base milk and excess milk for such delivery period, and the butterfat differentials applicable to such base and excess milk.

REPORTS, RECORDS, AND FACILITIES

§ 942.30 *Reports of receipts and utilization.* On or before the 5th day after the end of each delivery period each handler, except a producer-handler, shall report 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 all receipts at his fluid milk plant(s) within such delivery period of (1) producer milk and for the months of March through August and September, 1952, the aggregate quantities of base and excess milk, (2) skim milk and butterfat in any form from other handlers, and (3) other source milk; and

(b) The utilization of all skim milk and butterfat required to be reported under paragraph (a) of this section.

§ 942.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request:

(a) On or before the 20th day after the end of the delivery period, his producer payroll for such delivery period which shall show: (1) The total pounds of milk received from each producer or cooperative association, including for the delivery periods of March through August and September 1952, the total deliveries of base milk and excess milk by each producer, (2) the number of days deliveries are made and if less than a full calendar month, the date of first and last delivery, (3) the average butterfat content of such milk, and (4) the net amount of such handler's payment to each producer or a cooperative association together with the prices paid, deductions and charges involved.

§ 942.32 *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (b) weigh, sample, and test for butterfat content all milk and milk products handled; (c) verify payments to producers; and (d) make such examinations of operations, equipment, and facilities, as are necessary and essential to the proper administration of this part or any amendments thereto.

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

CLASSIFICATION OF MILK

§ 942.40 *Basis of classification.* All skim milk and butterfat contained in receipts at a fluid milk plant(s), within the delivery period, of (a) producer milk,

(b) skim milk and butterfat in any form from other handlers, and (c) other source milk, shall be classified by the market administrator in the classes set forth in § 942.41.

§ 942.41 *Classes of utilization.* Subject to the conditions set forth in § 942.42 through § 942.45, the classes of utilization shall be as set forth in this section: *Provided,* That no skim milk or butterfat, as the case may be, contained in producer milk shall be classified as Class II milk or Class III milk, during any of the delivery periods of October through February if the total receipts of skim milk and butterfat in milk received from producers during the preceding delivery period is less than 90 percent of the utilization of skim milk or butterfat, respectively, by all handlers, in Class I milk.

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form (except for livestock feed) as milk, skim milk, buttermilk, flavored milk, flavored milk drinks (including eggnog), yogurt, cream (for consumption as cream including any mixture of cream and milk or skim milk other than ice cream and ice cream mix), (2) used to produce concentrated (including frozen) milk, and (3) not specifically accounted for as Class I–A milk, Class II milk, or Class III milk.

(b) Class I–A milk shall be all skim milk and butterfat disposed of as sterilized milk.

(c) Class II milk shall be all skim milk and butterfat used to produce cheese other than cheddar, ice cream and ice cream mix; and

(d) Class III milk shall be (1) all skim milk and butterfat disposed of as any item other than those classified in paragraphs (a), (b), and (c) of this section; (2) skim milk and butterfat disposed of for livestock feed; (3) skim milk dumped, and (4) skim milk and butterfat accounted for as actual plant shrinkage but not in excess of 2 percent of receipts of skim milk and butterfat, respectively, from producers.

§ 942.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified as Class II or Class III milk.

(b) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 942.43 *Transfers.* Skim milk or butterfat disposed of by a handler during any delivery period in fluid form as milk, skim milk, or cream, either by transfer or diversion shall be classified:

(a) As Class I milk if moved to a fluid milk plant of another handler (except a producer-handler), unless (1) utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the delivery period, in which such transaction occurred, but in no event shall the amount classified in any class exceed the total use in such class by the transferee-handler: *Provided,* That if either or both handlers have received other source milk, such milk so disposed of shall be classified at both plants so as to return the highest available class utilization to producer milk.

(b) As Class I milk if moved in the form of any items specified in § 942.41 (a) to a producer-handler.

(c) As Class I milk if moved to any plant other than a fluid milk plant, unless:

(1) The handler claims utilization in another class;

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

(3) The utilization of skim milk and butterfat, at such plant, in Class I milk, as defined in § 942.41 is less than the total pounds of skim milk and butterfat, respectively, received from the transferor handler(s) and from dairy farmers whom the market administrator determines constitute the regular source of supply for fluid usage in such plant, in which case the skim milk and butterfat transferred shall be assigned to the remaining uses of skim milk and butterfat, respectively, during such delivery period in series starting with Class I milk after the similar assignment of the receipts of skim milk and butterfat from such dairy farmers.

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

§ 942.45 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds in such class allocated to producer milk:

(1) Subtract the shrinkage of skim milk, computed pursuant to § 942.41 (c) (4) from the total pounds of skim milk in Class III milk;

(2) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest available price class, the pounds of skim milk in other source milk;

(3) Subtract from the pounds of skim milk remaining in each class, the pounds of skim milk received from other handlers and assigned to such class pursuant to § 942.43 (a);

(4) 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; or if the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class, in series beginning with Class III.

(b) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 942.50 *Class I prices.* Each handler shall pay producers, in the manner set forth in § 942.80, for skim milk and butterfat in milk received at his fluid milk plant from such producers during each delivery period and classified as Class I skim milk and Class I butterfat, not less than the prices per hundredweight computed pursuant to this section. In determining the Class I price for skim milk and butterfat for each delivery period the latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used:

(a) The monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947–49 as the base period.

(b) Divide by 3 the sum of the 3 latest monthly indexes of department store sales in New Orleans adjusted for seasonal variations, as reported by the Federal Reserve Bank of Atlanta, with the years 1947–49 as the base period.

(c) Compute an index of grain-labor prices in the New Orleans milkshed in the following manner:

(1) Divide by 0.0434 the average price paid per hundredweight by Louisiana farmers for all mixed dairy feed, as reported by the United States Department of Agriculture, and multiply by 0.6;

(2) Divide by 0.0321 and 0.0318, respectively, the daily farm wage rates without board or room for the latest available month for Mississippi and Louisiana, as reported by the United States Department of Agriculture. Multiply by 0.4 the weighted average of the resulting totals. In computing the weighted average, weight Mississippi 0.25 and Louisiana 0.75;

(3) Add the results determined pursuant to subparagraphs (1) and (2) of this paragraph.

(d) Divide by 3 the sum of the final results computed pursuant to paragraphs (a), (b) and (c) of this section. The result rounded to the nearest whole number shall be known as the formula index.

(e) Subject to the conditions set forth in paragraphs (f) and (i) of this section, the minimum price for skim milk and butterfat received at a handler's plant located in the 61–70 mile zone shall be as follows:

(1) Multiply $5.70 by the formula index computed pursuant to paragraph (d) of this section and add to or subtract from such result a supply-demand adjustment computed as follows:

(i) Divide the total receipts of producer milk in the two immediately preceding delivery periods by the total gross volume of Class I milk (less interhandler transfers) for such period, multi-

ply the result by 100, and round to the nearest whole number. The result shall be known as the "current supply-demand relationship."

(ii) Compute a net deviation percentage by subtracting from the "current supply-demand relationship" computed pursuant to subdivision (i) of this subparagraph, the "representative supply-demand index" shown below:

Delivery period for which the Class I price is computed	Delivery periods used to compute relationship	Representative supply-demand index
		Percent
January	October-November	111
February	November-December	114
March	December-January	119
April	January-February	126
May	February-March	132
June	March-April	142
July	April-May	147
August	May-June	141
September	June-July	140
October	July-August	132
November	August-September	118
December	September-October	114

(iii) Determine the amount of the supply-demand adjustment from the following schedule:

Net deviation (percentage points):	*Adjustment amount (cents)*
−24 or more	+49
−21 or −22	+43
−18 or −19	+37
−15 or −16	+31
−12 or −13	+25
−9 or −10	+19
−6 or −7	+13
−3 or −4	+7
−1, 0, or +1	0
+3 or +4	−7
+6 or +7	−13
+9 or +10	−19
+12 or +13	−25
+15 or +16	−31
+18 or +19	−37
+21 or +22	−43
+24 or more	−49

In case the net deviation percentage does not fall within the tabulated brackets, the adjustment amount shall be determined by the adjacent net deviation bracket which is the same as or nearest to the bracket used in the previous month.

(2) The price of butterfat shall be the sum obtained in subparagraph (1) of this paragraph multiplied by 17.5.

(3) The price of skim milk shall be computed by (i) multiplying the price of butterfat pursuant to subparagraph (2) of this paragraph by 0.04; (ii) subtracting such amount from the sum obtained in subparagraph (1) of this paragraph; (iii) dividing such net amount by 0.96; and (iv) rounding off to the nearest full cent.

(f) For skim milk and butterfat received at such handler's plant located in a freight zone other than the 61–70 mile zone, the prices shall be those effective pursuant to paragraph (e) of this section adjusted by the respective amount indicated in the following schedule for the freight zone in which such plant is located:

Freight zone (miles):	*Cents per hundredweight*
Not more than 20	+28.0
More than 20 but not more than 30	+8.0
More than 30 but not more than 40	+6.0
More than 40 but not more than 50	+4.0
More than 50 but not more than 60	+2.0
More than 60 but not more than 70	0.0
More than 70 but not more than 80	−2.0
More than 80 but not more than 90	−4.0
More than 90 but not more than 100	−6.0
More than 100 but not more than 110	−7.0
More than 110	−8.0

(g) The market administrator shall from time to time determine and publicly announce the freight zone location of each plant of each handler, according to the railroad mileage distance between such country plant and the railroad terminal in New Orleans, or according to the highway mileage distance between such plant and the City Hall in New Orleans, whichever is shorter.

(h) For the purpose of this section, the skim milk and butterfat which was classified as Class I skim milk and Class I butterfat during each delivery period shall be considered to have been first that skim milk and butterfat which was received from producers at such handler's plant located in the 0–20 mile zone, then that skim milk and butterfat which was received from producers at such handler's plant in series beginning with plants located in the freight zone nearest to New Orleans.

(i) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I prices for any of the delivery periods of April through June shall not be higher than the Class I prices for the immediately preceding delivery period, and the Class I prices for any of the delivery periods of October through December shall not be lower than the Class I prices for the immediately preceding delivery period.

§ 942.51 *Class I–A prices.* Each handler shall pay producers, in the manner set forth in § 942.80 for skim milk and butterfat received at his fluid milk plant from such producers during each delivery period and classified as Class I–A skim milk and Class I–A butterfat not less than the Class I prices for skim milk and butterfat, respectively, pursuant to § 942.50, except during the months of March through August when the price shall be 80 percent of such Class I prices pursuant to § 942.50 for the 60–71 mile zone.

§ 942.52 *Class II prices.* Each handler shall pay producers, in the manner set forth in § 942.80, for skim milk and butterfat in milk received from them during each delivery period and classified as Class II skim milk and Class II butterfat, not less than the following prices per hundredweight:

(a) The prices per hundredweight of skim milk shall be computed as follows: Deduct 4 cents from the average of the carlot prices per pound of nonfat dry milk solids (not including that specifically designated animal feed), spray and roller process, f. o. b. manufacturing plants in the Chicago area, as reported by the United States Department of Agriculture during the delivery period, and multiply the result by 8.5.

(b) The price per hundredweight of butterfat shall be computed as follows: From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the United States Department of Agriculture during the delivery period, subtract 3 cents, add 20 percent thereof and multiply by 100.

§ 942.53 *Class III prices.* Each handler shall pay producers, in the manner set forth in § 942.80, for skim milk and butterfat in milk received from them during each delivery period and classified as Class III skim milk and Class III butterfat, not less than the following prices per hundredweight:

(a) The price per hundredweight of skim milk shall be any plus amount resulting from the following computation: From the average of the carlot prices per pound for nonfat dry milk solids (not including that specifically designated animal feed), roller process, delivered at Chicago, as reported by the United States Department of Agriculture during the delivery period, deduct 7 cents, and then multiply by 7.5.

(b) The price per hundredweight of butterfat shall be computed as follows: Multiply by 100 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the United States Department of Agriculture during the delivery period.

§ 942.54 *Use of equivalent factors.* If for any reason a price, index, or wage rate specified by this order, for use in computing class prices and for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

BASE RATING

§ 942.60 *Base operating period.* The base operating period shall be the months of March through August; except for the year 1952, September shall be included.

§ 942.61 *Base forming period.* The base forming period for each year shall be the months of October through February, immediately preceding the base operating period; except for the year 1952, March shall be included in the base forming period.

§ 942.62 *Determination of daily base.* The daily base of each producer shall be an amount calculated by the handler(s) to whom such producer delivered milk during the base forming period, subject to verification by the market administrator, as follows: Divide the total pounds of milk received from such producer during the base forming period by the number of days in such period.

§ 942.63 *Computation of base.* The base of each producer to be applied during the base operating period shall be a quantity of milk calculated, by the handler who receives milk from such producer, in the following manner, subject to verification by the market administrator: Multiply the daily base of such producer with such handler by the number of days for which such producer's milk was delivered to such handler during the delivery period.

§ 942.64 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A landlord who rents on a share basis shall be entitled to the entire daily base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire daily base to the exclusion of the landlord if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(b) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided*, That at the beginning of a tenant and landlord relationship the base of each landlord and tenant may be combined and may be divided when such relationship is terminated.

(c) Base may be transferred only under the following conditions:

(1) In case of the death of a producer, his base may be transferred to a surviving member or members of his immediate family who carry on the dairy operations; and

(2) In the case of retirement of a producer, his base may be transferred to a member or members of his immediate family who carry on the dairy operation.

(d) The entire daily base of a producer with a handler may be moved from such handler to another handler.

§ 942.65 *Announcement of established bases.* On or before the 25th day after the end of the base forming period, each handler shall notify each producer from whom he received milk during the base forming period of his established base and post publicly the base of such producers.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 942.70 *Computation of the value of skim milk and butterfat for each handler.* (a) For each delivery period the market administrator shall compute for each handler the value of skim milk received by such handler from producers during such delivery period as follows:

(1) Multiply the pounds of skim milk in each class by the price of skim milk for such class and combine the resulting sums into one total;

(2) Add to the value obtained in subparagraph (1) of this paragraph an amount determined by multiplying the pounds of skim milk subtracted pursuant to § 942.45 (a) (4) by the appropriate class price; and

(3) Add to or subtract from, as the case may be, the value obtained in subparagraph (2) of this paragraph an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk for previous delivery periods, including in such amount the value of any skim milk reclassified pursuant to § 942.42 (b).

(b) For each delivery period the market administrator shall compute for each handler the value of butterfat received by such handler from producers during such delivery period by making the same computations for butterfat as prescribed for skim milk in paragraph (a) of this section.

§ 942.71 *Computation of uniform price for each handler.* (a) For each of the delivery periods of September (except September 1952) through February the market administrator shall compute, to the nearest one-tenth cent, for each handler the uniform price per hundredweight of skim milk received by such handler from producers as follows:

(1) Add to the value of skim milk computed pursuant to § 942.70 (a) an amount computed by multiplying the total hundredweight of skim milk received by such handler from producers at plants located in each freight zone farther from New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.50 (f).

(2) Subtract from the value of skim milk computed pursuant to subparagraph (1) of this paragraph an amount computed by multiplying the total hundredweight of skim milk received by such handler from producers at plants located in each freight zone nearer New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.50 (f); and

(3) Divide the value obtained pursuant to subparagraph (2) of this paragraph by the hundredweight of skim milk. This result shall be known as the uniform price per hundredweight for such handler of skim milk received from producers at plants located in the 61–70 mile zone.

(b) For each of the delivery periods of September (except September 1952) through February the market administrator shall compute, to the nearest one-tenth cent, for each handler the uniform price per hundredweight of butterfat received by such handler from producers at plants located in the 61–70 mile zone by making the same computations for butterfat as prescribed for skim milk in paragraph (a) of this section.

(c) For each of the delivery periods of September (except September 1952) through February the market administrator shall compute, to the nearest one-tenth cent, for each handler the uniform price per hundredweight of milk containing 4.0 percent butterfat received from producers at plants located in the 61–70 mile zone by combining the values of 96 pounds of skim milk and 4 pounds of butterfat at the respective uniform prices.

§ 942.72 *Computation of the uniform price for base milk and excess milk for each handler.* For each of the delivery periods of March through August and September 1952, the market administrator shall compute, to the nearest one-tenth cent, for each handler the uniform price per hundredweight of "base milk" and "excess milk" as follows:

(a) Combine into one total the values of skim milk and butterfat computed pursuant to § 942.70.

(b) Subtract from the value obtained pursuant to paragraph (a) of this section, if the average butterfat content of milk received from producers by such handler is more than 4.0 percent, or add to such value, if such average butterfat content is less than 4.0 percent, an amount computed as follows:

(1) Multiply the amount by which the average butterfat content of base milk received from producers varies from 4.0 percent by the butterfat differential to producers for base milk, and multiply the result by the total hundredweight of base milk delivered by producers;

(2) Multiply the amount by which the average butterfat content of excess milk received from producers varies from 4.0 percent by the butterfat differential to producers for excess milk, and multiply the result by the total hundredweight of excess milk delivered by producers; and

(3) Add the results obtained in subparagraphs (1) and (2) of this paragraph;

(c) Add to the value obtained pursuant to paragraph (b) of this section an amount computed by multiplying the total hundredweight of base milk received by such handler from producers at plants located in each freight zone farther from New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.50 (f).

(d) Subtract from the value obtained pursuant to paragraph (c) of this section an amount computed by multiplying the total hundredweight of base milk received by such handler from producers at plants located in each freight zone nearer New Orleans than the 61–70 mile zone by the appropriate zone differential set forth in the schedule pursuant to § 942.50 (f).

(e) Subject to the conditions set forth in paragraph (f) of this section, compute the total value of excess milk delivered by producers for such handler by multiplying the quantity of such milk by the Class III price for 4.0 percent milk;

(f) Compute the total value of base milk delivered by producers for such handler by subtracting the value computed pursuant to paragraph (e) of this section from the value computed pursuant to paragraph (d) of this section: *Provided*, That if such resulting value is greater than an amount computed by multiplying the pounds of base milk delivered by producers by the Class I price computed pursuant to § 942.50 (e) (1) such value in excess thereof shall be added to the value computed pursuant to paragraph (e) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated on a volume basis between excess and base milk.

(g) Divide the result obtained in paragraph (f) of this section by the quantity of base milk received by such handler from producers. This result shall be known as the uniform price per hundredweight for such handler for "base milk" received from producers at plants located in the 61–70 mile zone; and

(h) Divide the result obtained in paragraph (e) of this section by the quantity of excess milk received by such

handler from producers. This result shall be known as the uniform price per hundredweight for such handler for "excess milk" received from producers.

PAYMENTS

§ 942.80 *Payments to producers.* (a) On or before the last day of each delivery period, each handler shall make payment to each producer for milk received from such producer by such handler during the first 15 days of the delivery period at not less than the price per hundredweight for Class III milk for the preceding delivery period.

(b) On or before the 15th day after the end of each of the delivery periods of September (except September 1952) through February, each handler shall make payment to each producer for milk received from such producer by such handler during the delivery period at not less than the uniform price per hundredweight computed for such handler pursuant to § 942.71, subject to the location and butterfat differentials computed pursuant to §§ 942.81 and 942.82, less payment made pursuant to paragraph (a) of this section.

(c) On or before the 15th day after the end of each of the delivery periods of March through August and September 1952, each handler shall make payment, after deducting the amount of payment made pursuant to paragraph (a) of this section, to each producer for milk received from such producer by such handler during the delivery period as follows: (1) At not less than the uniform price per hundredweight for base milk computed pursuant to § 942.72 for the quantity of base milk received from such producer, subject to the butterfat differential computed pursuant to § 942.81 (c) and the location differential set forth in § 942.82; and (2) at not less than the uniform price per hundredweight for excess milk computed pursuant to § 942.72 for the quantity of excess milk received from such producer, subject to the butterfat differential computed pursuant to § 942.81 (b)

§ 942.81 *Butterfat differentials.* If any handler has received from any producer milk having an average butterfat content other than 4.0 percent, such handler, in making payments pursuant to § 942.80 shall add to the uniform price of milk, base milk, or excess milk, as the case may be, for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or shall deduct from the uniform price of milk, base milk, or excess milk, as the case may be, for each $\frac{1}{10}$ of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, the following amount computed to the nearest $\frac{1}{10}$ cent;

(a) For each of the delivery periods of September (except September 1952) through February, the butterfat differentials applicable with respect to such handler's payments for milk shall be computed by subtracting his uniform price per hundredweight of skim milk from his uniform price per hundredweight of butterfat and dividing the result by 1,000.

(b) For each of the delivery periods of March through August and September 1952, the butterfat differential applicable with respect to such handler's payments for excess milk shall be computed by subtracting the price per hundredweight of Class III skim milk from the price per hundredweight of Class III butterfat and dividing the result by 1,000.

(c) For each of the delivery periods of March through August and September 1952, the butterfat differential applicable with respect to such handler's payments for base milk shall be computed in a manner similar to paragraph (a) of this section.

§ 942.82 *Location differentials.* Each handler, in making payments prescribed in § 942.80, shall adjust the uniform price of base milk during the delivery periods of March through August and September 1952 and of all milk during the delivery periods of September (except September 1952) through February for each producer with respect to all such milk received from such producer at a plant of the handler not located in the 61–70 mile zone by the amount per hundredweight specified in the table pursuant to § 942.50 (f).

§ 942.83 *Adjustment of accounts.* Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 942.84 *Expense of administration.* As his prorata share of the expense of administration of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 10th day after the end of such delivery period, with respect to all skim milk and butterfat received by such handler, during such delivery period, from producers, including that received from such handler's own farm production.

§ 942.85 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part, shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 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 obligations, unless within such 2-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 part to be made available, the market administrator may, within the 2-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 2-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 representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or 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 part shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 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.

APPLICATION OF PROVISIONS

§ 942.90 *Producer-handlers.* Sections 942.40 through 942.45, 942.50 through 942.53, 942.60 through 942.65, 942.70 through 942.72, and 942.80 through 942.85 shall not apply to a producer-handler.

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 942.100 *Effective time.* The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to § 942.101.

§ 942.101 *Suspension or termination.* Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

§ 942.102 *Continuing power and duty of the market administrator.* (a) If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided:* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until removed, (2) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

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

MISCELLANEOUS PROVISIONS

§ 942.110 *Liability of handlers.* The liability of the handlers under this part is several and not joint, and no handler shall be liable for the default of any other handler.

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

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

[F. R. Doc. 52-6341; Filed, June 9, 1952; 8:51 a. m.]

HOUSING AND HOME FINANCE AGENCY

Home Loan Bank Board

[24 CFR Parts 143, 144, 145, 163]

[No. 5235]

CHARTER AND BYLAWS; OPERATION

JUNE 4, 1952.

Amendments liberalizing bonus provisions; authorizing bonus on large long-term accounts; clarifying reserve requirements; providing for a revised form of charter K and lifting limitations on lending by insured institutions.

Resolved, That pursuant to Part 108 of the general regulations of the Home Loan Bank Board (24 CFR Part 108), amendments to Parts 144 and 145 of the rules and regulations for the Federal Savings and Loan System (24 CFR Parts 144, 145), and § 163.9 of the rules and regulations for Insurance of Accounts (24 CFR 163.9), as hereinafter set forth, are hereby proposed.

Resolved further, That a hearing will be held on July 10, 1952, at 10 o'clock in the forenoon in Room 827, Federal Home Loan Bank Board Building, 101 Indiana Avenue NW., Washington, D. C., before the Home Loan Bank Board, a member thereof, or a hearing officer designated by the Board, for the purpose of receiving evidence, oral views and arguments on said proposed amendments of the Rules and Regulations for the Federal Savings and Loan System and for Insurance of Accounts, if written notice of intention to appear at said hearing is received by the Secretary to the Home Loan Bank Board at least five days before said date. If no such written notice of intention to appear has been received by the Secretary to the Board at least five days before the date set for the hearing, the hearing will be dispensed with. Whether or not a hearing is held, written data, views or arguments on said proposed amendments which are received by the Secretary to the Home Loan Bank Board on or before July 10, 1952, or prior to the conclusion of the hearing, if held, will be considered by the Home Loan Bank Board in connection with its consideration of the proposed amendments of the said rules and regulations.

a. Amend § 143.5 by striking the phrase "in the form of Charter N" from the last sentence thereof.

b. Amend the last sentence of paragraph (c) of § 143.11 to read as follows: "Upon approval by the Board of a formal application for conversion into a Federal association, the Board will issue a Charter, as provided in § 144.1 of this subchapter; conversion into a Federal association is completed upon the issuance of such charter and upon compliance with all relevant requirements of law, if any, which expressly provide for such conversion."

c. Amend the provisions preceding the first colon in § 144.1 to read as follows:

§ 144.1 *Issuance of charter*—(a) *Charter N.* Except as provided in paragraph (b) of this section and in § 144.2, the following form of charter, which shall be known as Charter N, will be issued on and after the effective date of the rules and regulations in this part, upon approval by the Board of any petition for a charter for a Federal association pursuant to the provisions of subsections (a) or (i) of section 5 of Home Owners' Loan Act of 1933, as amended.

d. Amend § 144.1 by adding a new paragraph (b) at the end thereof, as follows:

(b) *Charter K (rev.).* If expressly requested in the Petition for Charter, or in the Application for Conversion into a Federal Association, the Board, in lieu of Charter N, will issue a Charter K (rev.), reading as follows:

CHAPTER K (Rev.)

1. *Corporate title.* The full corporate title of the Federal association hereby chartered is _____.

2. *Office.* The home office shall be located at _____.

3. *Objects and powers.* The objects of the association are to promote thrift by providing a convenient and safe method for people to save and invest money and to provide for the sound and economical financing of homes; and, in the accomplishment of such objects, it shall have perpetual succession and power: (1) To act as fiscal agent of the United States when designated for that purpose by the Secretary of the Treasury, under such regulations as he may prescribe, and shall perform all such reasonable duties as fiscal agent of the United States as he may require and to act as agent for any other instrumentality of the United States when designated for that purpose by any such instrumentality; (2) To sue and be sued, complain and defend in any court of law or equity; (3) To have a corporate seal, affixed by imprint, facsimile or otherwise; (4) To appoint officers and agents as its business shall require, and allow them suitable compensation; (5) To adopt bylaws not inconsistent with the Constitution or laws of the United States and rules and regulations adopted thereunder and this charter; (6) To raise its capital, which shall be unlimited, by accepting payments on savings accounts representing share interests in the association; (7) To borrow money; (8) To lend and otherwise invest its funds; (9) To wind up and dissolve, merge, consolidate, convert, or reorganize; (10) To purchase, hold, and convey real and personal estate consistent with its objects, purposes, and powers; (11) To mortgage or lease any real and personal estate and take such property by gift, devise, or bequest; and (12) To exercise all powers conferred by law. In addition to the foregoing powers expressly enumerated, this association shall have power to do all things reasonably incident to the accomplishment of its express objects and the performance of its express powers. It shall exercise its powers in conformity with all laws of the United States as they now are, or as they may hereafter be amended, and with all rules and regulations which are not in conflict with this charter now or hereafter made thereunder.

4. *Members.* All holders of the association's savings accounts and all borrowers therefrom are members. In the considera-

tion of all questions requiring action by the members of the association, each holder of a savings account shall be permitted to cast one vote for each $100, or fraction thereof, of the withdrawal value of his account. A borrowing member shall be permitted, as a borrower, to cast one vote, and to cast the number of votes to which he may be entitled as the holder of a savings account. No member, however, shall cast more than 50 votes. Voting may be by proxy. Any number of members present at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of members shall determine any question. The members who shall be entitled to vote at any meeting of the members shall be those owning savings accounts and borrowing members of record on the books of the association at the end of the calendar month next preceding the date of such meeting. The number of votes which each member shall be entitled to cast at any meeting of the members shall be determined from the books of the association as of the end of the calendar month next preceding the date of such meeting. Those who were members at the end of the calendar month next preceding the date of a meeting of members but who shall have ceased to be members prior to such meeting shall not be entitled to vote thereat. All savings accounts shall be nonassessable.

5. *Directors.* The association shall be under the direction of a board of directors of not less than 5 nor more than 15, as fixed in the association's bylaws or, in the absence, of any such bylaw provision, as from time to time expressly determined by resolution of the association's members. Each director of the association shall be a member of the association, and a director shall cease to be a director when he ceases to be a member. Directors of the association shall be elected by its members by ballot: *Provided*, That in the event of a vacancy in the directorate, including vacancies created by an increase in the number of directors, the board of directors may fill such vacancy, if the members of the association fail so to do, by electing a director to serve until the next annual meeting of the members. Directors shall be elected for periods of 3 years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board of directors each year.

6. *Withdrawals.* The association shall have the right to pay the withdrawal value of its savings accounts at any time upon application therefor and to pay the holders thereof the withdrawal value thereof. Upon receipt of a written request from any holder of a savings account of the association for the withdrawal from such account of all or any part of the withdrawal value thereof, the association shall within 30 days pay the amount requested: *Provided*, That if the association is unable to pay all withdrawals requested at the end of 30 days from the date of such requests, it shall then number and file all withdrawal requests in the order received and shall proceed in the following manner while any withdrawal request remains unpaid for more than 30 days:

Withdrawal requests shall be paid in the order received and if any holder of a savings account or accounts has requested the withdrawal of more than $1,000, he shall be paid $1,000 in order when reached and his withdrawal request shall be charged with such amount as paid and shall be renumbered and placed at the end of the list of withdrawal requests, and thereafter, upon again being reached, shall be paid a like amount, but not exceeding the withdrawal value of his savings account, and until such withdrawal request shall have been paid in full, shall continue to be so paid, renumbered, and replaced at the end of the withdrawal requests on file; *Provided*, That when any such request is reached for payment, the association shall so advise the holder of such savings account by registered mail to his last address as recorded on the books of the association and, unless such holder shall apply in person or in writing for the payment of such withdrawal request within 30 days from the date of the mailing of such notice, no payment on account of such withdrawal request shall be made and such request shall be cancelled; *Provided further*, That the board of directors shall have an absolute right to pay on an equitable basis an amount not exceeding $200 to any holder of a savings account or accounts in any calendar month without regard to any other provision of this section.

When unable to pay all withdrawal requests within a period not exceeding 30 days from the date of receipt of written request therefor, the association shall allot to the payment of such requests the remainder of the association's receipts from all sources after deducting from total receipts appropriate amounts for expenses, required payments on indebtedness, earnings distributable in cash to holders of savings accounts, and a fund for general corporate purposes equivalent to not more than 20 percent of the association's receipts from holders of its savings accounts and from its borrowers. The holder of a savings account for which application for withdrawal has been made shall remain a holder of a savings account until paid and shall not become a creditor. *Provided, however*, That the holder of such an account shall not be entitled to any distribution of earnings upon such account to the extent of the amount of the withdrawal request thereon as long as such withdrawal request remains upon the withdrawal list.

7. *Redemption.* At any time sufficient funds are on hand, the association shall have the right to redeem, by lot or otherwise as the board of directors may determine, all or any part of any of its savings accounts on June 30 or December 31, by giving 30 days' notice of such redemption by registered mail addressed to the holder of each such savings account at his last address as recorded on the books of the association. The association may not redeem any of its savings accounts when there is an impairment of its capital or when it has any request for withdrawal which has been on file and unpaid for more than 30 days. The redemption price of each savings account redeemed shall be the full value thereof, as determined by the board of directors, but in no event shall the redemption price be less than the withdrawal amount of such savings account. If a savings account which is redeemed is entitled to participate in any reserve for bonus, the amount in such reserve for bonus which is properly allocable to such savings account shall be paid as part of the redemption price thereof. If any notice of redemption shall have been duly given, and if the funds necessary for such redemption shall have been set aside so as to be and to continue to be available for that purpose, earnings upon such account shall cease to accrue from and after the date specified as the redemption date and all rights with respect to each such account shall forthwith, after such redemption date, terminate, except only the right of the holder of record of such savings account to receive the redemption price thereof without earnings.

8. *Loans and investments.* The association may make any loan or investment authorized by statute and the rules and regulations made by the Home Loan Bank Board and in effect on August 15, 1949; it may make such additional loans and investments as may thereafter be authorized by amendments of the said rules and regulations.

9. *Power to borrow.* The association may borrow money in an aggregate amount not exceeding one-half of its capital; the amount which may be borrowed from sources other than a Federal home loan bank shall not exceed one-tenth of such capital. Notwithstanding the foregoing limitations, the association may, with prior approval by the Federal Home Loan Bank Board borrow from any Federal agency or instrumentality without limitation, upon such terms and conditions as may be required by such bank or agency. The association may pledge and otherwise encumber any of its assets to secure its debts.

10. *Reserves, surplus, and distribution of earnings.* The association shall maintain general reserves for the sole purpose of meeting losses; such reserves shall include the reserve required for insurance of accounts. Any losses may be charged against general reserves. If and whenever the general reserves of the association are not equal to at least 10 percent of its capital, it shall, as of June 30 and December 31 of each year, credit to such reserves an amount equivalent to at least 5 percent of its net earnings for the 6 months' period, or the amount necessary for the reserve required for insurance of accounts, whichever is greater, until such reserves are equal to at least 10 percent of the association's capital. As of June 30 and December 31 of each year, after payment or provision for payment of all expenses, credits to general reserves and such credits to surplus as the board of directors may determine, and provision for bonus on savings accounts as authorized by regulations made by the Home Loan Bank Board, the board of directors of the association shall cause the remainder of the net earnings of the association for the 6 months' period to be distributed promptly on its savings accounts, ratably, as declared by the board of directors, to the withdrawal value thereof; in lieu of or in addition to such net earnings, any of the association's surplus funds may be likewise distributed. Such net earnings shall be credited to savings accounts or paid, as directed by the owner. All holders of savings accounts shall participate at the same rate and on the same basis in the distribution of earnings: *Provided*, That the association is not required to distribute earnings on short-term savings accounts or on accounts of $10 or less. Except as provided above, earnings shall be declared on all savings accounts of record at the close of each such 6 months' period, on the withdrawal value of each such account at the beginning of the said 6 months' period, plus the payments made thereon during such period (less amounts withdrawn, and, for purposes of participation in earnings, deducted from the latest previous payments), computed at the declared rate for the time invested, determined as provided below. The date of investment shall be the date of actual receipt of such payments by the association, unless the board of directors fixes a date, not later than the tenth of the month, for determining the date of investment of payments on savings accounts or designated classes thereof. Payments, affected by such determination date, received by the association on or before such determination date, shall receive earnings as if invested on the first of such month. Payments, affected by such determination date, received subsequent to such determination date shall receive earnings as if invested on the first of the next succeeding month. Notwithstanding any other provision of its charter, the association may distribute net earnings on its savings accounts on such other basis and in accordance with such other terms and conditions as may from time to time be authorized by regulations made by the Home Loan Bank Board. All holders of savings accounts of the association shall be entitled to equal distribution of assets, pro rata to the value of their savings accounts, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association.

11. *Amendment of charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made unless such proposal is made by the board of directors of the association, and submitted to and ap-

proved by the Home Loan Bank Board, and is thereafter submitted to and approved by the members at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon and approved shall be effective, if filed with and approved by the Home Loan Bank Board, as of the date of the final approval of, or as fixed by, the members.

HOME LOAN BANK BOARD,
By ----------
(Chairman)

Attest:

(Secretary)

e. Amend § 144.3 to read as follows:

§ 144.3 *Adoption of Charter N.* A Federal association that has a Charter E or a Charter K may amend such charter in its entirety to read in the form of Charter N or Charter K (rev.), by majority vote of such association's members present at any duly called regular or special meeting of members: *Provided,* That, in the case of a Federal association that has a Charter K, the board of directors of such association shall first have proposed such amendment, and the provisions of this section shall be deemed to be the approval by the Board of such proposal. Upon receipt of the following petition from a Federal association that has amended its charter as provided in this section, the Board will issue to such Federal association, as requested by it a Charter N or a Charter K (rev.) in the same name and showing the same location of home office as is prescribed in such association's present charter, unless the Board when petitioned approves a change in such name or location.

f. Amend the language preceding the first colon in § 144.5 to read as follows:

§ 144.5 *Prescribed form.* A Federal association that has a Charter N or Charter K (rev.) shall operate under the following prescribed bylaws, unless and until such bylaws are amended in accordance with the procedure therein set forth.

g. Amend § 144.6, preceding paragraph (a) thereof, to read as follows:

§ 144.6 *Amendment to bylaws.* This section constitutes approval by the Board of any one or more of the following amendments to the bylaws of any Federal association, upon the valid adoption of any such amendment by such association's directors or members as provided in its bylaws, effective when so adopted; *Provided, however,* That the bylaw amendment set forth in paragraph (e) of this section may be adopted only by a Federal association which has a Charter not inconsistent with the provisions of § 145.3 of this subchapter.

h. Amend paragraph (e) of § 144.6 to read as follows:

(e) *Bonus for long-term savings.* As a bonus for long-term savings, the association may, as from time to time determined by its board of directors, distribute to holders of savings accounts reward earnings, in addition to earnings distributed to the holders of all savings accounts, in accordance with rules and regulations made by the Home Loan Bank Board.

i. Amend Part 144 by adding a new § 144.8 at the end thereof, reading as follows:

§ 144.8 *Charter amendments*—(a) *Charter K.* The provisions of this section shall constitute the approval by the Home Loan Bank Board of the proposal by the board of directors of any Federal association that has a Charter K of the following amendments to said Federal association's charter: *Provided,* That such Federal association follows the requirements of section 16 of its charter in adopting such amendments: Amendment of the tenth sentence of section 9 by striking the period at the end thereof and adding: ": *Provided further,* That the association may provide for bonus payments in accordance with section 10 hereof." together with the amendment of section 10 to read as follows: "10. Payment of bonus on share accounts: The association may pay a bonus upon its share accounts as authorized by regulations made by the Home Loan Bank Board."

(b) *Charter N.* The provisions of this section shall constitute the approval by the Home Loan Bank Board of the proposal by the board of directors of any Federal association that has a Charter N of the following amendment to said Federal association's Charter; *Provided,* That such Federal association follows the requirements of section 11 of its Charter in adopting such amendment: Amendment of the second sentence of section 10 to read as follows: "If and whenever the general reserves of the association are not equal to at least 10 percent of its capital, it shall, as of June 30 and December 31 of each year, credit to such reserves an amount equivalent to at least 5 percent of its net earnings for the 6 months' period, or the amount necessary for the reserve required for insurance of accounts, whichever is greater, until such reserves are equal to at least 10 percent of the association's capital".

j. Amend the second sentence of § 145.1 to read as follows: "The savings accounts of a Federal association that has a Charter E or a Charter K and which amends such charter to read in the form of Charter N or Charter K (rev.) shall continue to have the same rights and privileges and to be subject to the same duties and liabilities as were provided in the charter in effect at the time such savings accounts were created, until exchanged for a savings account issued under the provisions of Charter N or Charter K (rev.)."

k. Amend § 145.1–1 by inserting, immediately after the phrase "Charter N", the following additional language: "or Charter K (rev.)."

l. Amend the first and second sentences of paragraph (b) of § 145.2 by inserting in each such sentence after the phrase "Charter N", the following additional language: "or Charter K (rev.)."

m. Amend § 145.3 to read as follows:

§ 145.3 *Bonus for long-term savings*—(a) *Periodic savings accounts.* As a bonus for regular payments on savings accounts, a Federal association which has a charter not inconsistent with the provisions of this section may distribute reward earnings to the holders of savings accounts who have made regular payments of an amount agreed upon between the association and the account holder, without delay of more than 90 days in any payment, without any prepayment of more than 12 months and without the withdrawal of any part of such savings account. If such plan is adopted by a Federal association, it shall make such plan available to all its members qualifying therefor, without discrimination. Such reward earnings, as declared by the Board of Directors, shall be in addition to earnings distributed to the holders of all savings accounts but shall be declared and credited promptly, as of the same dates and computed in the same manner as other earnings for distribution and at the following maximum rates:

Beginning with the third year in which the account has qualified for reward earnings	¼ of 1 percent per annum;
Beginning with the fifth year	½ of 1 percent per annum;
Beginning with the seventh year	¾ of 1 percent per annum;
Beginning with the ninth year	1 percent per annum.

Provided, That the agreement shall lapse and the account shall lose any further claims to reward dividends if at any time a withdrawal is made from the account, a prepayment of more than 12 months is made, or there is a delay of more than 90 days in any payment.

(b) *Lump-sum savings accounts.* As a bonus for long-term savings other than periodic savings accounts, a Federal association which has a charter not inconsistent with the provisions of this section may pay reward earnings on balances of $500 or more that have remained continuously in such a bonus account for a period of two years or more in accordance with an agreement between the association and the account holder. If such plan is adopted by a Federal association, it shall make such plan available to all its members qualifying therefor, without discrimination. Such reward earnings shall be in addition to the regular earnings distributed to the holders of all savings accounts but shall be declared and credited or paid promptly, as of the same dates and computed in the same manner as other earnings for distribution and at the following maximum rates:

Beginning with the third year in which the account has qualified for reward earnings	¼ of 1 percent per annum;
Beginning with the fifth year	½ of 1 percent per annum;
Beginning with the seventh year	¾ of 1 percent per annum;
Beginning with the ninth year	1 percent per annum.

Provided, That the agreement shall lapse and the account shall lose any further claims to, and shall not receive any further reward earnings if a withdrawal is made from the account, except, however, that withdrawals from, and additions to, the account may be made in units of $500.

(c) *Bonus operations.* A Federal association that has a charter not inconsistent with the provisions of this section may credit to the accounts of all members holding bonus accounts in good standing, that amount in the bonus reserve to which they would be entitled if their bonus accounts were withdrawn at the time of such credit, and may transfer to surplus or to other reserves any other amounts in any Reserve for Bonus and further bonus earnings shall be credited to the accounts of the members thereto entitled; but shall not, after (insert effective date of regulation), enter into any bonus agreement or adopt any bonus plan inconsistent with the provisions of this section. Bonus rights existing on (insert effective date of regulation) are preserved and approval is given to the carrying out of any bonus agreements in existence on such date to their maturity in accordance with the terms thereof: *Provided*, That the holder of any such bonus account in good standing may surrender such account and receive in exchange a bonus account as provided herein; upon the surrender of such bonus account, the holder shall receive his participation in the bonus reserve heretofore required and shall participate in the installment bonus authorized by this section if continued as herein provided from the time of such exchange: *Provided*, That the time such account has been invested and qualified for participation in any such previous bonus plan shall be counted in computing future reward earnings on such account under this section.

(d) *Bonus may be terminated.* The members of a Federal association may at any time, by bylaw amendment, terminate any bonus plan under which the association is operating and the payment of a bonus on existing accounts issued under the provisions of this section as amended (insert effective date of amendment)."

n. Amend paragraph (b) of § 163.9 to read as follows:

(b) Any insured institution may, to an aggregate amount not in excess of fifteen per centum of its assets and without approval of the Corporation, to the extent it has legal power to do so,

(i) Make, or invest its funds in, loans secured by real estate located in other territory more than fifty, but not more than 100 miles from its principal office, which are insured or as to which such institution is insured, or as to which a commitment for any such insurance has been made under the provisions of the National Housing Act, as now or hereafter amended, and

(ii) Purchase from any member of the Federal Home Loan Bank System any loan secured by a first lien on a home, or a combination home and business property which is used in part for business purposes and in part for residential purposes for not more than four families where the use as a residence is of a bona fide character, located in other territory more than 50 miles from its principal office: *Provided*, That each such loan is serviced under a servicing agreement by an insured institution of the locality in which the security is situated.

(Sec. 5 (a), 48 Stat. 132, as amended, sec. 402, 48 Stat. 1256, as amended, 12 U. S. C. 1464 (a), 1725)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE,
Secretary.

[F. R. Doc. 52-6359; Filed, June 9, 1952; 8:56 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[2112859]

WISCONSIN

NOTICE OF FILING OF PLAT OF SURVEY

JUNE 4, 1952.

Notice is given that the plat accepted October 31, 1950, of (1) dependent resurvey delineating the retracement and reestablishment of a portion of the original township boundary and subdivisional lines designed to restore all corners on the boundaries of sections 5 and 8 in their true original locations according to the best available evidence and (2) an extension survey to include lands erroneously omitted from the original survey and not shown upon the plat approved February 4, 1860, will be officially filed in the Bureau of Land Management, Washington 25, D. C., effective at 10:00 a. m. on the 35th day after the date of the notice as to the following described lands:

4TH PRINCIPAL MERIDIAN, WISCONSIN

T. 40 N., R. 11 E.,
Section 5, lots 4, 5, 6
Section 8, lots 4, 5, 6

The area described aggregates 129.77 acres.

Available information indicates that the greater portion of the lands are spruce and tamarack swamp. However, there is a considerable area of rolling upland having a sandy loam soil and having a fair stand of mixed pines, spruce and birch timber ranging up to 16 inches in diameter.

According to the field notes and as shown by the plat, lot 4 sec. 5; lots 4 and 6 sec. 8 are principally upland and that lots 5 and 6 sec. 5, and lot 5 sec. 8 are principally swamp in character and appear to be swamp and overflowed within the meaning of the act of September 28, 1850 (9 Stat. 519). Should the land finally be determined to be swamp and overflowed in character it must be held to have inured to the State and any application adverse to the State in conflict with swamp land claims will be governed by § 271.2 of Title 43 of the Code of Federal Regulations.

No applications for the described lands may be allowed under the homestead or small tract laws unless the land has already been classified as valuable or suitable for such application or shall be so classified upon consideration of an application.

At the hour and date specified above the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this notice shall be subject only to (1) application under the homestead or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this notice shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this notice, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this notice, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certifi-

cate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Bureau of Land Management, Washington 25, D. C., shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Part 257 of that title.

Inquiries concerning these lands shall be addressed to Regional Administrator, Region VI, Bureau of Land Management, Department of the Interior, Washington 25, D. C.

For the Director.

H. S. PRICE,
Regional Administrator,
Region VI.

[F. R. Doc. 52-6317; Filed, June 9, 1952; 8:47 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Supp. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of regulations Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended December 31, 1951; 16 F. R. 12043, and June 2, 1952, 17 F. R. 3818).

A. C. M. Corp., Winder, Ga., effective 5-29-52 to 12-28-52; 30 learners for expansion purposes (dress pants and cotton khaki trousers).

Apparel Inc., 421 Eighth Avenue North, Seattle, Wash., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (sport jackets).

Bee & Gee Pants Co., 104-106 River Street, Olyphant, Pa., effective 6-2-52 to 12-1-52; 20 learners for expansion purposes (men's and boys' trousers).

Cata Garment Co., 712 Linden Street, Allentown, Pa., effective 6-2-52 to 6-1-53; five learners (ladies' wearing apparel).

Eckbro Manufacturing Co., 217 North Desplaines Street, Chicago, Ill., effective 6-2-52 to 6-1-53; ten learners (dungarees).

Elder Manufacturing Co., Ste. Genevieve, Mo., effective 5-29-52 to 5-28-53; 10 percent of the productive factory force (boys' shirts and pajamas).

Fayetteville Shirt Corp., Bragg Boulevard, Fayetteville, N. C., effective 5-29-52 to 11-28-52; 25 learners for expansion purposes (men's shirts and pajamas).

M. Fine & Sons Manufacturing Co., Inc., Paducah, Ky., effective 5-27-52 to 5-26-53; 10 percent of the productive factory force (work shirts).

J. Freezer & Son, Inc., Floyd, Va., effective 6-2-52 to 12-1-52; 60 learners for expansion purposes (sport shirts).

Gem Frock Co., 445 North Darien Street, Philadelphia 23, Pa., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (infants' and children's wear).

H. R. Halprin Manufacturing Corp., Monsey and Ash Streets, Scranton, Pa., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force or 10 learners, whichever is greater (snow suits and jackets).

Jaco Pants, Inc., Ashburn, Ga., effective 5-29-52 to 11-28-52; 24 learners for expansion purposes (dress pants).

Kahala Sportswear, Ltd., 1329 Kamaile Street, Honolulu, T. H., effective 6-2-52 to 6-1-53; six learners. All hours spent by learners employed under this certificate in previous training on scrap materials must be deducted from the learning period authorized; sewing machine operators only; 480 hours; 65 cents per hour for the first 320 hours and 70 cents per hour for the remaining 160 hours (sport shirts, swim suits and trunks, playsuits, sun dresses, boxer shorts).

Ann Lee Frocks, 631 Fellows Avenue, Hanover Township, Lyndwood, Pa., effective 6-2-52 to 6-1-53; 10 learners (dresses).

Liberty Sport Togs, 176 West Louden Street, Philadelphia, Pa., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (boys' sportswear).

Mysie Sportswear, Inc., 314 North Thirteenth Street, Philadelphia 7, Pa., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (cotton trousers).

Opp Textile Corp., Opp, Ala., effective 6-2-52 to 6-1-53; 10 learners (jackets).

The George W. Prior Co., 1735 Lawrence Street, Denver, Colo., effective 5-26-52 to 5-25-53; 10 percent of the productive factory force or 10 learners, whichever is greater (western shirts, western jeans).

Summit Hill Manufacturing Corp., 101 West White Street, Summit Hill, Pa., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (ladies' sportswear).

Tackett Manufacturing Co., Stephenville, Tex., effective 6-2-52 to 6-1-53; five learners; learners not to be engaged in the manufacture of skirts at subminimum wage rates (women's sportswear).

Umholtz Manufacturing Co., Inc., 24 Salem Avenue, Carbondale, Pa., effective 6-2-52 to 6-1-53; 10 learners; learners not to be engaged at subminimum wage rates in the manufacture of skirts (blouses).

J. M. Wood Manufacturing Co., Inc., 224-26 South Sixth Street, Waco, Tex., effective 6-2-52 to 6-1-53; 10 percent of the productive factory force (trousers).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended January 25, 1950; 15 F. R. 400).

Petri Cigar Co., 40-52 High Street, Clarksville, Tenn., effective 5-30-52 to 11-13-52; 30 learners for expansion purposes; hand rolling, 960 hours; 60 cents per hour for the first 480 hours and 65 cents per hour for the remaining 480 hours (supplemental certificate).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951; 16 F. R. 10733).

Nu-Vogue Hosiery Mills, Inc., 252 West Harden Street, Graham, N. C., effective 5-31-52 to 5-30-53; five learners.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Fashion Embroidery Co., 1307 Washington, St. Louis 3, Mo., effective 5-29-52 to 5-28-53; two learners; embroidery machine operators; 320 hours at 65 cents per hour (embroidery and nailhead trim, belts and buttons).

France Neckwear Manufacturing Co., Wilmington, N. C., effective 5-27-52 to 11-26-52; 10 learners for expansion purposes; machine operators (except cutting), pressers, handsewers; each 320 hours at 65 cents per hour (men's neckwear) (supplemental certificate).

France Neckwear Manufacturing Co., Wilmington, N. C., effective 5-27-52 to 11-26-52; 5 percent of the productive factory force; machine operators (except cutting), pressers, handsewers; each 320 hours at 65 cents per hour (men's neckwear).

Paramount Cap Manufacturing Co., Gerald, Mo., effective 6-5-52 to 6-4-53; six learners; sewing machine operators; 240 hours at 65 cents per hour (cloth caps).

The Pfaltzgraff Pottery Co., York, Pa., effective 6-4-52 to 12-3-52; 10 percent of the productive factory force; finishers, glaze workers; each 320 hours at 65 cents per hour (pottery).

Woodcroftery Shops, Inc., 308 Second Avenue, Wayland, N. Y., effective 6-2-52 to 12-1-52; one learner; hand decorator; 320 hours at 65 cents per hour (wood products).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be canceled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 2d day of June 1952.

MILTON BROOKE,
Authorized Representative
of the Administrator.

[F. R. Doc. 52-6319; Filed, June 9, 1952; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

BRUCELLOSIS AND PARATUBERCULOSIS

NOTICE REGARDING CONTAGION OF COMMUNICABLE DISEASE

Notice is hereby given that the contagion of the communicable disease known as brucellosis exists in domestic animals in each State of the United States and in the Territories of Puerto Rico, Alaska, and Hawaii; and that the contagion of the communicable disease known as paratuberculosis exists in domestic animals in the Territory of Puerto Rico and in each State of the United States except Arizona, Maine, New Hampshire, Rhode Island, Utah, and Wyoming.

Done at Washington, D. C., this 5th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-6351; Filed, June 9, 1952; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1641]

MISSISSIPPI RIVER FUEL CORP.

FINDINGS AND ORDER OMITTING INTERMEDIATE DECISION PROCEDURE AND FIXING DATE FOR ORAL ARGUMENT

JUNE 3, 1952.

On April 23, 1952 Laclede Gas Company (Laclede), on April 29, 1952, Union Electric Power Company (Union Electric), and on April 30, 1952, MidSouth Gas Company (MidSouth), interveners in the above-entitled rate suspension proceeding under the National Gas Act, filed motions requesting that the Commission order that the intermediate decision procedure be omitted in the above-entitled proceeding in accordance with section 8 of the Administrative Procedure Act and § 1.30 of the Commission's rules of practice and procedure (18 CFR 1.30) and that the Commission set this proceeding for oral argument. An answer opposing these motions was filed on May 8, 1952 by Mississippi River Fuel Corporation (Mississippi).

The increased rates at issue in this proceeding are those contained in the First Revised Sheet No. 4 and First Revised Sheet No. 6 to Mississippi's FPC Gas Tariff, Original Volume No. 1. The said sheets were filed on February 28, 1951, and this proceeding was instituted by the Commission's order issued March 28, 1951. Pursuant to that order the said First Revised Sheet No. 4 was suspended until September 1, 1951, at which time on motion of Mississippi the increased rates therein contained were put into effect under bond, upon the terms and conditions of the order entered herein by the Commission on August 31, 1951.

The Commission's order issued March 28, 1951, provided that public hearings be held concerning the lawfulness of the rates, charges and classifications, subject to the jurisdiction of the Commission, as set forth in the said First Revised Sheets Nos. 4 and 6 to Mississippi's FPC Gas Tariff, Original Volume No. 1. It was indicated in that order that the changes in rates proposed, upon the basis of the sales then estimated by Mississippi for the 12 months next following April 1, 1951, would result in increased charges by Mississippi to its utility or resale customers[1] of approximately $3,100,000 per year.

After due notice and pursuant to the Commission's order issued March 28, 1951, hearings were held on May 14–16, September 5–7, and 10–13, and on October 10–12, 15–19, and 24–26, 1951. The recess between the initial hearings beginning on May 14, 1951 and the resumed hearings beginning September 5, 1951 was necessitated primarily by the need for investigation of Mississippi by the Commission Staff concerning the increased rates and the need of the Commission Staff for preparation to present the results of such investigation at the resumed hearings in order that a more complete record might be made available for consideration in reaching a decision upon the merits of the increased rates in question.

At the conclusion of the hearings a motion was made by Commission Staff Counsel for the omission of the intermediate decision procedure. That motion was denied by the Commission on October 30, 1951. At that time it was the view of the Commission that this case had proceeded as expeditiously as was reasonably possible in view of the character of the proceeding.

At the time of the Commission's action upon Staff Counsel's motion, the main brief of Mississippi was scheduled to be filed on November 27, 1951, the briefs of other parties, including Staff Counsel, were scheduled for December 17, 1951, and the reply brief of Mississippi was scheduled for December 28, 1951. However, through no fault of any party and largely because of illness, the filing of briefs was not completed until April 10, 1952.[2] The submission of briefs was thus delayed substantially beyond the time anticipated when the Commission on October 30, 1951 denied Staff Counsel's motion. This unexpected and extended delay in submission of briefs necessarily postponed the time that the Presiding Examiner could undertake to render an initial decision in this proceeding.

The Commission's docket and other public records disclose the increasing number and magnitude of formal proceedings that have been initiated in recent months and are now pending before the Commission, particularly rate suspension and other proceedings under the Natural Gas Act. These proceedings under that act, as well as proceedings under other statutes administered by the Commission, have placed a growing burden upon the Commission and its limited staff that is available to participate in, and its few examiners that are available to preside at, hearings in formal proceedings. The state of the Comsion's docket, as its public records reveal, has necessitated that the Examiner who presided at the hearings in this case, preside in hearings in other proceedings during times not only before but also since the submission of the briefs in this proceeding. The result of this situation has been and is that such Presiding Examiner, as a practical matter, has not been afforded the opportunity needed to timely prepare and render an initial decision in this case. Consequently, though desirable, no initial decision has been rendered, and in the circumstances existing, the likelihood of the Examiner rendering such a decision in the reasonably near future seems remote due to no fault of the Examiner but rather due to the Commission's heavy hearing schedule. As a matter of fact, delay is now being occasioned unavoidably in a number of formal proceedings due primarily to the fact that the Commission does not have sufficient staff and examiners available to permit the scheduling of such matters for timely hearing and disposition.

Laclede, Union Electric and MidSouth in their motions herein point to the extended period of time that has elapsed since the initiation of this proceeding early in 1951. In fact, more than seven months have elapsed since the Commission's denial in October 1951 of the first motion herein for omission of the intermediate decision procedure. They call attention to that part of subsection 4 (e) of the Natural Gas Act providing that the Commission in proceedings of this kind not only "shall give to the hearing and decision of such questions preference over other questions pending before it" but also shall "decide the same as speedily as possible." They also point to the magnitude of the rate increase sought by Mississippi and call attention to the position as disclosed by the briefs of interveners and of Staff Counsel that Mississippi is not entitled to any rate increases in this case, and to the need in the public interest that the uncertainty as to what rates Mississippi may lawfully charge its customers be removed as soon as possible by an early Commission decision in this proceeding.[3]

The motions in question are objected to by Mississippi in its answer filed on May 8, 1952, on grounds that a decision by the Presiding Examiner is, in the view of Mississippi, required in this case and that the denial of such a decision would deprive Mississippi of a hearing to which it is entitled under the Natural Gas Act and by the Constitutional requirement

[1] Arkansas Louisiana Gas Company, Fort Smith Gas Corporation, Illinois Power Company, Laclede Gas Company, MidSouth Gas Company, Missouri Natural Gas Company, Public Utilities Company, Grossett, Ark., and Union Electric Power Company. Mississippi has added the City of Altheimer, Ark., as a resale customer.

[2] Briefs were not actually filed until the following dates: Mississippi's main brief on December 7, 1951; briefs of Laclede on January 15, 1952, of Director of Price Stabilization on February 4, 1952 of MidSouth and of Union Electric Power Company on February 5, 1952, and of Commission Staff Counsel on March 12, 1952; and Mississippi's reply brief on April 10, 1952.

[3] Mississippi has reported herein, pursuant to the provisions of the Commission's order dated August 31, 1951, that during the eight months between September 1, 1951 and April 30, 1952 the difference between the former and the proposed rates being collected under bond has amounted to more than $2,250,000.

of due process of law. Mississippi cites subsection 8 (a) of the Administrative Procedure Act and Universal Camera Corporation v. National Labor Relations Board, 340 U. S. 474 (1951), as authority prohibiting the omission of the intermediate procedure in this proceeding.

The case cited by Mississippi, however, does not hold that an examiner's decision is mandatory in a rule making proceeding such as the instant rate suspension proceeding under the Natural Gas Act. Moreover, the statutory provisions cited expressly authorize in rule making proceedings that, in lieu of a decision by the examiner or other officer who presided at the reception of the evidence, alternative intermediate decision procedures may be utilized, and also, that any such intermediate decision procedure may be omitted in any such rule making case in which the Commission finds upon the record that "due and timely execution of its functions imperatively and unavoidably so requires."

In the light of the circumstances that have developed and occurred since the Commission's denial on October 30, 1951, of Staff Counsel's motion, the Commission is clearly warranted in finding that the due and timely execution of the Commission's functions imperatively and unavoidably requires the omission of the intermediate decision procedure as prayed for in the pending motions of Laclede, Union Electric and MidSouth. The public interest manifestly requires such finding and action in this case.

Laclede, Union Electric and MidSouth in their pending motions ask, in addition to omission of the intermediate decision procedure, that this proceeding be set for oral argument before the Commission as soon as possible and that the case be decided by the Commission on the record made, the briefs filed and such oral argument. In the circumstances the Commission deems that good cause exists for affording oral argument and, accordingly, concludes that the requests therefor should be granted.

The Commission further finds:

(1) It is necessary and appropriate for carrying out the provisions of the Natural Gas Act that the aforesaid motions of Laclede, Union Electric and MidSouth be granted as hereinafter ordered and provided.

(2) Due and timely execution of its functions imperatively and unavoidably requires that the intermediate decision procedure be omitted in this proceeding as hereinafter ordered and provided and that the Commission forthwith render a decision in this proceeding.

The Commission orders:

(A) The intermediate decision procedure be and it is hereby omitted herein in accordance with provisions of § 1.30 (18 CFR 1.30) of the Commission's rules of practice and procedure.

(B) Oral argument be had before the Commission on June 19, 1952, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C. All parties to this proceeding shall notify the Secretary of the Commission on or before June 12, 1952, with respect to the time they deem necessary for argument.

Date of issuance: June 4, 1952.

By the Commission.

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-6352; Filed June 9, 1952; 8:54 a. m.]

[Docket No. G-1842]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF OPINION AND ORDER

JUNE 4, 1952.

Notice is hereby given that on May 29, 1952, the Federal Power Commission issued its opinion and order entered May 28, 1952, disallowing proposed increased rates and charges and dismissing proceeding in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-6353; Filed, June 9, 1952; 8:54 a. m.]

[Project No. 2002]

CITIZENS POWER CO.

NOTICE OF ORDER DISMISSING APPLICATION

JUNE 4, 1952.

Notice is hereby given that on June 3, 1952, the Federal Power Commission issued its order entered June 3, 1952, dismissing application for extension of preliminary permit and incomplete application for license (Major) in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-6354; Filed, June 9, 1952; 8:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 50-34, 70-2340, 70-2341, 70-2342, 70-2343]

PHILADELPHIA CO. ET AL.

ORDER EXTENDING TIME FOR TERMINATION OF INTERLOCKING RELATIONSHIPS

JUNE 4, 1952.

In the matter of Philadelphia Company, Equitable Gas Company, Pittsburgh and West Virginia Gas Company, Kentucky West Virginia Gas Company, File No. 70-2343; Philadelphia Company, File No. 70-2342; Philadelphia Company, File No. 50-34; Standard Gas and Electric Company, File No. 70-2341; Standard Gas and Electric Company, Philadelphia Company, File No. 70-2340.

Standard Gas and Electric Company ("Standard") and its subsidiary, Philadelphia Company ("Philadelphia"), both registered holding companies and subsidiaries of Standard Power and Light Corporation, also a registered holding company, and certain of Philadelphia's former subsidiaries, Equitable Gas Company ("Equitable"), Pittsburgh and West Virginia Gas Company ("Pittsburgh"), and Kentucky West Virginia Gas Company ("Kentucky"), having filed applications-declarations and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder, proposing, among other things, the reorganization of the natural gas and oil properties in the Philadelphia system, the recapitalization and issuance of securities by Equitable, the amendment of Equitable's charter, and the sale by Philadelphia to the public of all the common stock of Equitable, as reorganized; and

The Commission, by order dated March 14, 1950, having granted and permitted to become effective said applications-declarations, as amended, subject, among other things, to the following condition:

1. That within six months (or such additional time as may be allowed for good cause shown) after consummation of the sale by Philadelphia of the Equitable common stock, Standard and Philadelphia shall, in an appropriate manner not in contravention of the provisions of the act or the rules, regulations or orders thereunder, terminate or cause to be terminated all interlocking relationships through any person or persons by way of contract, retainer or other arrangement with any person or persons, or through the holding of an officership or directorship by any person or persons, or by the joint operation of departments and activities and the joint use of personnel, property or facilities as between Equitable, Pittsburgh, and Kentucky, on the one hand, and other companies now or formerly in the Philadelphia system, on the other; and

The aforementioned sale by Philadelphia of the Equitable common stock having been consummated on March 31, 1950; and

Standard and Philadelphia, by letter dated October 23, 1950, having requested the Commission to extend for an additional six months the time for compliance with the said condition; and

The Commission, by order dated November 10, 1950, having granted such request and extended the time for compliance with the above-recited condition to March 31, 1951; and

Standard and Philadelphia, by letter dated May 17, 1951, having requested the Commission to extend for an additional six months the time for compliance with said conditions; and

The Commission, by order dated June 4, 1951, having granted such request and extended the time for compliance with the said condition to October 1, 1951; and

Standard and Philadelphia, by letter dated October 27, 1951, having requested the Commission to extend for an additional six months the time for compliance with said condition; and

The Commission, by order dated October 29, 1951, having granted such request and extended the time for compliance with the said condition to March 31, 1952; and

Standard and Philadelphia, by letter dated May 23, 1952, having stated that while substantial progress has been made in the program of segregating the operating organizations of Philadelphia's

former gas company subsidiaries and the Philadelphia system, additional time is required to complete the program; and Standard and Philadelphia having requested the Commission to extend for an additional six months the time for compliance with the said condition; and

The Commission having considered such request and the reasons advanced in support thereof and the Commission deeming that the public interest and the interest of investors and consumers will not be affected adversely by granting such request:

It is ordered, That the time prescribed for compliance by Standard and Philadelphia with the above-recited condition be, and hereby is, extended to September 30, 1952.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6326; Filed, June 9, 1952; 8:49 a. m.]

[File Nos. 54-180, 59-94]

GREEN MOUNTAIN POWER CORP.

NOTICE OF AND ORDER FOR HEARING ON APPLICATIONS FOR FEES AND EXPENSES

JUNE 4, 1952.

The Commission having by its orders of May 3 and May 31, 1951, approved an amended plan of reorganization, filed by Green Mountain Power Corporation ("Green Mountain"), a public-utility subsidiary company of New England Electric System ("NEES"), a registered holding company, pursuant to the provisions of section 11 (e) of the Public Utility Holding Company Act of 1935, which plan provided, among other things, that the funded debt of Green Mountain remain unchanged, that the outstanding common stock of Green Mountain held by NEES be cancelled without participation in the reorganization, that three shares of new $10 par value common stock be exchanged for each share of preferred stock and that additional shares of new common stock be issued and sold for cash. Said orders reserved jurisdiction over all fees and expenses in connection with the proceedings. The Commission, by order dated June 18, 1951, released jurisdiction with respect to fees and expenses of Messrs. Choate, Hall & Stewart of Boston, Massachusetts, counsel for the underwriters in connection with the sale of the new common stock, and continued the reservation of jurisdiction with respect to all other fees and expenses in connection with Green Mountain's amended plan of reorganization.

Notice is hereby given that certain persons have now filed applications for the approval of fees or other compensation and for reimbursement of expenditures to be paid by Green Mountain in connection with said amended plan, the transactions incident thereto and the consummation thereof.

All interested persons are referred to said applications, which are on file in the offices of the Commission, for a full statement of the claims for fees or other compensation and for reimbursement of expenditures, which may be summarized as follows:

	Fees	Expenses
Fees and expenses directly incurred by Green Mountain		
Haussermann, Davison, Shattuck & Field, counsel	$70,000	$4,682.03
Stone & Webster Service Corp., consultant	5,380	
Lybrand, Ross Bros. & Montgomery, accountants	2,400	41.75
Fees and expenses of other parties and participants in proceeding		
Carl K. Ross, holder of preferred stock	300	127.95
Isaac group of preferred stockholders; Baker, Obermeier & Rosner, counsel	10,000	206.69
Wishart committee for preferred stockholders; Finn, Monti & Davis, counsel	12,000	1,543.77
Scott committee for preferred stockholders; Hays, St. John, Abramson & Schulman, counsel	57,500	565.23
Members of committee:		
Lewis Merrill Scott, chairman	5,000	
Norman Johnson, secretary	4,000	25.00
Edward Leff	3,000	
Total	169,580	7,192.42

It appearing to the Commission that it is appropriate in the public interest that a hearing be held with respect to the matters set forth in said applications:

It is ordered, Pursuant to sections 11 (e) and 18 of the act, that the hearings herein be reconvened for the purpose of inquiring into and taking evidence with respect to said applications and with respect to all payments of fees and expenses made or proposed to be made by Green Mountain in connection with its amended plan of reorganization. Such reconvened hearing shall commence on June 19, 1952, at 2 p. m., e. d. s. t. at the offices of the Commission, 425 Second Street NW., Washington 25, D. C.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that purpose, shall preside at such hearing. The officer so designated to preside at such hearing is hereby empowered to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of said applications and that, upon the basis thereof, the following matters and questions are presented for consideration by the Commission, without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the services and disbursements for which remuneration has been paid, or is sought, are compensable, and whether it is appropriate and lawful to grant any allowances for fees and expenses to the persons making such claims;

2. Whether the amounts, including expenses, paid or sought for such services, are fair and reasonable, and if not, what amounts should be fixed by the Commission;

3. To what extent Green Mountain has paid or incurred expenses in connection with its amended plan of reorganization or the consummation thereof other than those covered in said applications and whether such expenses are necessary, fair and reasonable;

4. Whether there are any other factors, apart from the nature and value of the services rendered and the capacity in which rendered, which would make any of the requests for compensation or reimbursement improper.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That any persons, other than the applicants named herein, desiring to be heard in connection with these proceedings, or proposing to intervene herein, shall file with the Secretary of the Commission on or before June 17, 1952, his request or application therefor as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That the Secretary of the Commission shall serve a copy of this notice and order by registered mail upon the aforementioned applicants, and that notice of said hearing shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the act, and by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6321; Filed, June 9, 1952; 8:48 a. m.]

[File No. 70-2860]

NORTHERN STATES POWER CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION HERETOFORE RESERVED WITH RESPECT TO TERMS OF SALE OF COMMON STOCK

JUNE 4, 1952.

Northern States Power Company ("the Company"), a Minnesota corporation which is both a registered holding company and an operating utility company, having filed a declaration and an amendment thereto pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("the act") and Rule U-50 thereunder proposing to issue and sell, inter alia, 1,108,966 shares of its Common Stock at a price to be fixed by the Company, offering said shares under warrants expiring June 23, 1952 to the present holders of its common stock on the basis of 1 share for each 10 shares of common stock held on the record date, with the privilege of subscribing for additional shares not exceeding the number of shares subscribed for under the primary subscription, subject to allotment, and selling at competitive bidding (as to compensation only) all unsubscribed shares plus such shares (not exceeding 55,448) as the Company might purchase for stabilization purposes during the period immediately preceding the receipt of bids ("Unsubscribed Stock"); each bid to specify the aggregate amount to be paid by the Company to the bidders

as compensation for underwriting the issue; and

The Commission by order dated May 23, 1952 having permitted said declaration as amended to become effective as respects the proposed issue and sale of said Common Stock, subject to the conditions that such sale should not be consummated until the results of competitive bidding pursuant to Rule U-50 should have been made a matter of record in this proceeding and a further order entered by the Commission in the light of the record so completed; subject also to the reservation of jurisdiction with respect to all fees and expenses incurred or to be incurred herein; and

The Company having filed a further amendment to its declaration stating that it had fixed the price of said stock at $10.50 per share; that it had purchased no shares of its common stock under the authority heretofore granted to stabilize the market price; that it had requested bids for the purchase of the Unsubscribed Stock at the price fixed as aforesaid, the underwriters to bid only on the compensation to be received by them for underwriting the issue, and the successful bidder to pay to the Company, in addition to $10.50 per share for the Unsubscribed Stock, one-half of the excess above $11.25 per share received upon the resale of any such shares within 30 days after the expiration date (June 23, 1952) of the subscription period; and

The Company further stating that, in response to its invitation, the following bids for the Unsubscribed Stock were received:

Underwriting group headed by—	Underwriters' Compensation	
	Aggregate	Per share
Lehman Bros. and Riter & Co.	$108,678.67	$0.098
The First Boston Corp.	115,665.15	.104
Smith, Barney & Co.	182,979.39	.165
White, Weld & Co. and Glore, Forgan & Co.	187,924.00	.169

The Company further stating that it has accepted the bid of the underwriting group headed by Lehman Brothers and Riter & Co. as above set out, whereunder the Company will pay the lowest aggregate amount of compensation for the underwriting of the issue; and

The Commission having examined said amendment and having considered the record herein, and finding no basis for adverse findings or the imposition of terms and conditions with respect to the matters set forth in said amendment:

It is ordered, That jurisdiction heretofore reserved over the issue and sale of said Common Stock until the results of competitive bidding should be made a matter of record in this proceeding be, and the same hereby is, released; and that said declaration as amended, in so far as it relates to the issue and sale of said Common Stock, be, and the same hereby is, permitted to become effective forthwith, subject to the provisions of Rule U-24.

It is further ordered, That the jurisdiction heretofore reserved with respect to the terms and conditions of the sale at competitive bidding of $21,500,000 principal amount of First Mortgage Bonds (also covered by the Company's original declaration herein and by the Commission's order of May 23, 1952 aforesaid) and with respect to all fees and expenses be, and the same hereby is, continued pending the further orders of the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 52-6323; Filed, June 9, 1952; 8:48 a. m.]

[File No. 70-2863]

SOUTHERN CO. ET AL.

ORDER PERMITTING SUBMISSION OF COMMON STOCK RIGHTS OFFERING TO COMPETITIVE BIDDING FOR UNDERWRITING, AND PERMITTING PURCHASE OF COMMON STOCK OF TWO SUBSIDIARY COMPANIES

JUNE 4, 1952.

In the matter of the Southern Company, Alabama Power Company, Georgia Power Company, File No. 70-2863.

The Southern Company ("Southern"), a registered holding company, and two of its public utility subsidiary companies, Alabama Power Company ("Alabama") and Georgia Power Company ("Georgia"), have filed a joint application-declaration, with amendments thereto, pursuant to sections 6, 7, 9 (a), 10, 12 (c) and 12 (f) of the act and Rules U-42, U-43, and U-50, promulgated thereunder, as applicable to the proposed transactions, which are summarized as follows:

Southern proposes to issue 1,004,510 shares of its common stock $5 par value. The shares of common stock are to be offered during a period of approximately three weeks to the holders of the presently outstanding common stock of the company for subscription in the ratio of 1 share of common stock for each 16 shares of common stock now held. The rights to subscribe are to be evidenced by transferable subscription warrants, No fractional shares are to be issued. The warrants provide that persons subscribing for stock may direct the subscription agent to purchase additional rights required to complete a full share subscription or to sell rights in excess of full share subscriptions. In each case, the purchase or sale may not exceed 15 rights for any stockholder.

The above described offering is to be underwritten and the company proposes to select the purchasers of any unsubscribed stock and any stock acquired by the company through stabilizing operations, as described below, at competitive bidding pursuant to Rule U-50. At least 42 hours prior to the time for the submission and opening of bids, Southern will advise the prospective bidders of the subscription price per share, which will also be the price per share at which unsubscribed shares and any shares acquired by the company through stabilization operations will be sold to the successful bidder. The bidders will be required to specify an aggregate amount of compensation to be paid by the company for their commitments. Under the terms of the bidding the purchasers must agree that in the event any shares purchased by them from the company shall be sold by them prior to 30 days following the expiration of the subscription period, for a price in excess of the subscription price plus 65 cents per share, the purchasers shall pay to the company 50 percent of such excess.

Southern proposes, if considered necessary or desirable, to stabilize the price of the common stock of the company for the purpose of facilitating the offering and distribution of the additional shares of common stock. In connection therewith the company may, during the period commencing with the close of business on the third full business day prior to the time for the submission of bids and continuing until such time, purchase shares of its common stock, but not in excess of 100,451 shares, on the New York Stock Exchange or otherwise. Such purchases are to be made through brokers with the payment of regular Stock Exchange commissions.

Southern, which owns all of the common stock of Alabama and Georgia, proposes to use the net proceeds derived from the sale of its common stock, plus other funds to the extent necessary, to invest in common stock of Alabama and Georgia and to repay outstanding short term bank loans. Under the present filing, Alabama proposes to issue and sell 40,000 shares of its common stock to Southern, and Georgia proposes to issue and sell 400,600 shares of its common stock to Southern. Southern will purchase these shares for $4,000,000 and $7,000,000, respectively, and the proceeds will be used by Alabama and Georgia for construction purposes.

Southern states that if for any reason delay should be encountered in its proposed common stock rights offering so that it will not have available prior to July 15, 1952, funds sufficient to invest in the common stock of Georgia, it proposes to borrow for such purposes up to $7,000,000 from banks on short term notes. In such event, Southern will file an amendment herein setting forth the names of such banks and the terms of such notes.

The filing indicates that the issuance and sale of common stock by Alabama and Georgia has been approved, respectively, by the Alabama Public Service Commission and the Georgia Public Service Commission.

It is requested that the Commission's order herein become effective upon issuance.

Notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for hearing with respect to said joint application-declaration, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said joint application-declaration, as amended, that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers

that the said joint application-declaration, as amended, be granted and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the said joint application-declaration, as amended, be, and hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and to the further condition that the proposed issuance and sale of the 1,004,510 shares of common stock by Southern shall not be consummated until the subscription price per share and the results of competitive bidding, pursuant to Rule U-50, have been made a matter of record in this proceeding and a further order shall have been entered, with respect thereto, which order shall contain such further terms and conditions as may then be deemed appropriate, for which purpose jurisdiction be, and the same hereby is reserved.

It is further ordered, That jurisdiction be, and the same hereby is, reserved over all fees and expenses to be incurred in connection with the proposed transactions.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6324; Filed, June 9, 1952; 8:48 a. m.]

[File No. 70-2875]

UNITED GAS CORP. AND ATLANTIC GULF GAS CO.

ORDER CONCERNING MERGER OF INACTIVE SUBSIDIARY INTO PARENT

JUNE 4, 1952.

United Gas Corporation ("United"), a gas utility subsidiary of Electric Bond and Share Company, a registered holding company, and United's subsidiary, Atlantic Gulf Gas Company ("Atlantic"), having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly section 12 (c) thereof and Rule U-46 of the rules and regulations promulgated thereunder with respect to the following proposed transactions:

United, as the owner of all the outstanding capital stock of Atlantic, proposes to merge it into United.

Atlantic, a Delaware corporation, was organized in 1947 by United for the purpose of constructing and operating natural gas pipeline properties in the southeastern portion of the United States. Subsequently, the application of Atlantic for a certificate of public convenience and necessity for this purpose was denied by the Federal Power Commission.

On organization, Atlantic issued to United 100,000 shares of its common stock for a cash consideration of $1,000,000. Atlantic's assets consist of cash in the amount of $1,000,000 and its liabilities consist solely of the capital stock held by United. The declaration states that United has expended $285,977.23 for the account of Atlantic which amount will be repaid by Atlantic to United prior to the merger.

The declaration states that since there is no longer any need for the continued corporate existence of Atlantic, the proposed merger will result in simplification of the United Gas system by the elimination of one subsidiary.

Said declaration having been filed on May 13, 1952, notice of said filing having been given in the form and manner required by Rule U-23 promulgated pursuant to said act, the Commission not having received a request for hearing within the time specified in said notice, or otherwise, and the Commission not having ordered a hearing thereon; and

The Commission finding that the proposed transactions are in accordance with the applicable standards of the act, that no adverse findings are necessary thereunder, and that it is unnecessary to impose terms and conditions in connection herewith, and the Commission deeming it appropriate to permit said declaration to become effective, forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, and subject to the terms and conditions contained in Rule U-24, that said declaration, be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6322; Filed, June 9, 1952; 8:48 a. m.]

[File No. 70-2876]

DUQUESNE LIGHT CO.

NOTICE OF FILING WITH RESPECT TO PROPOSED INCREASE IN AUTHORIZED PREFERRED STOCK

JUNE 4, 1952.

Notice is hereby given that a declaration has been filed with this Commission by Duquesne Light Company ("Duquesne"), a public utility subsidiary of Philadelphia Company ("Philadelphia"), a registered holding company. Declarant has designated section 6 (a) and 7 of the act and Rule U-62 promulgated thereunder as applicable to the proposed transactions which are summarized as follows:

Duquesne proposes, by appropriate corporate action, to increase its authorized preferred stock from 800,000 to 1,000,000 shares. It is stated that the proposed increase will facilitate the issuance and sale by Duquesne of preferred stock during 1952 and 1953 and thereby enable Duquesne to raise a portion of the funds required to meet the cost of its construction program. Appropriate applications will be filed with this Commission prior to the time when such issuance and sales are to be undertaken.

In order to effect the proposed increase of the authorized preferred stock, the consent of the holders of a majority of the outstanding shares of common stock of Duquesne, as well as the consent of the holders of a majority of the outstanding preferred stock of Duquesne, with all series thereof voting as a class, is required. Philadelphia, which owns all of the 5,920,000 shares of common stock and all of the 550,000 shares of 4 percent Preferred Stock, which constitutes well over a majority of that class, has indicated that it will consent to the proposed increase. Duquesne proposes, however, as a matter of management policy, to solicit proxies from the holders of the 150,000 shares of its 3.75 percent Preferred Stock, which series is publicly held, but it states that it intends to increase its authorized preferred stock without reference to the number of consents it obtains from such holders. The proposed solicitation material has been submitted as an exhibit to the instant filing.

It is estimated that the fees and expenses to be incurred in connection with the proposed transactions will amount to $1,860, of which $750 represents counsel fees. Duquesne requests that any order of this Commission granting the application shall become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than June 17, 1952, at 1:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6320; Filed, June 9, 1952; 8:47 a. m.]

[File No. 70-2885]

UNITED CORP.

NOTICE REGARDING PROPOSED SALE OF COMMON STOCK OF SUBSIDIARY COMPANY

JUNE 4, 1952.

Notice is hereby given that a declaration has been filed with the Commission, pursuant to section 12 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-44 promulgated thereunder, by The United Corporation ("United"), a registered holding company.

Notice is further given that any interested person may, not later then June 17, 1952, at 5: 30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration proposed to be controverted, or may request that he be notified if the Commis-

sion should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 17, 1952 said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the office of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

By order dated June 26, 1951 (File No. 54-184) the Commission approved United's Comprehensive Plan under section 11 (e) of the act and exempted from the competitive bidding requirements of Rule U-50, the proposed sale by United of all of its holdings of the common stock of South Jersey Gas Company ("South Jersey"), consisting of 154,231.8 shares representing 28.25 per cent of the voting securities of that company. The declaration states that United has not been able to dispose of the South Jersey common stock by private sale and, therefore, United now proposes to make a public offering of 154,230 shares of such stock in accordance with the competitive bidding requirements of Rule U-50, the remaining 1.8 shares to be sold promptly thereafter in the open market. United proposes to reinvest the proceeds from the sale of its holdings of South Jersey common stock in other securities in accordance with the investment program approved by the Commission by order dated May 2, 1952 (Holding Company Act Release No. 11209).

The declaration states that the representatives of United will resign from the Board of Directors of South Jersey as soon as United has disposed of the South Jersey stock.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 52-6325; Filed, June 9, 1952; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27121]

CORN STEEP WATER FROM KEOKUK, IOWA TO POINTS IN MICHIGAN AND INDIANA

APPLICATION FOR RELIEF

JUNE 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for carriers parties to his tariff I. C. C. No. A-3723, pursuant to fourth-section order No. 9800.

Commodities involved: Water, corn steep, liquid, carloads.

From: Keokuk, Iowa.

To: Detroit, and Kalamazoo, Mich., Indianapolis, Lawrenceburg, and Terre Haute, Ind.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6342; Filed, June 9, 1952; 8:52 a. m.]

[4th Sec. Application 27122]

BOARDS, FROM POINTS IN WESTERN TRUNK-LINE TERRITORY TO KINSTON, N. C.

APPLICATION FOR RELIEF

JUNE 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for carriers parties to his tariff I. C. C. No. A-3740, pursuant to fourth-section order No. 9800.

Commodities involved: Boards, building, wall or insulating, viz: fibreboard, pulpboard, or strawboard, carloads.

From: Points in western trunk-line territory.

To: Kinston, N. C.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6343; Filed, June 9, 1952; 8:52 a. m.]

[4th Sec. Application 27123]

HYDROL BETWEEN POINTS IN TEXAS AND LOUISIANA

APPLICATION FOR RELIEF

JUNE 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Lee Douglass, Agent, for carriers parties to his tariff I. C. C. No. 802.

Commodities involved: Hydrol (corn sugar final molasses or sorghum grain sugar final molasses), carloads.

Between: Points in Texas, and between points in Texas and Louisiana.

Grounds for relief: Competition with rail carriers, circuitous routes, and to apply over, short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: Lee Douglass, Agent, I. C. C. No. 802, Supp. 12.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6344, Filed, June 9, 1952; 8:52 a. m.]

[4th Sec. Application 27124]

CRUSHED STONE AND SAND FROM LEHIGH, ILL., AND TERRE HAUTE, IND., TO OLIVER, ILL.

APPLICATION FOR RELIEF

JUNE 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for The New York Central Railroad Company.

Commodities involved: Crushed stone and sand, carloads.

From: Lehigh, Ill., and Terre Haute, Ind.

To: Oliver, Ill.

Grounds for relief: Competition with rail carriers and wayside pit competition.

Schedules filed containing proposed rates: NYC RR. tariff I. C. C. No. 176, Supp. 349; NYC RR. tariff I. C. C. No. 1198, Supp. 31.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6345; Filed, June 9, 1952; 8:52 a. m.]

[4th Sec. Application 27125]

SCRAP PAPER FROM POINTS IN THE SOUTHWEST TO POINTS IN NEW JERSEY, OHIO, AND VIRGINIA

APPLICATION FOR RELIEF

JUNE 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Scrap or waste paper, carloads.

From: Points in the Southwest.

To: Hughesville and Warren Glen, N. J., Jaite, Ohio, and Lynchburg, Va.

Grounds for relief: Circuity, rail competition, and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: F. C. Kratzmeir's tariff I. C. C. No. 3919, Supp. 107; F. C. Kratzmeir's tariff I. C. C. No. 3967, Supp. 119; F. C. Kratzmeir's tariff I. C. C. No. 3908, Supp. 106; F. C. Kratzmeir's tariff I. C. C. No. 3906, Supp. 121.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6346; Filed, June 9, 1952; 8:53 a. m.]

[Rev. S. O. 876, General Permit 8-L]

COMMON CARRIERS BY RAILROAD

PERMISSION REGARDING CERTAIN SHIPMENTS OF LUMBER AND LUMBER PRODUCTS

Pursuant to the authority vested in me in paragraph (d) (2) of Revised Service Order No. 876 (16 F. R. 3620, 4276), permission is granted for any common carrier by railroad, serving points in the states of Washington and Oregon, subject to the Interstate Commerce Act, to disregard the provisions of Revised Service Order No. 876 insofar as they apply to shipments of lumber and lumber products when loaded into Southern Pacific Company Evans equipped automobile cars, numerical series 64,100 through 70,029 inclusive, and/or 190,000 through 190,499, inclusive, which cars are A. A. R. mechanical designation XMR, equipped with automobile and/or truck loading devices; originating at points in Washington and Oregon to California destinations, when such cars are loaded to tariff minimum.

This general permit shall become effective at 12:01 a. m., June 5, 1952, and shall expire at 11:59 p. m., August 31, 1952, unless otherwise modified, changed, suspended, or revoked.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 4th day of June, 1952.

HOWARD S. KLINE, *Permit Agent.*

[F. R. Doc. 52-6347; Filed, June 9, 1952; 8:53 a. m.]

[4th Sec. Application 27116]

CLASS RATES BETWEEN POINTS EAST OF ROCKY MOUNTAINS

APPLICATION FOR RELIEF

JUNE 4, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers respondents in Class Rate Investigation, 1939, 281 I. C. C. 213, and parties to Uniform Freight Classification, Geo. H. Dumas' I. C. C. A-1.

Involving: Class rates.

Between: Points in the United States located generally east of the Rocky Mountains.

Grounds for relief: Rail competition, circuity, and to maintain commodity rates at higher-rated intermediate points.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6286; Filed, June 6, 1952; 8:52 a. m.]

[4th Sec. Application 27117]

LIQUEFIED CHLORINE GAS FROM MCINTOSH, ALA., TO CAMDEN, ARK., AND BASTROP AND SPRING HILL, LA.

APPLICATION FOR RELIEF

JUNE 4, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to his tariffs I. C. C. Nos. 3927 and 3883.

Commodities involved: Liquefied chlorine gas, in tank-car loads.

From: McIntosh, Ala.

To: Camden, Ark., Bastrop and Spring Hill, La.

Grounds for relief: Competition with rail carriers, circuitous routes, and market competition.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3927, Supp. 43, F. C. Kratzmeir, Agent, I. C. C. No. 3883, Supp. 69.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6287; Filed, June 6, 1952; 8:52 a. m.]

[4th Sec. Application 27118]

SCRAP IRON FROM MERIDIAN, MISS., TO BIRMINGHAM, ALA., DISTRICT

APPLICATION FOR RELIEF

JUNE 4, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Atlantic Coast Line Railroad Company and other carriers.

Commodities involved: Scrap iron and steel, carloads.

From: Meridian, Miss.

To: Bessemer, Birmingham, Boyles, Ensley, Fairfield, Gate City, McAdory, North Birmingham, Tarrant, Thomas, Woodlawn, and Woodward, Ala.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates; C. A. Spaninger, Agent, I. C. C. No. 950, Supp. 175.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6288; Filed, June 6, 1952; 8:52 a. m.]

[4th Sec. Application 27119]

LIQUEFIED PETROLEUM GAS BETWEEN POINTS IN SOUTHWEST

APPLICATION FOR RELIEF

JUNE 4, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to his tariff I. C. C. No. 3585.

Commodities involved: Liquefied petroleum gas, in tank-car loads.

Between: Points in southwestern territory, including adjacent points.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 3585, Supp. 507.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6289; Filed, June 6, 1952; 8:52 a. m.]

[4th Sec. Application 27120]

CHEESE FROM POINTS IN SOUTHERN TERRITORY TO VIRGINIA

APPLICATION FOR RELIEF

JUNE 4, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1310.

Commodities involved: Cheese, carloads.

From: Points in southern territory.

To: Points in Virginia.

Grounds for relief: Rail competition, circuity, grouping, and to maintain rates constructed on the basis of the short line distance formula over short tariff routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1310, Supp. 1.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-6290; Filed, June 6, 1952; 8:52 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 18885]

ELSA VOITH ET AL.

In re: Debts owing to Elsa Voith, also known as Elsa M. Voith, and others. D-28-122, D-28-9743, F-28-4602.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Elsa Voith, also known as Elsa M. Voith, Hilar Voith and Erwin Malblanc, each of whose last known address is Germany, on or since December 11, 1941, and prior to January 1, 1947 were residents of Germany and are, and prior to January 1, 1947 were, nationals of a designated enemy country (Germany):

2. That Thea Voith, whose last known address is Pruggen. Steermark, Austria, on or since December 11, 1941 and prior to January 1, 1947 acted or purported to act directly or indirectly for the benefit of or on behalf of a designated enemy country (Germany) or nationals of such country and is, and prior to January 1, 1947, was a national of a designated enemy country (Germany);

3. That the property described as follows: That certain debt or obligation of The National City Bank of New York, New York 15, New York, arising out of income and accretions on 39 shares of no par value preferred stock of the Shaw-Walker Company, evidenced by certificate No. 2596, presently in the custody of the Attorney General of the United States and representing a portion of funds on deposit in a checking account entitled American Voith Contact Co., Inc., maintained with the aforesaid Bank, together with any and all accruals to the aforesaid debt or other obligation and any and all rights to demand, enforce and collect the same.

is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Elsa Voith, also known as Elsa M. Voith, Hilar Voith, Erwin Malblanc and Thea Voith, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That the person named in subparagraph 2 hereof is, and prior to January 1, 1947 was, controlled by or acting for or on behalf of a designated enemy country (Germany) or persons within such country and is, and prior to January 1, 1947, was a national of a designated enemy country (Germany);

5. That the national interest of the United States requires that the persons named in subparagraphs 1 and 2 hereof be treated as persons who are and prior to January 1, 1947, were nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 4, 1952.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 52-6362; Filed, June 9, 1952; 8:57 a. m.]

[Vesting Order 18886]

CHARLES AND JOHN SCHULTE

In re: Interests in real property and property insurance policies owned by Charles Schulte and John Schulte.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Charles Schulte, whose last known address is Oldenberg, Oldenberg Rosenstrasse 30, Germany, and John Schulte, whose last known address is Hanennow-Mechlenberg Langenstrasse 26, Germany, on or since December 11, 1941, and prior to January 1, 1947, were residents of Germany and are, and prior to January 1, 1947 were, nationals of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain contingent remainder interest of the persons named in subparagraph 1 hereof, in and to an undivided one-sixth (1/6th) interest as provided in the Last Will and Testament of Thekla Tellman, deceased, probated on April 3, 1928, in the County Court for Jefferson County, Missouri, in and to the real property described in Exhibit A, attached to and by reference made a part of Vesting Order 17538, dated March 19, 1951, as amended, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property, and

b. All right, title and interest of the persons named in subparagraph 1 hereof, in and to all insurance policies covering the premises described in the aforesaid Exhibit A, and any and all extensions or renewals thereof,

is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Charles Schulte and John Schulte, the aforesaid nationals of a designated enemy country (Germany);

is hereby determined:

3. That the national interest of the United States requires that the persons identified in subparagraph 1 hereof, be treated as persons who are and prior to January 1, 1947, were nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest.

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 (a) hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of a designated enemy country, and

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 (b) hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 4, 1952,

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 52-6363; Filed, June 9, 1952, 8:57 a. m.]

ORGANIZATION AND DELEGATIONS OF FINAL AUTHORITY

Paragraph 4 (a) (4) of the Statement of Organization and Delegations of Final Authority of the Office of Alien Property as amended (16 F. R. 7879), is hereby amended to read as follows:

(4) The Hearing Examiners, consisting of a Chief Hearing Examiner and such other hearing examiners as may from time to time be designated, hear and determine, subject to review by the Director, contested claims under sections 20, 32, and 34 of the Trading With the Enemy Act, as amended, and handle such other matters not inconsistent with their duties as hearing examiners as may be assigned by the Director. The Hearing Examiners are hereby severally delegated authority to exercise the powers conferred upon hearing examiners by Part 502 of the regulations of the Office of Alient Property.

Executed at Washington, D. C. this 4th day of June 1952.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 52-6364; Filed, June 9, 1952; 8:58 a. m.]